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## INVISIBLE RIGHTS: LEGAL EXCLUSION OF RURAL WOMEN IN INDIA'S JUSTICE SYSTEM

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### ABSTRACT

Rural women in India encounter a systematic, multilayered exclusion from justice that is perpetuated by household hierarchies, economic relations, and state institutions. This paper integrates constitutional and statutory frameworks with empirical evidence i.e. from crime statistics, health surveys, and institutional audits, to explain how “invisible rights” are created in practice: rights that exist on paper yet are routinely unrealized on the ground. Drawing on recent jurisprudence (e.g., *Vineeta Sharma v. Rakesh Sharma*) on property rights, data on violence against women and access-to-justice initiatives (One Stop Centers, Tele-Law, Gram Nyayalayas), and evidence on policing and legal aid, the paper maps the structural and socio-legal barriers that impede rural women’s entry into, and effective use of, the justice system. It shows that exclusion persists through unequal endowments (land, literacy, mobility, digital access), institutional distance and design deficits (police responsiveness, court reach, pendency), and normative orders (customary patriarchies including khap panchayats). The study then lays down an integrated reform agenda initiating change from land titling to gender-responsive policing, transforming community-anchored dispute forums to data-driven accountability aiming at converting invisible rights into enforceable entitlements.

**Keywords:** rural women, access to justice, domestic violence, land rights, Gram Nyayalayas, Tele-Law, One Stop Centre, NALSA, gender and law, India

## INTRODUCTION

India's constitutional architecture promises equality through Articles 14 and 15, dignity and life by Article 21, and directive obligations toward gender justice. The legislature has further recognized women's rights through laws on inheritance, bodily integrity, and workplace and domestic safety. Yet rural women often encounter rights as text rather than tools. Legal norms travel slowly in agrarian and forest economies where land is family capital, kinship governs labour and mobility, and institutions—from police stations to courts—are literally and socially distant.

This paper develops a framework of “invisible rights” to understand the gap between formal guarantees and rural experience. It distinguishes *recognition*, the existence of a right; *reach*, the accessibility of the institutions providing justice in relation to those rights; and *realization*, the remedy to the violation that right which arrives in time and in substance. Exclusion occurs where any of the three links in a chain fail, recognition without reach, and reach without realization. This leads to the failure of the entire system.

The analysis proceeds in five steps. First part describes the legal architecture available to women in India. Further, it presents the empirical landscape on violence, property, and institutional access to these rights. The paper also explains the mechanisms of exclusion of rural women from these rights. It also discusses evolving institutions that provide justice such as legal aid, One Stop Centres, Tele-Law, Gram Nyayalayas and their limits. The paper also provides for reformative steps in the conclusion.

## LEGAL ARCHITECTURE: RECOGNITION ON PAPER

The Indian legal framework provides for a very robust system that strengthens the fundamental objectives of the law makers to provide gender equality and empowerment to the women. This legal framework ranges from legislations, precedents, legal aids camps to social programs and schemes meant to provide justice at the doorstep of their houses.

### Constitutional And Statutory Guarantees

The Fundamental Rights mentioned in the Constitution of India lays down provisions for the enforcement of equality. These rights cannot be denied on any ground. Articles 14<sup>1</sup> of the

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<sup>1</sup> The Constitution of India

Constitution of India provides that every citizen must be subjected to equal treatment by law. Article 15(1) prohibit gender discrimination on the grounds of gender. Article 15(3) enables the State to formulate special provisions for women, ensuring there are no arbitrary rules.

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) provides civil remedies in relation to protection, residence and maintenance to women. Section 2(q)<sup>2</sup> dealt with the definition of Respondent. Prior to 2016, the definition included the words “adult male” which means that the complaint was maintainable only against male members. This made the provision gender-specific and excluded female relations from the ambit of the Act. In 2016, in *Hiral P. Harsora v. Kusum Narottamdas Harsora*<sup>3</sup>, the Supreme Court struck down the words from section 2(q) broadening the scope of against whom the case can be proceeded and aligning the Act with its protective purpose.<sup>4</sup>

The Court in *Shakti Vahini v. Union of India*<sup>5</sup> (2018) issued preventive, remedial, and punitive guidelines against “honour” crimes and unlawful khap diktats that police women’s choices in marriage, that try to control the sexual autonomy of the women, which is an acute rural phenomenon.

In terms of property and economic security, on reading The Hindu Succession (Amendment) Act, 2005, with *Vineeta Sharma v. Rakesh Sharma*<sup>6</sup> (2020), it establishes daughters as coparceners by birth, irrespective of the father’s living status at the time of the 2005 amendment, correcting earlier uncertainty.<sup>7</sup>

Free legal services are also provided under the Legal Services Authorities Act, 1987. Section 12(c)<sup>8</sup> of the Act entitles *every woman*, irrespective of income, to free legal aid. This is an explicit recognition tool for access to justice.

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<sup>2</sup> “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

<sup>3</sup> AIR 2016 SC 4774

<sup>4</sup> Gautam Bhatia, “The Invalidation of S. 2(q) of the Domestic Violence Act: A Comment” Oct. 2016 available at: <https://indconlawphil.wordpress.com/2016/10/11/the-invalidation-of-s-2q-of-the-domestic-violence-act-a-comment/>

<sup>5</sup> AIR 2018 SUPREME COURT 1601

<sup>6</sup> AIR 2020 SUPREME COURT 3717

<sup>7</sup> Chakravorty, Sanchaali and Ramakrishnan, Pranav, Case analysis: *Rakesh Sharma v. Vineeta Sharma* (2020) 9 SCC 1 (June 7, 2023). Available at:

SSRN: <https://ssrn.com/abstract=4471378> or <http://dx.doi.org/10.2139/ssrn.4471378>

<sup>8</sup> <https://nalsa.gov.in/faqs/>

## Programmatic Schemes

Various schemes and programs have been launched by the government to uplift the women of the rural section to ensure they get to exercise their rights, such as One Stop Centres (OSCs) under Mission Shakti's *Sambal* sub-scheme provide integrated, district-level support in relation to medical, legal, and psychosocial support to survivors. States are encouraged to set up at least one OSC per district to promote this objective.

Tele-Law connects citizens in Gram Panchayats to panel lawyers through CSCs (Common Service Centres) has also scaled nationally; beneficiaries crossed tens of lakhs, indicating demand for pre-litigation advice in rural areas.<sup>9</sup>

Further, Gram Nyayalayas was also envisaged as village courts to bring justice "to the doorstep," but the implementation of these has lagged, with only a few hundred functional courts nationally.<sup>10</sup>

## THE SCALE OF PROBLEM

### Violence

The National Family Health Survey-5<sup>11</sup> (NFHS-5, 2019–21) domestic violence module reports substantial spousal violence against women aged 18–49. Numerous analyses of the NFHS-5 dataset place the 12-month prevalence around one-third of ever-married women, with physical violence the most common form. Police data indicate persistent or increasing reporting of crimes against women through 2022; the rate per 100,000 women rose from about 57 (2020) to roughly 67 (2022), with large interstate variation and urban hotspots. Official replies also note that NCRB's *Crime in India* series is published through 2022, underscoring a continued burden and data cadence.<sup>12</sup> High prevalence of gender specific harm coexists with low, uneven

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<sup>9</sup> Tele-Law Program: A Journey Towards Legal Empowerment available at: <https://www.tele-law.in/historical-background-information.html>

<sup>10</sup> Ministry of Law and Justice, *Gram Nyayalayas*, Press Note Released on 09 August, 2024, available at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2043473&>

<sup>11</sup> Government of India, "National Family Health Survey (NFHS - 5), 2019–21" (Ministry of Health and Family Welfare, 2022)

<sup>12</sup> Ramasubramani, P., Krishnamoorthy, Y., Vijayakumar, K., & Rushender, R. (2024). Burden, trend and determinants of various forms of domestic violence among reproductive age-group women in India: findings from nationally representative surveys. *Journal of public health (Oxford, England)*, 46(1), e1–e14. <https://doi.org/10.1093/pubmed/fdad178>

reporting and limited rural services. This creates a large “justice need” that formal institutions are only able to absorb partially.

### **Property and asset gaps**

Despite landmark rulings on coparcenary rights, women's ownership and control of agricultural land remains low, particularly in rural economies where land is collateral and status. Secondary sources and government agriculture censuses consistently place women's operational holdings at a small minority share. Also, in many states, it is evident that joint titling norms are not consistently enforced in practice. The jurisprudence opens the door to such enforcements but the local land and revenue practices often keep it closed.

### **Institutional layout**

Women Help Desks (WHDs) have been established across police stations under the Nirbhaya framework. As per recent government data, there are over 14,600 WHDs that have been set up with the intention to improve first response and case registration. Evidence suggests that WHDs, especially when staffed by women, boost reporting of gender-based crimes.<sup>13</sup> One Stop Centres have been envisioned at district levels, but coverage, staffing, and coordination vary, which can blunt the impact in remote blocks.

Gram Nyayalayas at the village levels remain under-deployed. An official reply in February 2024 recorded that there are 477 Gram Nyayalayas that have been notified but only 290 are operational, which is far below the initial ambition. Tele-Law's expansion to 2.5 lakh CSCs and tens of lakh advisories shows the latent legal demand in rural areas and the role of digital mediation where physical institutions are distant.<sup>14</sup>

## **MECHANISMS OF EXCLUSION: WHY RIGHTS REMAIN INVISIBLE**

Rural women have lower literacy and constrained mobility relative to men and their urban peers, which diminishes legal knowledge, bargaining power, and the ability to navigate police stations or courts. Even when digital channels exist, device ownership and private access remain uneven, making “digital by default” solutions leaky for survivors who must conceal

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<sup>13</sup> Massachusetts Institute of Technology. (2022, July 7). Women's help desks in local police stations in India increased registration of cases of gender-based violence. *Phys Org*. <https://phys.org/news/2022-07-women-desks-local-police-stations.html>

<sup>14</sup> *Supra* note at 9

communications.

### **Institutional distance and design**

The institutional design of the services provided is such that it promotes exclusion of women. Some factors that affect it are:

- **Physical distance.** Police stations and district courts are often hours away; transport costs and safety concerns deter travel.
- **Procedural opacity.** Complaint drafting, FIR registration, protection order applications, and evidentiary requirements are complex; pro se navigation is unrealistic.
- **Delay and attrition.** Pendency in lower courts, limited victim-witness support, and adjournments prolong harm. (National dashboards routinely report heavy backlogs in district courts; state-level figures frequently dominate national pendency.)
- **Service fragmentation.** Medical examination, police statements, shelter, and legal filings are spread across agencies. OSCs aim to integrate, but coverage and quality vary by district

### **Normative Orders**

Normative orders primarily mean a well-defined system of values, rules and expectations that governs the behaviors of the society. It determines societal interactions and creates a foundation of society.

- **Household gatekeeping:** The traditional mindset believing in the fact that men and women have separate spheres and responsibilities, perpetuates gendered division and hamper equality. Legal action, when taken by women, tends to threaten household labor arrangements and land control, hence, women are pressured to “adjust.”
- **Community Coercion:** Khap and caste panchayats discipline women’s choices in marriage and residence. The Supreme Court’s *Shakti Vahini* guidelines recognize this pattern and impose duties on district administrations, but compliance is uneven.<sup>15</sup>

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<sup>15</sup> *Supra* Note at 4

- **Custom and Land:** Even after the landmark ruling in *Vineeta Sharma*, the daughters often face resistance in mutation offices, thus highlighting the gap between entitlement to property and the realities of actually claiming the property.<sup>16</sup>

## Legal knowledge and representation

Section 12(c) of the Legal Services Authorities Act entitles all women to free legal services, yet awareness is low, and supply (trained, gender-sensitive counsel within reachable distance) is thin in many rural districts. Where Tele-Law bridges the first advice mile, hand-holding through evidence collection, interim relief, and final orders requires local legal ecosystems that remain under-developed.

## EVOLVING INSTITUTIONS: WHAT IS CHANGING

### Domestic Violence Jurisprudence And Practice

The landmark judgement of *Harsora v. Kusum Narottamdas Harsora*<sup>17</sup> broadened the category of “respondent,” allowing proceedings against female relatives where appropriate and preventing evasion via male-only definitions. This aligns statutory text with the reality of multi-actor household violence.

*Right to residence* clarifications under the PWDVA have emphasized that a wife can claim residence in a “shared household,” even if titled in in-laws’ names, subject to conditions, reducing the leverage of title games.<sup>18</sup>

There are certain limitations such as protection orders require efficient police service, safe interim accommodation, and steady follow-up which is often weakest in rural contexts with limited shelters and over-stretched police.

### Property and inheritance

In the landmark case of *Vineeta Sharma* (2020) the retrospective confusions around daughters’ coparcenary rights was resolved stating that daughters are coparceners by birth.

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<sup>16</sup> *Supra* note at 5

<sup>17</sup> AIR 2016 SC 4774

<sup>18</sup> *Satish Chander Ahuja v. Sneha Ahuja*, 2020 SCC OnLine SC 841

Implementation demands administrative circulars, training of revenue staff, and grievance pathways at the tehsil level to translate precedent into mutations.

This still cannot be followed due to Social sanctions, evidentiary hurdles over “joint family property,” and cost of litigation that impede rural daughters’ claims.

### **Police access and first response**

Government reports note over 14,600 Women Help Desks nationwide that have been intended to improve intake for women survivors. Impact evaluations from states like Madhya Pradesh indicate that WHDs increased the registration of gender-based crimes, especially when staffed by women. States have expanded helplines and anti-trafficking units for emergency response, but the staffing, training, and gender balance vary widely. The shortcomings in relation to WHDs can be indicated through no private rooms in WHDs, no trained staff and limited working hours. As a result, trust and output in terms of responses remain low.

### **One Stop Centres (OSC)**

Mission Shakti integrates OSCs and women’s helplines into a single *Sambal* pillar. The policy intent is clear to co-locate services and reduce survivor friction. Yet implementations vary. Some districts have vibrant OSCs; others struggle with vacancies and coordination with police and hospitals.<sup>19</sup>

### **Tele-Law and the “first legal mile”**

Tele-Law has scaled to cover 2.5 lakh CSCs across Gram Panchayats and reports very large cumulative beneficiary numbers, reflecting demand for low-barrier legal advice. This is particularly salient for rural women with mobility and privacy constraints. The challenge is converting advice into action. Drafting petitions, accompanying to police/court, and ensuring compliance with orders, the functions that require proximate, accountable actors are missing in action.

### **Gram Nyayalayas: Shortcomings**

Although designed to bring courts closer to villagers, only a few hundred Gram Nyayalayas

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<sup>19</sup> *Several steps taken by Government to promote safety, security and empowerment of women.* (n.d.). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2085607&>

are operational nationwide, per government replies, they well below projections. Under-utilization reflects funding, staffing, and coordination hurdles; without scale, the “doorstep justice” promise remains unmet for most rural women.<sup>20</sup>

## TOWARD REALIZATION: A REFORM AGENDA

To improve the visibility of rights for rural women and address the issue of legal exclusion, several initiatives have been initiated by the government. To ensure their complete implementation and compliance, several reforms can be suggested.

**Make land and livelihood rights tangible:** Automatic joint spousal titling for new land allotments, subsidies, and housing titles; require disclosure of daughters in succession entries with default inclusion unless expressly relinquished before a magistrate. Introducing Tehsil-level grievance cells with time-bound mutation orders and penalties for non-compliance; publish monthly dashboards disaggregated by sex of claimant. Revenue staff training on *Vineeta Sharma* and succession law; integrate model formats for daughters’ claims in state revenue manuals.

**Strengthen first response to gender-based violence:** Functional Women Help Desks in every rural police station with private intake spaces, female staffing, and compliance with MHA guidelines; audit functionality quarterly with community observers. OSCs as command nodes with MoUs linking police, hospitals, shelters, and DLSAs; ensure 24×7 transport vouchers and safe interim housing capacity. Protection order enforcement units that track PWDVA orders and conduct risk-based follow-ups; integrate with emergency helplines and WHDs.

**Convert Tele-Law advice into action:** Paralegal accompaniment networks (women’s collectives, SHG members) trained by DLSAs to draft, file, and escort; pay per completed legal step, not just advice delivered. Seamless referrals from Tele-Law to DLSA-empanelled lawyers and OSC caseworkers with shared case IDs; publish time-to-first-hearing indicators.

**Bring courts closer—and faster:** Revitalize Gram Nyayalayas where feasible and align their jurisdiction with common rural disputes (maintenance, residence, small property partitions, wage theft). Stabilize funding, appoint dedicated Nyayadhikaris, and run mobile sittings in

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<sup>20</sup> *Historical background information* | Tele-Law. (n.d.). <https://www.tele-law.in/historical-background-information.html>

remote blocks. Fast-track rural gender cases in district courts with specialized lists and victim-witness support. Language access and simple forms for protection orders, maintenance, and mutation claims, available at panchayat offices and CSCs.

**Accountability through data:** Disaggregate by rural/urban across policing, OSCs, legal aid, and court outcomes; publish monthly public dashboards. Outcome-based financing for OSCs/WHDs tied to metrics like time to FIR, time to medical exam, orders obtained, and compliance checks.

**Norm change and community guardians:** Implement *Shakti Vahini* protocols: district-level “honour crime” prevention cells; rapid response to unlawful community diktats; protection for inter-caste/inter-faith couples. Nari Adalats (women’s collectives) under Mission Shakti as first-resort mediation with stringent guardrails (voluntariness, no pressure to return to violence) and built-in referral to formal remedies. The policy ecosystem shows horizontal scale (Tele-Law, WHDs, OSCs) and vertical jurisprudence (*Vineeta Sharma, Harsora, Shakti Vahini*).

Yet exclusion persists where scale lacks sensitivity. The wrong staff at the wrong hours; forms without accompaniment; orders without enforcement. Rural women’s justice pathways are sequenced: advice, complaint, orders and enforcement. Each link needs a *named* custodian. Where the responsibility diffuses, rights vanish into procedure. Since technology is known to reach every corner of the nation, the digital platforms can also be utilized to raise awareness and make legal resources services available to rural women.

## CONCLUSION

The phenomenon of “invisible rights” underscores the paradox of India’s justice system for rural women—rights are formally recognized in constitutional texts, statutory frameworks, and judicial pronouncements, yet remain practically unrealized due to structural, institutional, and cultural barriers. This exclusion is not accidental but systemic, produced through a cycle of recognition without reach, and reach without realization. Despite significant strides in law such as the Hindu Succession (Amendment) Act, 2005, reinforced by *Vineeta Sharma v. Rakesh Sharma*, or the Protection of Women from Domestic Violence Act, 2005, expanded in *Hiral Harsora v. Kusum Harsora*, the translation of these rights into enforceable realities is obstructed by patriarchal social orders, administrative inertia, and infrastructural deficits in rural India. The justice system is further weakened by procedural complexity, under-staffed

institutions, and cultural practices that discourage women from asserting their entitlements.

The initiatives of recent years—One Stop Centres, Women Help Desks in police stations, Tele-Law through CSCs, and the idea of Gram Nyayalayas, represent promising institutional innovations. Yet, their uneven implementation and lack of integration highlight the limits of policy without accountability. They often deliver scale but not sensitivity, advice but not accompaniment, orders but not enforcement.

The path forward requires restructuring the justice chain at multiple levels. First, land and property rights of rural women must be secured through administrative enforcement mechanisms rather than mere legal recognition. Second, frontline policing must be gender-responsive, ensuring that rural women feel safe approaching law enforcement without fear of stigma or retaliation. Third, integrated support systems—linking OSCs, Tele-Law, DLSAs, and local courts—must reduce procedural friction and ensure that survivors are not left to navigate fragmented institutions alone. Finally, cultural transformation is essential. Laws must be supported by continuous engagement with rural communities to dismantle entrenched patriarchal norms, empower women collectives like *Nari Adalats*, and create social legitimacy for women's claims.

The realization of rural women's rights is not only a matter of legal compliance but of democratic legitimacy. A justice system that leaves half its rural citizens marginalized cannot claim to embody the constitutional ideals of equality and dignity. Bridging this gap is thus not simply a gender issue but a test of India's constitutional promise itself.