

Opinion (Premium), Mumbai  
Thursday, 14<sup>th</sup> August 2025

## UNFINISHED BUSINESS OF GENDER JUSTICE IN INDIA



Insiyah  
Vahanvaty



Ashish  
Bharadwaj

No history of gender justice laws in India can be written without drawing a direct, scarred line from the brutal assault on Bhanwari Devi in 1992 to the gut-wrenching tragedy of the 2012 Delhi gang rape and murder. Not as isolated crimes, but as eruptions of women's long-endured trauma into public and legal arenas.

The story of *Vishakha v. State of Rajasthan* (1997) begins not in the hushed halls of the Supreme Court, but in a village in Rajasthan, where Bhanwari Devi, a grassroots worker with the Women Development Programme, dared to challenge age-old patriarchal traditions by trying to prevent the child marriage of a one-year-old girl in her village. As punishment, she was brutally gang-raped by five Gujjar landlords.

What followed was a chilling display of apathy and systemic failure. The police refused to file an FIR, Bhanwari Devi's medical report was incomplete, and the court acquitted the accused, casting doubt on her husband's testimony and asserting that upper caste men wouldn't rape a lower caste woman.

The verdict struck a match to years of simmering feminist anger. The 1980s and 90s were the decades of dowry deaths, bride burnings and misogyny. Women across India were fighting back, marching the streets, protesting and picketing. Bhanwari Devi was assaulted while on duty.

Yet, her employer — the State — offered neither protection nor support. Sparking a firestorm of fury within women's collectives and Dalit groups, Bhanwari's case became a lightning rod for the historic case that was to follow.

It was now up to the highest court to do what the lower court would not: Rule that workplace safety is a constitutional right. And so, in 1997 a historic PIL was filed by a cohort of organisations under the banner of Vishakha against the Rajasthan and the Union governments. The Supreme Court recognised gender equality as integral to rights under Articles 14 (equality before the law), 19(1)(g) (right to practice profession), and 21 (right to life with dignity).

It held that sexual harassment at the workplace violates these rights, making it a constitutional issue. In the absence of legislation at the time, the Court framed the landmark

Vishakha Guidelines — binding directives making employers responsible for safe, non-discriminatory workplaces.

It also acknowledged the psychology of shame, the courage required for women to come forward, and the reality of police and judicial indifference. Yet, despite the celebrated judgment, implementation remained spotty. Few employers complied, fewer women dared complain, and the State dragged its feet on making the guidelines law. Societal attitudes, too, remained stubbornly unchanged.

Until December 2012.

In 2012, a 23-year-old woman's brutal gangrape and fatal assault on a bus in Delhi by six men tore through the nation's conscience. It exposed once again the State's chronic failure to protect women in public spaces, reigniting the public and legislative urgency begun by Vishakha.

Once again, the country erupted in thunderous, unstoppable outrage. And this time, the State's response was swift. All the accused were arrested and charged with sexual assault and murder. One died in police custody. The remaining four adult men were tried, found guilty and sentenced to death. The juvenile received the maximum sentence under the Juvenile Justice Act: Three years in a reform facility.

But most importantly, it snapped Parliament out of legislative slumber. The government responded with historic, if long overdue, laws. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 finally gave legislative teeth to the Vishakha Guidelines, making employer inaction a punishable offence.

The Criminal Law (Amendment) Act, 2013, expanded the legal definition of sexual violence, added offences like stalking and voyeurism, increased penalties, and mandated swifter trials.

The arc from Bhanwari Devi's assault to Delhi rape-murder is a reminder that justice in India too often arrives only after unimaginable suffering. Vishakha exposed the cost of legal neglect; the Delhi rape and murder laid bare the deadly gap between law and enforcement. Yes, laws now exist. But women still fear walking home alone.

Victims still face shame and disbelief. The courts still drag, and perpetrators still walk free. Why must women bleed before the law takes notice? Rights mean little without action. That is the unfinished business of gender justice. Bhanwari's last surviving rapist still walks free. Yet her legacy planted a stake in the ground.

The fight is unfinished. But the path is lit.

***Insiyah Vahanvaty is a socio-political commentator and the author of The Fearless Judge. Ashish Bharadwaj is professor and dean of BITS Pilani's Law School in Mumbai. The views expressed are personal.***