

ISSN: 2456-9550

JMC

December 2022

**RESTITUTION OF CONJUGAL RIGHTS UNDER
SECTION 9 OF THE HINDU MARRIAGE ACT
VIS-A-VIS A MARRIED WOMAN'S RIGHT TO
SUPPORT HER PARENTS IN OLD AGE**

AMEETA MOTWANI

Email: amotwani@jmc.du.ac.in

Associate Professor, Department of Commerce,
Jesus and Mary College, University of Delhi

Volume 6, 2022

THE JMC REVIEW

*An Interdisciplinary Social Science Journal of Criticism,
Practice and Theory*

<http://www.jmc.ac.in/the-jmc-review/content/>

JESUS AND MARY COLLEGE

UNIVERSITY OF DELHI

NEW DELHI-110021

RESTITUTION OF CONJUGAL RIGHTS UNDER SECTION 9 OF THE HINDU MARRIAGE ACT VIS-A-VIS A MARRIED WOMAN'S RIGHT TO SUPPORT HER PARENTS IN OLD AGE

AMEETA MOTWANI[#]

Abstract

This paper interrogates the provisions of Restitution of Conjugal Rights (RCR) granted under Section 9 of the Hindu Marriage Act and unpacks the inherent injustice and inequities. The provision of RCR requires the married couple to stay together (in their marital home) and in case one of the spouses moves away, the other can invoke this provision to restore the 'society of the other'. RCR has been widely criticised by legal and feminist scholars as well as the progressive section of the media for perpetuating gender inequity and injustice.

The paper uses the available scholarly literature and the judgments in relevant court cases to demonstrate that the constitutional validity of the provision of RCR is questionable. The provision seemingly violates the Constitutional guarantee of 'equality for all citizens without discrimination' if we consider the notion of Substantive (not only Formal) equality.

The paper deconstructs the patriarchal notions of gender duties and rights in the judicial discourse by using the post-modernist framework of discourse analysis. The paper looks for explanations for the (seemingly) patriarchal attitudes of the Indian judiciary and elaborates upon the negative impact of the legal discourses on women's freedom and agency within the family. The judicial discourse is found to be endorsing the patriarchal social norm of patrilocality which is argued to be one of the most important reasons for son preference and sex-selective abortions (female foeticide). The paper cites evidence of the change in the judicial discourse which is a reflection of the changes in society and its norms over the decades.

Keywords: Restitution of Conjugal Rights (RCR), Hindu Marriage Act, Indian judiciary, Patriarchy

[#] Associate Professor, Department of Commerce, Jesus and Mary College, University of Delhi. Email: amotwani@jmc.du.ac.in.

I. Introduction

The phenomenon of ‘Missing Women’ that Sen (1992) wrote about is well known in the Gender and Development (GAD) literature. He pointed out that by “Using population models based on Western demographic experience it is possible to estimate roughly how many women there would be without any female disadvantage in survival, given the actual life expectancy and the fertility rates in these countries. Coale estimates 29 million missing women in China, 23 million in India...” (Sen 1992: 587). The elimination of female children through neglect in healthcare and nutrition as well as female infanticide (in the case of specific communities e.g. the Rajputs in Rajasthan) and more recently by aborting the unborn female foetuses (foeticide) resulted in the alarmingly adverse and declining sex-ratios for girls in the 2001 and 2011 population censuses. The adverse sex-ratio especially among the 0-6 year age group confirms the preference for a male child popularly termed as ‘son preference’ by scholars studying this issue.

Though sociologists have cited various sociocultural factors as explanations for the ‘son preference’, patrilocality* seems to be an important one (Goli et al 2022, Ebenstein 2014). The simple logic is that in cases where sons stay with their parents along with their wives and children, there are two carers for the parents of boys and none for the parents of girls. This applies particularly to agrarian societies and developing economies such as India where pension and old-age support is insufficient or unavailable from the state.

Ebenstein (2014) goes on to argue that patrilocality is the main reason for son preference by using cross-country data on the co-relation between patrilocality and sex-ratios and demonstrates that it is the single common factor across religiously and culturally very diverse countries with adverse sex ratios. Not only this, but he also cites empirical evidence on sex-ratios among different regions/communities within a country that seems to confirm this strong correlation between patrilocality and adverse sex-ratios for girls.

This paper is a result of the research to understand whether patrilocality is legitimised and strengthened by law in India. State laws and policies play a potentially important role in shaping women’s lives and economic agency and family law is perhaps the most crucial precondition for the economic empowerment of women (Htun, Jensenius & Nelson-Nuñez

* Patrilocality refers to the family system where the married couple live in the house of the husband’s parents along-with the other siblings of the husband.

2019). In India, the questions relating to family life continue to be governed by different personal laws as was the case under British rule. There are five Religious Personal Laws (RPLs) pertaining to the – Hindus, Muslims, Parsis, Christians and Jews based on the religious practices of these communities. The RPLs cover important areas of personal life such as marriage, divorce, maintenance, custody of children, inheritance and women’s right to property.

This paper interrogates the provision of Restitution of Conjugal Rights (hereinafter RCR) provided in Section 9 of the Hindu Marriage Act[†] under the Hindu Personal Law.[‡] The provision of RCR requires the married couple to stay together (in their marital home) and in case one of the spouses moves away, the other can invoke this provision to restore the ‘society of the other’. RCR has been widely criticised by legal and feminist scholars as well as the progressive section of the media for perpetuating gender inequity and injustices.

The paper is structured as follows: the present section provides the background, rationale and theoretical framework for the study. The next section presents a review of literature on Section 9 including debates about its constitutional validity. Section 3 presents a brief account of the notion of equality inherent in the Constitution and the intentions of the framers of the Constitution on gender and justice. Section 4 of the paper attempts to deconstruct the patriarchal social norms inherent in the meanings assigned to various terms and the language used in the judgements relating to the provision of RCR by using the post-modernist framework of discourse analysis (Scott 1988). Section 5 looks at the explanations for the (seemingly) patriarchal attitudes of the Indian judiciary and elaborates upon the negative impact of the legal discourses on women’s freedom and agency. It mentions the observed changes in the traditional social norms and speculates if the legal discourse will follow suit. The final section presents the conclusions and suggestions.

[†] <https://indiankanoon.org/doc/322349/> accessed 9 February 2023

[‡] This provision is available in other RPLs too but I chose Hindu Marriage Act due to several reasons, the most important being the fact that the Hindu Personal Law applies to the largest religious group - Hindus constituting 80% of the population and also to the Sikhs, Jains and Buddhists.

II. Does Section 9 Violate Fundamental Rights?

Article 13 of the Constitution[§] explicitly invalidates 'all laws in force' that violate any of the Fundamental Rights but the question whether it applies to the RPLs remains unsettled. The Constitutional validity of Section 9 has often been questioned in academic scholarship, in media and even in courts on the grounds of it violating women's fundamental rights to life, liberty and privacy granted under Articles 14, 19 and 21.

There are contradictory judgements on the question of constitutional validity of the provision of RCR. In 1983, the Andhra Pradesh High Court in *T Sareetha vs. T Venkata Subbaiah* held the provision of RCR as unconstitutional, on grounds that it violates both privacy and equality. The judge called the remedy of restitution of conjugal rights as 'barbarous', 'uncivilised' and 'an engine of oppression'. In his words, a decree for RCR was an order 'to coerce through: judicial process, the unwilling party to have sex against that person's consent and free will with the decree-holder'.**

However, in 1984, the Delhi High Court judge in *Harvinder Kaur vs Harmander Singh Choudhry* termed the above judgement as erroneous and held that it was wrong to presume that RCR means coercive sex. He wrote that 'The remedy of restitution aims at cohabitation and consortium and not merely at sexual intercourse'.††

Finally, in 1984, a single-judge Supreme Court Bench settled the issue and upheld the constitutional validity of Section 9 of the Hindu Marriage Act noting that the provision of RCR 'serves a social purpose as an aid to the prevention of break-up of marriage'. It held that:

Section 9 of the Act is not violative of Article 14 or Article 21 of the Constitution if the purpose of the decree for restitution of conjugal rights in the said Act is understood in its proper perspective and if the method of execution in cases of disobedience is kept in view.

Judgement in *Saroj Rani v Sudarshan Kumar Chadha* ††

Nussbaum (2001) argues that the Supreme Court reversed the position taken by the Andhra Pradesh High Court primarily because it focussed on the privacy part of the

[§] <https://indiankanoon.org/doc/134715/> accessed 9 February 2023

** AIR AP 356 (1983) at <https://indiankanoon.org/doc/1987982/> accessed 29 December 2021

†† AIR Delhi 66 (1984) at <https://indiankanoon.org/doc/191703/> accessed 29 December 2021

††† AIR SC 1562, 1568 (1984) at <https://indiankanoon.org/doc/1382895/> accessed 31 December 2021

argument and ignored the equality part. She writes (*ibid.*: 48) ‘In the less-noticed equality arm of the argument, Justice Choudhary noted that the law was neutral on its face,... (but)... it was discriminatory because of the substantive differences between the social positions of males and females in marriage.’ She therefore concludes that status of the challenge to the constitutional validity of the RCR based on the (substantive) equality argument remains unclear in constitutional jurisprudence since the Supreme Court never refuted it.

Following the recognition of the right to privacy as a fundamental right by a nine-judge Bench of the Supreme Court in 2019, two law students have challenged Section 9 arguing that ‘a court-mandated restitution of conjugal rights amounted to a “coercive act” on the part of the state, which violates one’s sexual and decisional autonomy, and right to privacy and dignity’ (Vishwanath 2021). This case known as *Ojaswa Pathak vs Union of India*^{§§} is pending (at the time of writing this paper) before the Supreme Court of India.

The equality arm of the argument holds only if it is established that the notion of Equality in the Constitution is that of ‘Substantive Equality’ and not mere ‘Formal Equality’. The next section deals with this issue.

III. Formal Equality Vs. Substantive Equality

Though the remedy of RCR under Section 9 is available equally to both partners, most court cases were filed by men. Women are deserted by their husbands but in a large number of cases, they are not in a position (socially as well as financially) to fight a legal case for restoration of conjugal rights or maintenance. Thus, legal equality does not amount to equal outcomes or substantive equality.

The question of Equality vs. Difference has been an important area of debate among the feminist scholars and between feminists and their opponents (Scott 1988). This section tries to understand whether the framers of the Constitution of India had ‘Formal’ or ‘Substantive’ Equality in mind. While formal equality refers to equal treatment to all (assuming them to be similar), substantive equality recognises that individuals and groups may be different and

^{§§} <https://www.scobserver.in/cases/ojaswa-pathak-union-of-india-challenge-to-restitution-of-conjugal-rights-case-background/>

therefore require different (often preferential) treatment for the disadvantaged in order to achieve the objective of equality of outcomes.

Kapur and Cossman (1999: 40) argue that ‘Indian constitutional law is (sic) informed by a formal model of equality, and... attempts at moving towards a more substantive understanding have been thwarted by the deeply embedded assumptions regarding equality as formal equality’.

Nussbaum (2001) however, believes that the Constitution is ‘explicitly aimed at securing substantive equality for previously subordinated groups’ (p. 39). In support of her argument, she cites Article 15 of the Constitution which prohibits discrimination on any grounds but clearly states that it does not mean that the state cannot make special provisions for the benefit of women and children (and other oppressed groups). Similarly, Article 16 about equality of opportunity is cited by her as an example of the substantive equality approach. She informs that:

The issue of sex equality was much discussed during the drafting of the Constitution. Nehru and his law minister B. R. Ambedkar (himself a lower-caste man) were explicitly and deeply committed to the abolition of inequalities based on caste and sex. The Fundamental Rights were drafted so as to reflect this emphasis.

Nussbaum 2001: 38

Both formal and substantive approaches to equality may be interpreted from Article 15, depending on whether the relationship between clauses (3) and (4) of the Article are seen as an exception to clauses (1) and (2) of the article or as a (holistic) part of these (Kapur and Cossman 1999). Nussbaum (2001: 48-49) clarifies that ‘the sections of Articles 15 and 16 pertaining to women are not exceptions, but part of the Articles’ articulation of an anti-hierarchical understanding of equality’.

Kapur and Cossman concede that in case of Article 16, the Supreme Court has addressed this debate and held that Article 16(4) was not an exception to Article 16(1) (*Kerala vs. N.M. Thomas* cited in Kapur and Cossman 1999: 49). While Kapur and Cossman (1999) tend to see the substantive approach to equality ‘emerging over time’, Nussbaum believes that “The substantive approach to equality, present from the Founding in statements of Nehru and Ambedkar, and arguably, plainly expressed in the Constitution’s text has gradually prevailed in the jurisprudence as well.” (2001: 47)

India is based on the common legal system introduced by the British in which the courts rely heavily on *stare decisis*^{***}, or precedent, when deciding cases. In case of Hindu Law too, the lower as well as family courts are expected to follow decisions from previous cases. It is therefore important to see what the judges in the High Courts and the Supreme Court (the apex court) have been saying in the cases filed under Section 9 referred to them.

IV. Language and Discourse about Wife's Duties and Marital Home in Judgements on RCR Cases

In many cases during the 60s and 70s, the provision of Section 9 was used by husbands to demand that their wives give up their jobs if it required them to stay in a different city. An often cited case in this context is that of *Tirath Kaur v Kirpal Singh* (AIR 1964 Punjab 28). In this case, the wife was willing to carry on with the marriage but did not want to resign from her job that was in a different city. The single judge bench of the Punjab High Court however, ruled in favour of her husband and held that 'the wife's refusal to give up her job amounts to withdrawal from the society of her husband without any reasonable cause' (quoted in Jawanda 2018: 413). This entitled the husband for a decree of restitution of conjugal rights.

Similarly, in *Gaya Prasad v. Bhagwat*, the Madhya Pradesh High Court held that:

According to the ordinary notions of Hindu society, the wife is expected to perform the marital obligations at her husband's residence. She can accept service at a different place but not so as to clash with the husband's marital rights which she is duty-bound to render.

AIR 1966 MP 212 Para 10 of the judgement^{†††}

Even though in this case, the husband had virtually no income or property and the wife had a job, the justices held (*ibid.*) that 'The wife, in our opinion, was not entitled to reject the husband's offer to bring her to their matrimonial home. As she refused to go with the husband (appellant), she became guilty of desertion'.

^{***} a Latin phrase meaning "to stand in the-things-that-have-been-decided"

^{†††} <https://indiankanoon.org/doc/88148/> accessed on 29 December 2021

In both of the above cases and in many others, the judges relied upon and quoted from Hindu law by Mulla Para 555, ‘In the Hindu society, wife's first duty to her husband is to submit herself obediently to his authority, and to remain under his roof and protection.’^{‡‡‡}

In *Surinder Kaur v Gurdeep Singh* (AIR 1973 P&H 134) ‘it was held that the Hindu law imposes on the wife the duty of attendance, obedience to and veneration for the husband to live with him wherever he chooses to reside’ (Jawanda 2018: 413).

The discourse change came when a two-judge bench of Delhi High Court observed that:

When the husband and the wife are both gainfully employed at two different places from before their marriage, where will be the matrimonial home after the marriage? With more and more women taking up jobs and wanting to retain them even after their marriage, the question becomes increasingly important, topical and controversial. It has arisen in this case and requires consideration in some depth.

Judgement in *Swaraj Garg vs K.M. Garg* AIR 1978 Delhi 296^{§§§}

The judgement mentioned changing times and need to interpret law accordingly and held that in the changed circumstances (of women being employed in places different from their husband’s homes), a woman has equal right to decide the place of marital residence.

The language of various judgements discussed above show the inherent patriarchal ideology. In some of the cases, the wife was accused by the husband and his council for not ‘sufficiently respecting’ husband’s parents (while living with them) or not touching the feet of other elders as a mark of respect. No such demands are made on the husband under the well-entrenched social norms of patriarchy. In the earlier case of RCR (AIR 1984 Delhi 66 discussed above), the Delhi High Court judge while defending the provision of RCR elaborated on his stand that the restitution decree does not enforce sexual intercourse by giving an example. He mentioned that if the wife is staying with her husband but denies him sex, no case for RCR can be filed. In view of the fact that marital rape (even in case of a minor girl aged 15 and above) is not punishable^{****}, it seems strange that the learned judge assumed that a wife in India can actually deny sex to her husband while living

^{‡‡‡} <https://indiankanoon.org/docfragment/88148/?formInput=Mulla%27s%20hindu%20law%20para%20555>
accessed January 6 2022

^{§§§} <https://indiankanoon.org/doc/744483/> accessed 30 December 2021

^{****} Exception 2 to Section 375 of the Indian Penal Code.

under his roof. Part of the reason for these kinds of insensitive judgements is the patriarchal nature of judiciary which is the subject matter of the next section.

V. Patriarchal Social Norms and Gender (In)Justice

Citing research by Sakshi, a civil society organisation working to train judges in new ways of thinking about gender, Merry (2009) notes that gender bias is prevalent widely among the Indian judiciary. Based on the interviews of 109 judges, Sakshi (1996 cited by Sally 2009) found widespread gender bias among judges in respect of their attitudes towards marriage and domestic violence.

Three quarters thought that they should preserve the family even if there was violence in the marriage (74%). Half of the judges thought that women who stay with men who abuse them are partly to blame and just about half thought that there were certain occasions when a man was justified in slapping his wife.

Sakshi (1996: 5-6) quoted in Merry (2009: 109)

One reason for the gender bias in the judiciary is that it does not represent India's gender and other diversities (Nussbaum 2001). The Supreme Court which is the highest judicial body of India is headed by the Chief Justice of India and consists of a maximum of 34 judges. The Judges of the Supreme Court are currently appointed by a collegium of senior justices. There was no woman judge till 1990, and since then, there has generally been only a single woman judge in the Court. Recently, in August 2021, three women judges were sworn in taking the number of women judges to be 4 out of 33 judges at present. In the High courts, 574 of the 650 (more than 88%) judges are men^{††††}. Though there is no guarantee that women judges would not be under the influence of patriarchal social norms, it is believed that their representation will reduce the present gender bias in the judiciary.

Kapur and Cossman (1996) blame the 'familial ideology' and its influence on the judges in India for their patriarchal stand. Nussbaum (2001: 50) gives a benefit of doubt to the 'well-intentioned and equality-minded judges' and holds the lack of adequate and gender sensitive legal education as responsible for their 'archaic and unreflective thinking'.

My reading of the judgements presented in the previous section, point to the fact that the judiciary itself is a product of the society and as such their judgements reflect the prevailing norms of the society in which they have grown up. Though we expect them to be more

^{††††} <https://www.scobserver.in/journal/11-7-of-high-court-judges-are-women/>

progressive because of their high education and the influence they have on the legal discourse and society, it is rarely that they rise above the prevailing social norms. For the most part, judicial pronouncements seem to follow the changes in social norms rather than influence to bring the change.

For example, in 1991 in a case similar to the ones discussed in section 4 but almost two decades later, where wife was employed in a different city from that of her husband, the judge stated that:

In the present modern set up it can no longer be claimed that it is only the house of the husband or the house of his parents that will be the matrimonial home of the parties. In the present times husband and wife are equal partners and in the present case the wife is little more than an equal partner. She has an equal right of having a say in the matter of determining the place of their matrimonial home.”

para 27 of judgement in *Smt. Alka Bhaskar Bakre vs Bhaskar Satchidanand Bakre*
(AIR 1991 Bom 164)****

This was because the wife was working and earning more than her husband. Except for the reason of employment, the wife is expected to return to the husband's house which is more often than not the house where he lives with his parents' (and many times siblings). If the girl does not want to live there because she is not comfortable or happy - it may not be accepted as a sufficient reason for 'leaving the society of her spouse'.

The details of various cases of RCR show that in many cases, the wife left the husband's parents' house due to various differences with the relatives of her husband but she needed to prove physical or mental cruelty for it to be a sufficient ground for leaving her husband's (parents') home. I argue that this is because the judiciary takes the social norm of patrilocalitas as a given. In Hindu Marriage rites, the priest administers the marriage vows to the young couple (author's observation). The husband is advised to refrain from adultery and remain faithful to his wife and financially provide for her needs and comforts. The marriage vows for the wife however, include those of obedience to her husband and his parents and not to go out including (and sometimes specifically) to visit her parents without their explicit permission.

Given that patrilocality is one of the important reasons for son preference which in turn is responsible for sex selective abortions (Ebenstein 2014), it needs to be taken seriously.

However, the co-residence norms seem to be changing gradually over the years. Two generations ago, the girls' parents considered it a taboo to eat food or even have water at their

**** <https://indiankanoon.org/doc/1696339/> accessed 31 December 2021

daughters' marital home. It is however, common today (specially if the mother is widowed and has no sons or sons are young) for the parent(s) to live in their daughter's marital home on a temporary or permanent basis. Even where daughters do not live with them, they provide physical and medical care (and sometimes financial support) to the aged parents. In recent years, in case of families with only daughters, they along with their husbands (and sometimes his parents too) are seen to provide support to the girls' parents^{§§§§}. The nature and extent of support varies among families but definitely seem to be increasing over time.

Just as the changing norms about women's increasing employment and need to stay in a different city led to a change in the judiciary's outlook about RCR and its interpretation, the changing norms about girls' responsibility for supporting their parents have to be taken into consideration. Equity also demands this since daughters have equal inheritance rights under the Hindu Succession Act 1956.

Law can be seen as a site of discursive struggle where reformers and activists challenge and attempt to displace dominant understandings of gender and cultural norms (Kapur and Cossman 1996). Feminist legal scholarship should therefore, explore ways 'to steer the discourse in the direction of asking how family laws may be constructed so as to not condone gender discrimination. The state law can and should strive to create norms of gender justice in family laws' (Parashar 2013: 6). It is important for the law (and its interpreters) to recognise that the traditional norms for residence of married couples will no longer serve the demand for gender justice.

VI. Conclusion

The paper studied an important law governing the married lives of couples in India – the Hindu Marriage Act, to unpack the inherent injustices and inequalities by taking the case of provision of Restitution of Conjugal Rights granted in it. Using the available literature and the relevant judgements, it demonstrates that the Constitutional validity of the provision (of RCR) is questionable. The provision seemingly violates the Constitutional guarantee of equality for all citizens without discrimination if we consider the notion of Substantive (not only Formal) equality. By drawing on the debate between scholars (Kapur and Cossman vs.

^{§§§§} It goes without saying that where there are no sons, daughters usually inherit the entire property of parents.

Nussbaum), the paper establishes that it is Substantive Equality that the framers had in mind. However, the jurisprudence seems to have understood it as such only gradually over time.

The paper attempts to deconstruct the patriarchal notions of gender duties and rights in the judicial discourse by analysing the language of the judgements in cases of RCR. It also argues that the judicial discourse that is based on the prevalent social norms seems to reflect the changes taking place in the society and its norms. It is desired that given the power of the judicial discourse it should be used to lead the changes in social norms rather than merely follow them. In a gender equal India, where we want daughters to be desired as much as sons, we need a discourse where the conjugal home of the couple is not that of the husband's paternal home by default but is based on the desires and needs of the husband and wife and their respective families.

The judiciary needs to be sensitised about gender inequities inherent in the traditional social norms and made aware of the international debates on women's rights. Better representation of women in the higher judiciary by removing the inherent bias in the selection process is another area where reform is needed.

References

Ebenstein, A. (2014) 'Patrilocality and Missing Women', available at *SSRN 2422090* DOI: <http://dx.doi.org/10.2139/ssrn.2422090> (accessed on 15 February 2023)

Goli, Srinivas, Somya Arora, and Neha Jain, Sekhar T.V. (2022), 'Patrilocality and Child Sex Ratios in India', MPRA Paper No. 111905, Available at <https://mpra.ub.uni-muenchen.de/111905/> (accessed on June 14, 2023)

Htun, M., Jensenius, F. R., & Nelson-Nuñez, J. (2019) 'Gender-discriminatory laws and women's economic agency', *Social Politics: International Studies in Gender, State & Society*, 26(2), 193-222.

Jawanda, K. (2018) 'The Remedy of Restitution of Conjugal Rights Under Hindu Law – A Negation of Constitutional Liberties and Gender Justice', *International Journal of Research in Humanities, Arts and Literature*, 6(5), 411-420.

Kapur, R., & Cossman, B. (1996). *Subversive sites: Feminist engagements with law in India*, New Delhi: Sage Publications.

- Kapur, R. and Cossman, B. (1999) On women, equality and the constitution: Through the looking glass of feminism. *National Commission for Women, Course Curriculum on Gender Sensitisation of Judicial Personnel*, 40-79.
- Merry, S.E. (2006) 'Disjunctures between global law and local justice', in Merry, S.E. (ed.) *Human rights and gender violence: translating international law into local justice*, Chicago: Chicago University Press.
- Nussbaum, Martha C. (2001) 'India: Implementing Sex Equality Through Law', *Chicago Journal of International Law*, 2(1) Article 4. Available at: <https://chicagounbound.uchicago.edu/cjil/vol2/iss1/>
- Parashar, A. (2013) 'Religious personal laws as non-state laws: implications for gender justice', *The Journal of Legal Pluralism and Unofficial Law*, 45(1) 5-23.
- Scott, J. W. (1988) 'Deconstructing Equality-versus-Difference: or, the Uses of Poststructuralist Theory for Feminism', *Feminist Studies*, 14(1), 33–50. <https://doi.org/10.2307/3177997>
- Sen, A. (1992). 'Missing women', *BMJ: British Medical Journal*, 304(6827), 587.
- Vishwanath, A. (2021) 'Explained: Conjugal Rights before the Supreme Court' *Indian Express* 26 July 2021 available at <https://indianexpress.com/article/explained/explained-conjugal-rights-before-supreme-court-7411007/> accessed 31 December 2021
- Website: <https://indiankanoon.org> last accessed on 9 February 2023