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“ENFORCING RIGHTS AT THE MARGINS: A LEGAL ANALYSIS OF SLUM WOMEN’S ENTITLEMENTS IN KOLKATA”

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Abstract:

This article critically examines the lived realities of women in Kolkata’s informal settlements through the lens of Indian statutory and constitutional law. It focuses on the implementation gaps within key legal frameworks, including the Protection of Women from Domestic Violence Act, 2005, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and the Legal Services Authorities Act, 1987, alongside constitutional guarantees under Article 14 of the Constitution of India and Article 21 of the Constitution of India. While these provisions formally ensure equality, dignity, and access to justice, their enforcement remains inconsistent within slum contexts due to informality of residence, lack of documentation, and systemic socio-economic barriers. The article adopts a socio-legal approach to analyze how procedural requirements, evidentiary burdens, and institutional limitations disproportionately disadvantage slum women in accessing legal remedies. It further evaluates the effectiveness of state-sponsored legal aid and local governance mechanisms in bridging these gaps. By situating statutory protections within the everyday experiences of marginalized women, the paper argues for a more context-responsive interpretation of rights that prioritizes accessibility and enforcement. It concludes that meaningful realization of legal protections requires structural reforms, enhanced legal literacy, and localized accountability mechanisms.

Keywords:

Slum Women, Kolkata, Constitutional Rights, Legal Aid, Gender Justice

INTRODUCTION

Urban India reflects a striking coexistence of economic dynamism and persistent inequality. Metropolitan centers such as Kolkata embody this contradiction, where expanding infrastructure and economic activity exist alongside dense pockets of informal habitation. These informal settlements, often referred to as slums or bustees, are not peripheral anomalies but integral components of the urban economy. Yet, they remain socially and legally marginalized spaces. Within this setting, women experience layered vulnerabilities shaped by gender, class, and spatial exclusion.

India's legal framework, anchored in constitutional guarantees and supplemented by statutory protections, formally recognizes the rights of women to equality, dignity, and safety. However, the translation of these rights into lived realities remains uneven, particularly for women residing in informal settlements. The disjuncture between legal promise and practical accessibility raises important questions about the effectiveness of rights-based frameworks in contexts marked by informality and socio-economic precarity.

This paper examines how key legal provisions—including constitutional guarantees and statutes addressing domestic violence, workplace harassment, and legal aid—operate in the context of Kolkata's slums. It adopts a socio-legal approach, combining doctrinal analysis with an exploration of lived experiences. The central argument advanced here is that while legal frameworks are normatively progressive, their implementation is constrained by structural barriers such as lack of documentation, informal employment arrangements, institutional limitations, and entrenched social hierarchies (Bhan, 2016; Roy, 2005).

The question of urban marginality in Kolkata cannot be understood without acknowledging the historical production of informality as a governance outcome rather than a mere absence of planning. Scholars have argued that informality is not simply a residual category but is actively shaped by state practices that selectively regulate land, labor, and housing (Roy, 2005). In Kolkata, this selective recognition manifests in the coexistence of long-standing bustees with precarious squatter settlements, where legality is often negotiated rather than formally granted. This ambiguity has direct implications for women's access to legal protections, as entitlement is frequently mediated through documentation tied to residence.

Gendered experiences of urban poverty further complicate this landscape. Women's labor, often concentrated in informal and low-paid sectors, remains undervalued and invisible within formal economic frameworks. At the same time, domestic responsibilities restrict their mobility and engagement with public institutions. As Kabeer (2005) notes, empowerment is not merely about access to resources but also about the ability to make strategic life choices. In slum contexts, such choices are constrained by both economic necessity and social expectations, limiting women's capacity to seek legal remedies even when aware of their rights. Additionally, the spatial organization of slums contributes to a form of everyday surveillance that affects women disproportionately. The lack of privacy in densely populated settlements blurs the boundary between personal and public life, making issues such as domestic violence or harassment highly visible yet socially regulated. This paradox—visibility without protection—captures the complexity of enforcing legal rights in such environments. Therefore, any meaningful analysis of legal entitlements must account for these embedded socio-spatial dynamics.

Literature Review

A growing body of scholarship has examined the relationship between urban informality and access to rights in Indian cities. Early work by Partha Chatterjee (2004) conceptualizes informal populations as “political society,” where rights are negotiated through political mediation rather than formal legal entitlement. This framework is particularly useful in understanding how slum residents engage with the state—not as rights-bearing citizens in the classical sense, but as claimants operating within negotiated spaces of governance. Similarly, Ananya Roy (2005) challenges the binary distinction between formal and informal by arguing that informality is produced through state practices. In this view, the state itself determines which forms of informality are tolerated and which are criminalized. This perspective helps explain the precarious legal status of slum settlements in Kolkata, where recognition is often partial and contingent.

Feminist scholars have contributed significantly to understanding how legal frameworks interact with gendered realities. Naila Kabeer (2005) emphasizes that empowerment must be understood in terms of resources, agency, and achievements. In slum contexts, even when legal resources are theoretically available, women's agency to utilize them is constrained by social norms and economic dependence. Likewise, Flavia Agnes (2014) highlights the limitations of legal reforms in addressing structural inequalities, particularly in relation to domestic violence and workplace

harassment. Research on access to justice in India further reveals systemic barriers within legal institutions. Marc Galanter and Jayanth Krishnan (2004) argue that formal legal systems often remain inaccessible to marginalized populations due to cost, delay, and procedural complexity. This insight is particularly relevant for slum women, whose interaction with legal institutions is shaped by both material constraints and institutional design.

More recent studies have focused on the intersection of gender and urban poverty. Amita Bhide (2017) notes that women in informal settlements often rely on collective strategies, such as self-help groups, to navigate institutional barriers. These collective forms of engagement highlight the limitations of individual-centric legal frameworks and point toward the importance of community-based approaches.

Taken together, this body of literature underscores a central theme: legal rights, while formally expansive, are mediated through socio-political contexts that shape their accessibility. This paper builds on these insights by situating statutory protections within the lived realities of slum women in Kolkata, thereby bridging the gap between legal doctrine and social practice.

Urban Informality in Kolkata: Contextual Background

Kolkata's informal settlements have evolved through a complex interplay of historical, economic, and political factors. The city witnessed significant demographic shifts during the Partition of 1947, when large numbers of displaced populations settled in makeshift colonies. Subsequent decades saw continued migration from rural areas due to agrarian distress and limited employment opportunities. These processes contributed to the proliferation of informal settlements that remain outside formal planning frameworks (Chatterjee, 2004).

These settlements are characterized by overcrowding, inadequate infrastructure, and insecure tenure. Basic services such as sanitation, clean water, and healthcare are often insufficient or unevenly distributed. Women bear a disproportionate burden of these deficiencies, as they are typically responsible for household maintenance and caregiving. The absence of private space further complicates their ability to exercise autonomy and maintain personal safety.

Documentation emerges as a critical issue in this context. Many residents lack formal proof of residence, which restricts access to welfare schemes and legal remedies. For women, the situation

is often more precarious due to limited ownership of property and identity documents in their own names. This structural invisibility undermines their ability to assert legal rights and engage with formal institutions (Kabeer, 2005). Empirical data further illustrates the scale and persistence of informality in Kolkata. According to Census estimates and urban development reports, a substantial proportion of the city's population resides in slum-like conditions, many without secure tenure or access to basic services. These patterns are not merely the result of population pressure but reflect long-standing gaps in urban planning and housing policy (Bhide, 2017). The persistence of such conditions indicates that informality is structurally embedded within the urban fabric.

For women, these structural deficits translate into everyday burdens that are often invisible in policy discourse. Time spent collecting water, accessing sanitation facilities, or managing household responsibilities reduces opportunities for paid work and civic participation. This “time poverty” has significant implications for legal access, as engaging with formal institutions requires both time and mobility—resources that are unevenly distributed (Kabeer, 2005).

Conceptual Framework: Law at the Margins

Legal systems are generally designed around assumptions of stability—fixed addresses, formal employment, and institutional accessibility. However, these assumptions do not hold in informal settlements. As a result, there is a fundamental mismatch between legal design and social reality. This mismatch is particularly evident in the experiences of slum women, whose engagement with the law is shaped by both structural constraints and socio-cultural norms.

Feminist legal theory provides a useful lens for understanding these dynamics. Scholars have argued that law, while ostensibly neutral, often reproduces existing power relations by privileging those with access to resources and institutional knowledge (MacKinnon, 1989). In the context of slums, procedural requirements such as documentation and formal complaint mechanisms inadvertently exclude marginalized groups.

The distinction between formal and substantive equality is also relevant. While the Constitution guarantees equality before the law, substantive equality requires that legal systems actively address structural disadvantages. Without such adjustments, legal frameworks risk perpetuating inequality rather than alleviating it (Fredman, 2016).

Intersectionality further complicates this picture. Women in slums are not a homogeneous group; their experiences are shaped by overlapping identities, including caste, religion, and migration status. These intersecting factors influence their access to resources and their interactions with legal institutions (Crenshaw, 1989).

Constitutional Guarantees and Their Reach

The Constitution of India provides a robust foundation for gender justice. Article 14 guarantees equality before the law, while Article 21 has been expansively interpreted to include the right to live with dignity. Judicial decisions have played a significant role in broadening the scope of these rights.

In *Vishaka v. State of Rajasthan* (1997), the Supreme Court recognized sexual harassment as a violation of fundamental rights, thereby linking workplace safety to constitutional guarantees. Similarly, in *Olga Tellis v. Bombay Municipal Corporation* (1985), the Court acknowledged the right to livelihood as an integral component of the right to life.

Despite the progressive interpretation of fundamental rights by Indian courts, the accessibility of constitutional remedies remains uneven. Public interest litigation (PIL) has played a significant role in addressing systemic injustices, including issues related to housing, environmental protection, and labor rights. However, PIL as a mechanism often operates at a macro level, addressing structural concerns rather than individual grievances. For women in informal settlements, whose challenges are deeply personal and immediate, such mechanisms may offer limited relief (Galanter & Krishnan, 2004).

Moreover, the procedural requirements associated with accessing higher courts create additional barriers. Filing petitions, securing legal representation, and navigating judicial processes require resources that are often beyond the reach of marginalized communities. Even when legal aid is available, delays and bureaucratic hurdles can discourage sustained engagement. This results in a situation where constitutional rights exist in principle but remain inaccessible in practice.

Another dimension worth noting is the role of judicial discretion in interpreting rights. While courts have expanded the scope of Article 21 to include dignity and livelihood, the enforcement of these interpretations often depends on administrative agencies. In the absence of effective

coordination between the judiciary and executive, rights enforcement becomes fragmented. For slum women, this fragmentation translates into uncertainty and inconsistency in accessing justice.

The Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act (PWDVA) represents a significant advancement in addressing gender-based violence. By recognizing domestic violence as a civil wrong, the Act provides for a range of remedies, including protection orders, residence rights, and monetary relief.

However, its implementation in informal settlements is fraught with challenges. Protection Officers, who are central to the functioning of the Act, are often overburdened and lack adequate resources. Their limited presence in slum areas reduces accessibility.

Police attitudes also play a critical role. Reports indicate that complaints of domestic violence are frequently trivialized or redirected toward informal mediation, undermining the legal framework (Jaising, 2007). Women may be discouraged from pursuing formal complaints due to fear of social stigma or economic dependency.

Shelter homes and support services, though предусмотренные under the law, are insufficient in number and often inaccessible. For many women, leaving an abusive household entails significant risks, including loss of livelihood and social support. These factors contribute to underreporting and limited enforcement of legal protections.

Field-based observations and secondary studies suggest that the implementation of the PWDVA is often mediated through informal power structures within slum communities. Local leaders, community elders, or political intermediaries frequently intervene in cases of domestic violence, offering solutions that prioritize reconciliation over accountability. While such interventions may provide immediate relief, they often fail to address the structural nature of abuse or ensure long-term safety (Jaising, 2007).

The role of police in such contexts is equally complex. Women approaching police stations may encounter skepticism or pressure to withdraw complaints, particularly when cases are perceived as “family matters.” This institutional reluctance undermines the deterrent effect of the law and

reinforces the normalization of domestic violence. Furthermore, the absence of gender-sensitive training among law enforcement personnel exacerbates these challenges.

Economic vulnerability further constrains women's choices. In many cases, women contribute significantly to household income through informal work, yet their earnings are irregular and insufficient to ensure independence. The prospect of legal action against an abusive partner therefore carries the risk of financial instability, homelessness, and social ostracism. As a result, many women adopt coping strategies that involve negotiation and endurance rather than formal legal intervention.

The gap between legal provisions and lived realities is also evident in the functioning of support services. Shelter homes, counseling centers, and medical facilities are often under-resourced and difficult to access. The lack of coordination between these services further limits their effectiveness, creating a fragmented support system that fails to meet the needs of vulnerable women.

Workplace Harassment and Informality

The Sexual Harassment of Women at Workplace Act, 2013 seeks to create safe working environments through institutional mechanisms such as Internal Complaints Committees (ICCs) and Local Complaints Committees (LCCs). However, the effectiveness of this framework is limited in informal sectors.

In Kolkata, a significant proportion of women are engaged in domestic work, street vending, and construction labor. These occupations are characterized by informal arrangements, absence of written contracts, and lack of regulatory oversight. As a result, the applicability of formal complaint mechanisms becomes uncertain.

Domestic workers, for instance, operate within private households, where monitoring and accountability are minimal. Similarly, street vendors often face harassment from authorities, which may not be recognized as workplace harassment in a formal sense. The lack of awareness about LCCs further limits access to redressal mechanisms (Agnes, 2014).

The informalization of labor in urban India has significant implications for the enforcement of workplace rights. In Kolkata, the majority of women in slum areas are engaged in occupations that

fall outside formal regulatory frameworks. Domestic workers, for instance, operate in private spaces where oversight is minimal and accountability mechanisms are weak. This invisibility creates conditions in which harassment can occur without consequence (Agnes, 2014).

Street-based occupations present a different set of challenges. Women engaged in vending or small-scale trade often interact with multiple authorities, including municipal officials and police. These interactions are frequently characterized by coercion, harassment, and demands for informal payments. While such practices may not always be categorized as sexual harassment under the law, they contribute to a broader environment of insecurity that undermines women's dignity and autonomy.

The limitations of the Sexual Harassment Act in addressing these realities highlight the need for a more expansive understanding of workplace safety. Legal frameworks must account for the diversity of work arrangements and the absence of formal employer-employee relationships. Without such adaptations, large segments of the workforce remain effectively excluded from legal protection. Another critical gap in the implementation of workplace harassment law lies in the absence of intersectional recognition within institutional mechanisms. While the legislation acknowledges the vulnerability of women in informal sectors, it does not adequately account for differences based on caste, migration status, or age. For example, younger migrant women working as domestic helpers may face heightened risks due to isolation and lack of support networks, yet these specific vulnerabilities remain under-addressed in policy frameworks (Agnes, 2014).

Furthermore, the effectiveness of Local Complaints Committees (LCCs) depends heavily on administrative capacity and outreach. In many districts, LCCs exist only on paper or function irregularly, limiting their accessibility. This gap between statutory intent and institutional reality highlights a recurring pattern across legal frameworks—one where progressive legislation is undermined by weak implementation structures.

Migration, Identity and Gendered Vulnerability

Migration significantly shapes the experiences of slum women. Many migrate from rural areas in search of employment, often losing access to identity documents in the process. This loss creates barriers to accessing welfare schemes and legal remedies.

Language differences and unfamiliarity with urban institutions further complicate their situation. Migrant women may hesitate to approach authorities due to fear of discrimination or lack of support networks. These factors collectively increase their vulnerability and limit their ability to assert legal rights (Deshingkar & Farrington, 2009).

Legal Services Authorities Act, 1987 and Access to Justice

The Legal Services Authorities Act aims to provide free legal aid to marginalized groups. While the framework is well-intentioned, its implementation in slum contexts reveals significant gaps.

Awareness about legal aid services remains low, and outreach efforts are often inadequate. Even when services are accessed, concerns about the quality of representation persist. Procedural complexities and documentation requirements further hinder access.

Paralegal volunteers and legal aid camps have attempted to bridge these gaps, but their impact is limited by resource constraints and lack of sustained engagement. Gender sensitivity within legal aid institutions also remains an area of concern (Galanter & Krishnan, 2004).

The gap in legal aid accessibility is also linked to broader questions of trust in institutions. Studies have shown that marginalized communities often perceive formal legal systems as distant, slow, and unresponsive (Galanter & Krishnan, 2004). This perception discourages engagement, even when services are technically available. For women in slum areas, past experiences—either personal or collective—play a significant role in shaping these perceptions.

Additionally, language barriers and literacy levels affect the ability to understand legal procedures and documentation requirements. Legal communication is often conducted in technical language that is inaccessible to non-specialists, further alienating potential beneficiaries. Addressing these barriers requires not only procedural reform but also a shift toward more inclusive modes of legal communication.

Informality, Documentation, and Identity

Documentation plays a central role in accessing legal rights. However, for slum residents, obtaining and maintaining such documentation is a persistent challenge. Women, in particular, face additional barriers due to limited ownership of assets and identity proofs.

The absence of documentation affects multiple aspects of legal engagement, from filing complaints to accessing welfare schemes. It also increases vulnerability to eviction and displacement, further destabilizing lives (Roy, 2009).

Role of Local Governance and Community Structures

Local governance institutions and community organizations play a crucial role in mediating access to rights. In Kolkata, self-help groups and NGOs have contributed to legal awareness and service delivery.

However, these mechanisms are not without limitations. Political mediation often influences access to services, leading to selective enforcement. Women's participation in local decision-making remains limited, affecting the prioritization of gender issues.

Socio-Legal Realities: Lived Experiences

The lived experiences of slum women reveal the gap between legal frameworks and practical realities. Economic constraints, social norms, and institutional barriers shape their engagement with the law.

In many cases, women rely on informal mechanisms for dispute resolution, prioritizing immediate survival over long-term legal outcomes. These everyday negotiations highlight the need for context-sensitive approaches to rights enforcement.

Rethinking Enforcement: Toward Context-Responsive Approaches

Bridging the enforcement gap requires innovative strategies that align legal frameworks with social realities. Simplifying procedures, strengthening local institutions, and enhancing legal literacy are critical steps.

Mobile legal clinics, digital outreach, and community-based initiatives offer promising avenues for improving accessibility. Women-led collectives, in particular, can play a transformative role in building legal awareness and collective agency.

Comparative Perspective: Lessons from Other Indian Cities

A comparative perspective reveals that the challenges observed in Kolkata are not unique but resonate across other Indian cities. In Mumbai and Delhi, for instance, studies have documented similar gaps in the implementation of gender-related laws within informal settlements (Bhan, 2016). However, certain localized interventions offer useful insights.

In some cities, partnerships between municipal authorities and community-based organizations have improved access to legal services and welfare schemes. These initiatives often rely on decentralized models of governance, where community representatives act as intermediaries between residents and formal institutions. Such approaches demonstrate the potential of localized strategies in addressing structural barriers.

At the same time, comparative analysis highlights the importance of political will and administrative commitment in shaping outcomes. Where local governments have actively engaged with informal communities, there is evidence of improved service delivery and rights enforcement. These examples suggest that while legal frameworks provide the foundation, their effectiveness ultimately depends on context-specific implementation.

Everyday Legal Consciousness and Informal Justice

Legal consciousness among slum women is shaped not only by awareness of formal rights but also by everyday interactions with institutions and community structures. Rather than viewing law as a distant authority, many women engage with it pragmatically, drawing on both formal and informal mechanisms to address grievances. This hybrid approach reflects a nuanced understanding of the limitations and possibilities of legal intervention (Chatterjee, 2004).

Informal justice systems, including community mediation and local dispute resolution, play a significant role in this context. While these mechanisms are often more accessible and culturally embedded, they may also reinforce existing power hierarchies. Women's participation in such

processes is frequently constrained by social norms, limiting their ability to assert their interests fully.

At the same time, instances of collective action demonstrate the potential for transformative change. Women's groups and self-help collectives have, in some cases, successfully mobilized around issues such as violence, access to services, and labor rights. These initiatives highlight the importance of community-based strategies in complementing formal legal frameworks

Conclusion

The analysis presented in this paper underscores the limitations of a purely formal approach to rights enforcement. While India's legal framework provides a strong foundation for gender justice, its effectiveness is constrained by structural inequalities and implementation gaps.

For women in Kolkata's informal settlements, the challenge lies not only in the recognition of rights but in their realization. Addressing this challenge requires a shift toward substantive accessibility, supported by institutional reform and community engagement. The persistence of enforcement gaps in the context of slum women's rights underscores the need for a shift in both legal thinking and policy design. Rather than viewing informality as an obstacle to be eliminated, policymakers must recognize it as a defining feature of urban life that requires adaptive governance strategies. This involves rethinking legal procedures to accommodate the realities of undocumented populations and informal labor arrangements.

Equally important is the need to strengthen institutional accountability. Legal provisions, no matter how progressive, cannot achieve their intended impact without effective implementation. This requires investment in capacity-building, monitoring mechanisms, and community engagement. The role of civil society organizations and grassroots movements is particularly crucial in this regard, as they serve as intermediaries between formal institutions and marginalized communities.

Ultimately, the realization of rights for slum women depends on a multidimensional approach that integrates legal reform, social policy, and community empowerment. By centering the experiences of those at the margins, it becomes possible to move beyond symbolic guarantees toward substantive justice.

A critical takeaway from this analysis is that legal reform, while necessary, is insufficient in isolation. The persistence of enforcement gaps indicates that the challenge lies not only in the content of the law but in the conditions under which it operates. Informal settlements present a context where legal norms intersect with social realities in complex ways, requiring adaptive and responsive approaches.

Future policy interventions must therefore prioritize inclusivity and accessibility. This includes simplifying procedures, expanding outreach, and strengthening accountability mechanisms. Importantly, the voices and experiences of slum women must be central to these efforts, as they offer valuable insights into the functioning of legal systems at the ground level.

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