
PLIGHT OF WOMEN IN THIS PROGRESSIVE AGE: A QUESTION TO TRUE MODERNITY

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ABSTRACT

From framing various legislations, policies, and regulations to landmark judgments and debates with allusion to successfully propagate and enforce the same in terms of maintaining equity in society for attaining women empowerment, India, that is Bharat, is preponderantly referred as a patriarchy. In this progressive and inclusive era, it is a concern that the conventional perception of a woman in this country is of a 'perfect homemaker.'

As has been documented, Indian women are subjected to a variety of repressive practises based on public standards and customs. Aside from the social blocking obstacles, some of the time regulations and techniques are also discriminatory, possibly explicitly or implicitly. All humans have right to live with freedom, with dignity and respect, without certain constraints. Nevertheless, problems such as cruelty, female feticide, dowry, and many have a significant prevalence in India. It is a blatant infringement of women's fundamental right to personal life and liberty, which is guaranteed to everyone under Article 21 of the Indian Constitution, regardless of prejudice.

The authors intend to conduct a descriptive study to examine the presence of the legislative, executive, and judicial institutions of governance, along with their discretionary responsibilities, in reference to women's rights and laws to live in secure and safe environment. The paper aims to explore the history, causes, and, most importantly, contemporary circumstances wherein women of India were made victims to atrocious crimes and exploitation in their day to day working. The study aims to examine whether the adoption of women-centric policies has improved the situation in India when compared to other nations' norms. The authors will endeavour to relate The Criminal Law (Amendment) Act, 2013 to women's rights within its purview.

Prelude

It is a misconception that women are the most vulnerable and that any action taken in their behalf will empower them; this is a myth. In the same discourse, the debate about women's empowerment has heated up as a crucial tactic for redesigning power relations in women's favour. However, while policymakers, professionals, and academics regularly use the term "women empowerment", there is no clarity on how it may be achieved.

What we experience today is the result of past actions and what we shall observe next is the result of today's acts. As a result, it is vital to realize the basic reasons of ills that result to continuous scrutiny. The origins in India date back to medieval times when a bride's family gave her a monetary or in-kind present to ensure her freedom after marriage. It became the only legal means to marry during the colonial period, with the British making dowry a requisite. With its expanding prosperity, India's current trend is to encourage ever-higher bride costs among all socioeconomic groups. However, the rising cost of a bride has resulted in an upsurge in violence against women.

Although dowry has been illegal in India since 1961, enforcing the rule has been more difficult. Any death or violence within the first seven years of marriage would be tried as dowry-related, according to a 1986 modification to the legislation. The truth is that the majority of dowry violence crimes go unreported.

Female feticide, despite it has been illegal since 1961 this is a big societal issue in India, with cultural ties to the dowry system, as deeply embedded in Indian society. Unlike any other Western society, India has a significant preference for sons over daughters. Pregnancies are planned using differential contraception that applies contraception based on the number of surviving men, irrespective of family size. Prenatal diagnostic methods determine the fetus's gender after conception, and female fetuses are aborted.

In 1994, the **Preconception and Prenatal Diagnostic Techniques¹ (PCPNDT) Act**, making sex-selective abortion illegal was passed. In 2003, it was revised to make medical professionals legally liable. Agencies, on the other hand, have failed to properly implement the PCPNDT Act.

¹ Rao, N. The achievement of food and nutrition security in South Asia is deeply gendered. *Nat Food* **1**, 206–209 (2020). <https://doi.org/10.1038/s43016-020-0059-0>

Any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women and girls, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life, is defined as violence against women and girls. Violence against women and girls includes, but is not limited to, physical, sexual, and psychological violence performed or tolerated by the state in the home or in the community.

GENESIS – Fundamental Cause

The primary cause of female foeticide in our society is dowry. Many girls are killed while still in the womb because of poor families' dread of dowry. Families regard girls as a financial liability whereas the birth of a boy is regarded a road to heaven in Hindu mythology. Girls are put to death before they are born leading to such conventional views.

The main cause of female foeticide is technological improvement. Parents nowadays choose a child's sex before birth, and if it does not correspond to their desires, they assassinate the newborn. Even after the laws are made, corruption is a significant contributor to the growth in female foeticide. Some doctors commit this horrific deed in order to satisfy their financial desires.

The Greed Factor - Dowry demands are frequently an example of society's collective greed. Extortion for social status, recompense for the groom's education, and his financial stability are all common features of Indian marriages. Demands are made without fear of retaliation and are expected to be fulfilled with silence. Threats of withdrawing the proposal at the risk of losing face in the community hang over the bride's family's heads, and portions of the agreed-upon price are frequently required before the actual wedding.

Society Structure - The dowry system is mostly a manifestation of Indian society's patriarchal structure, in which males are deemed superior to women in terms of physical and mental qualities. With such a cultural system in place, women are frequently regarded as second-class citizens, only fit for household duties. Such beliefs are frequently linked to them being considered as a financial burden by their father and then by their husband. The dowry system, which feeds the discernment that a girl child is a potential burden on family income, exacerbates this attitude.

Social Constraints - In addition to shared religious origins, caste and social rank impose further restrictions. Caste endogamy and clan exogamy are two practices that must be considered while

arranging a relationship. Preferred partners must be from the same caste, belong to a different clan, and have the same or higher social status. Due to these restrictions, the pool of marriageable men is once again significantly depleted, resulting in similar results for those who seek dowry.

Women's Social Status – Women's lower social status in Indian society is so deeply ingrained in the nation's consciousness that their treatment as simple commodities is accepted without question, not just by the family but also by the women themselves. When marriage is considered as the pinnacle of a woman's achievement, heinous practices like as dowry become entrenched in society.

Illiteracy- A lack of formal education is another reason for the dowry system's predominance. A considerable number of women are intentionally kept out of schools, either because of superstitions or the notion that educating females will diminish their ability to be decent wives.

Indian Legislation: Women Centric

The Immoral Traffic (Prevention) Act, 1956:

The act enshrines the meaning of 'brothel' and 'prostitution' given under section 2(a) and 2(f) respectively. Discrepancies between the commercial exploitation/gain and whether single use of any place impugns the definition of a brothel. Punishments can be found into ambit of sections 3-9, 11, 18, 20 and 21 respectively.

Dowry Prohibition Act, 1961:

Penalty for giving and taking dowry & penalty for demanding dowry have been discussed in sections 3 & 4 with imprisonment for a term not less than five years with fine and six months to two years with fine respectively. Section 8 discusses the offences of specific scopes that are cognizable, non-bailable and non-compoundable.²

The Indecent Representation of Women Act, 1986:

The Indecent Representation of Women Act of 1986 forbids obscene and indecent representation of women and punishes those who do so. The law was enacted to restrict women's representation in the mainstream media, particularly print media. It was put in place

² Dowry Prohibition Act, 1961, § 3-4, No. 10, Acts of Parliament, 1961 (India).

to ensure that commercials, periodicals, publications, and pictures depicting women in the media were not indecent.

The Commission of Sati (Prevention) Act, 1987:

An Act to provide for the more effective prevention of sati and its glorification, as well as matters related to or ancillary thereof. Although sati, or the burning or burying alive of widows or women, is repulsive to human nature but nowhere prescribed as an imperative duty by any of India's religion. Albeit, it is vital to adopt more effective measures to avoid sati and its glorification.

The Protection of Women from Domestic Violence Act, 2005:

The Protection of Women from Domestic Violence Act of 2005³ is a promising piece of legislation that integrates civil and criminal punishments to provide redress to domestic violence victims. The statute establishes protection authorities, healthcare centres, and no-fee directives, among other things, to assist aggrieved women in safeguarding themselves and their families. However, there are few drawbacks with the Act. Clearly, the Act's implementation has to be more specific. Police often do not submit a First Information Report (FIR), which is the first step in starting a police investigation, according to Human Rights Watch, especially if the aggrieved individual is from a low-income or vulnerable and marginalized society.

Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013:

According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013⁴, any woman who wishes to file a complaint against sexual harassment at work shall do so by submitting six written complaints about the incident. The act also specifies the damages and penalties that would be imposed on anyone who engages in sexual harassment at workplace.

The Criminal Law (Amendment) Act, 2013:

Several provisions of the Indian Penal Code, Indian Evidence Act, and Criminal Procedure Code were changed by the Act. Several new offences have been accepted and subsumed into

³ The Protection of Women from Domestic Violence Act of 2005, No. 43, Acts of Parliament, 2005 (India).

⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, No. 14, Acts of Parliament, 2013 (India)

the Indian Penal Code as a result of this act, including acid attack (Section 326 A & B), voyeurism (Section 354C), stalking (Section 354D), attempting to disrobe a woman (Section 354B), sexual harassment (Section 354A), and sexual assault resulting in death or injury resulting in a persistent vegetative state Section 354 (Section 376A).⁵ The Act also strengthened the penalties for already-existing violations by making them more stringent.

Development in IPC via Criminal Law Amendment 2013

The Criminal Law Amendment Act of 2013⁶ included the following changes and additions:

- Section 166A was added to the bill. Any public servant who disobeys any law, order, or direction shall be punished by harsh imprisonment for duration of not less than 6 months, according to the section.
- Sections 326A and 326B of the IPC were added to address the issue of acid attacks, and they were made a separate offence punished by ten years after the modification. The sentence can be increased to life in jail, a fine, or both.
- Section 354A was added to the bill, which defines sexual harassment and specifies penalties for it.
- Section 354B was added, which makes it illegal to use criminal force or assault a woman with the goal of disrobing her and outlines the penalties for doing so.
- Section 354C was added, which contains the crime of voyeurism, which is defined as observing a woman engage in a private act, such as sexual actions, or having her private parts exposed.
- The act of stalking, defined as following a woman or attempting to establish contact despite her disinterest, or monitoring via any means, was introduced to the law as Section 354D.
- The consent age has been raised from sixteen to eighteen years old.

Development in offence of rape post-Criminal Law Amendment 2013

Following the Nirbhaya case, the definition of rape was broadened, and several provisions were added to section 376 of the IPC in addition to Rape. Those changes are as under:

⁵ THE INDIAN PENAL CODE, § 326, §354 and §376 , No. 45, Acts of Parliament, 1860 (India).

⁶ THE INDIAN PENAL CODE, § 326, §354 and §376 , No. 45, Acts of Parliament, 1860 (India).

- The Amendment Act has expanded the definition of rape to include unconsented penetration of the mouth, urethra, vagina, or anus with the penis or other objects by anybody, as well as the reluctant application of the mouth to the vagina, urethra, or anus.
- Section 376 (2)(c), which makes provision for the crime of rape by military members.
- Section 376A of the Criminal Code, which deals with rape that result in death or a vegetative state.
- Section 376D, which deals with group rape, was added to the bill.
- Repeated offences are punishable by life in prison or death.
- Working with a trafficked individual can result in legal consequences.
- It has also been clarified that penetration means “penetration to whatever extent,” and that the lack of physical resistance or any other resistance is irrelevant in determining whether or not rape has occurred.

Assessing the Data - Crimes Against Women

As per the data available of NCRB (Table 3A.1)⁷, complaints to authorities seeking civil, out-of-court resolutions appear to have climbed dramatically in the years 2018-2020, while First Information Reports (FIRs), which must be filed with the police to begin judicial proceedings, have decreased even more. The number of registered cases has either remained constant or decreased in the majority of Indian states.

Numerous experts, not just in India, have highlighted the difficulties in precisely establishing the true incidence of domestic violence due to under-reporting. In recent years, however, special programmes like as the centrally sponsored *Sakhi initiative*, which was created in the aftermath of the Nirbhaya Rape case in 2012, have encouraged reporting behaviour in India.

These women crisis centres, for example, have been the initial point of contact for women in areas like Telangana and Maharashtra.

⁷ VOLUME-I, CRIME IN INDIA 2020 199, NATIONAL CRIME RECORDS BUREAU (MINISTRY OF HOME AFFAIRS).

TABLE 3A.1
Crime against Women (IPC+SLL) - 2018-2020

SL	State/UT	2018	2019	2020	Mid-Year Projected Population (in Lakhs) (2020)	Rate of Total Crime against Women (2020)	Chargesheeting Rate (2020)
[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]
STATES:							
1	Andhra Pradesh	16438	17746	17089	262.9	65.0	91.6
2	Arunachal Pradesh	368	317	281	7.4	38.0	72.5
3	Assam	27687	30025	26352	170.7	154.3	63.8
4	Bihar	16920	18587	15359	584.9	26.3	79.7
5	Chhattisgarh	8587	7689	7385	145.7	50.7	87.7
6	Goa	362	329	219	7.7	28.5	76.5
7	Gujarat	8329	8799	8028	329.1	24.4	94.6
8	Haryana	14326	14683	13000	137.3	94.7	57.9
9	Himachal Pradesh	1633	1636	1614	36.3	44.5	78.9
10	Jharkhand	7083	8760	7630	185.9	41.0	78.8
11	Karnataka	13514	13828	12680	327.6	38.7	84.7
12	Kerala	10461	11462	10139	183.9	55.1	94.1
13	Madhya Pradesh	28942	27560	25640	405.3	63.3	83.8
14	Maharashtra	35497	37144	31954	593.8	53.8	82.0
15	Manipur	271	266	247	15.6	15.8	56.1
16	Meghalaya	571	558	568	16.3	34.9	66.0
17	Mizoram	249	170	172	6.0	28.8	98.8
18	Nagaland	75	43	39	10.5	3.7	67.6
19	Odisha	20274	23183	25489	225.7	112.9	82.0
20	Punjab	5302	5886	4838	143.2	33.8	77.0
21	Rajasthan	27866	41550	34535	381.6	90.5	55.0
22	Sikkim	172	125	140	3.2	44.2	91.4
23	Tamil Nadu	5822	5934	6630	381.1	17.4	86.5
24	Telangana	16027	18394	17791	186.5	95.4	90.1
25	Tripura	907	1070	874	19.9	44.0	82.5
26	Uttar Pradesh	59445	59853	49385	1095.9	45.1	77.1
27	Uttarakhand	2817	2541	2846	55.2	51.6	79.9
28	West Bengal	30394	29859	36439	478.2	76.2	88.2
TOTAL STATE(S)		360339	387997	357363	6397.3	55.9	78.7
UNION TERRITORIES :							
29	A&N Islands	147	135	143	1.9	76.1	97.4
30	Chandigarh	442	515	301	5.5	54.8	64.2
31	D&N Haveli and Daman & Diu [@]	54 ⁺	82 ⁺	61	3.7	16.3	96.6
32	Delhi	13640	13395	10093	94.9	106.4	75.0
33	Jammu & Kashmir [@]	3437 [*]	3069 [*]	3405	63.4	53.7	75.1
34	Ladakh [@]	-	-	9	1.3	7.0	81.8
35	Lakshadweep	11	38	15	0.3	45.5	100.0
36	Puducherry	166	95	113	8.1	14.0	100.0
TOTAL UT(S)		17897	17329	14140	179.1	79.0	75.3
TOTAL ALL INDIA		378236	405326	371503	6576.3	56.5	78.6

LEGISLATIVE EFFORTS

*Kharak Singh Vs. State of U.P. & Ors.*⁸

Under Article 21, a person's total authority over his body organs and 'person' has been recognized by the Supreme Court. It can also be defined as a woman's complete control of her reproductive organs. In the case of *Griswold v. Connecticut*, the Supreme Court of the United

⁸ 1963 AIR 1295

States of America affirmed the right to privacy and overturned the ban on birth control in 1965. In the famous case of *Roe v. Wade*, the Supreme Court held that the right to privacy embraced abortions eight years later. In the 1976 case *Planned Parenthood of Central Missouri v. Danforth*, the Supreme Court found that obtaining consent from both the husband and a parent if the child was under the age of 18 was unconstitutional.

Vishaka & Ors. v. State of Rajasthan:⁹

The Supreme Court defined and enshrined within its purview, sexual harassment and its scope. Sexual harassment includes physical touch or action, the presentation of pornography, any unpleasant taunt or misbehavior, and any sexual desire for women or sexual favour, according to the court. The court, following the guidelines, made it clear that any complaint of sexual harassment in the workplace must be resolved through the establishment of a redressal mechanism.

Centre for enquiry into Health and Allied themes (CEHAT) Vs Union of India:¹⁰

The Centre for Enquiry into Health and Allied Themes¹¹ filed a petition, which resulted in the Supreme Court ordering the Central and State governments to immediately enact the PNDT act's provisions, as well as prohibiting all ads referring to prenatal sex determination techniques.

Satbir Singh vs. State of Haryana & Ors.:¹²

It was held that section 304B refers to death "other than natural conditions" as dowry death, regardless of whether the death is homicidal, suicidal, or even murders or suicide disguised as accidents. The Supreme Court overturned the appellant's conviction under section 306 of the Indian Penal Code.

Mukesh & Anr vs State For NCT Of Delhi (Nirbhaya Rape Case):¹³

On March 19, 2020, the Supreme Court upheld Delhi High Court's sentence verdict in the Nirbhaya Rape Case, stating that it was a "rarest of the rare" crime that shook the nation's

⁹ AIR 1997 SC 3011

¹⁰ Writ Petition (Civil) 301 2000

¹¹ The Protection of Women from Domestic Violence Act of 2005, No. 43, Acts of Parliament, 2005 (India).

¹² Writ Petition No. 30 of 2012

¹³ 2017 6 SCC 1

conscience. On March 20, 2020, at 6 a.m., the Supreme Court rejected the 4 convicts' Mercy Plea and upheld the Death sentence of the 4 convicts.

Conclusion & Suggestions

To combat a societal problem, simply introducing acts and amending parts is never enough. This necessitates the severe and brutal application of such laws. Even though the authorities take such charges very seriously, lack of effective investigative procedures frequently results in the accused going free. The government must implement a zero-tolerance policy for such criminals and ensure that the law is enforced through institutional adjustments.

The first step toward eradicating the social evils is to raise public awareness about its negative effects. Campaigns should be developed to reach the lowest levels of society and should try to raise awareness of the legal restrictions against dowry. There is also a need to stress upon importance of educating girls. Education is not only necessary for determining one's life path; it is also necessary for gaining access to a world beyond what one can see right now.

In order to combat the inequitable practice of social evils, India as a country must undergo a profound transformation of its present mind-sets. It must be recognised that in today's world, women are fully capable of achieving anything that men are capable of. Women must free themselves from the assumption that they are inferior to males and must rely on men to provide for them.

It is critical that the Indian legal system for upholding decency or morality, whether through regulatory or penal measures, is adaptable to changing social needs. These revisions were not included in the IPC, and they were largely made feasible by the active participation of judges. The bulk of offences are covered by the IPC's offences against women, which are listed in several parts. However, in the situations cited, it was clear that the provisions required evolving with the times in order to contain new provisions that are necessary to address current societal changes.

The landmark decisions only allow the state to take notice of such cases and recognize the necessity for legislation. These rulings underscored the judiciary's overall position as a defender of women's rights. Following these judgments, all new advances in the IPC and India's broader legal framework are created.

The new Criminal Procedure (Identification) Bill 2022 is a significant step forward in addressing the lengthy and outdated procedural law, which has grown riddled with flaws over time. The new statute is a repeal of the British colonial regulations and is up to date with current measurement and identifying technology.