

INDIAN LEGAL SYSTEM AS AN SOURCE OF WOMEN EMPOWERMENT

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**“IF ALL MEN ARE BORN FREE
THAN HOW COULD WOMEN ARE BORN TO BE SLAVES”**

ⁱ“There is no tool for development more effective than the empowerment of women”
(Kofi Annan)

ABSTRACT

India is a developing country but until and unless Women don't get their status and respect India can't be developed. Due to Gender Inequality Women are left behind. ⁱⁱViolence against Women in India refers to physical or sexual violence committed against Indian women, typically by a man. Any Kind of Violence Is Illegal and to bear the Violence is illegal too. It is an issue regarding economic development, educational, human rights and health. ⁱⁱⁱIts impact ranges from immediate to long-term multiple physicals, sexual and mental consequences for women and girls, including death. Violence Against Women Is Continuing Since. The Ancient Period Mahabharata Cities the Violence against Draupadi. Indian Society Has Always Revered Women. Many Female Deities Goddess Saraswati, Laxmi, Durga, Kali etc are worshipped across the Whole India. On other side, the system of patriarchal system is continuing since rig veda. Women suffer this and decides to remain silent because she is afraid of getting discriminated in the society where she can't speak or stood up against the crime she is been

suffering. She is afraid because of the customs laid by our society. In such situations our patriarchal society will blame the women but they will never feel the situation that she is going through.

The Position Of Women In Indian Constitution Is Very Wide. Our Constitution has empowered women equally under Article 14. Over the past two decades, violence against women had come to be understood as a form of discrimination and violation of women's human rights. Violence against women, and the obligation to enact laws to address violence against women, is now the subject matter of a comprehensive legal and policy framework at the international and regional levels. The constitution guarantees that all citizens of India (including women) have the fundamental right to live in peace and harmony. Violence against women is a global issue that has an impact on our society. Such outbreaks of violence have a devastating effect on the lives of victims, their families and also communities. The worth of a civilization can be judged by the place given to women in society.^{iv} One of several factors that justify the greatness of India's ancient culture is the honourable place granted to women. They were deprived of their rights to equality with men. There is no denying the fact that women in India had not made considerable progress in the last seventy-five years of India Independence but yet they have to struggle against many handicaps and social evils in the male-dominated society. In this advanced era of feminism when it's an agenda stresses on key concepts of individuality and embracing women hood, the prevailing scenes of violence against women threaten to topple the pillars on which the entire notion of feminism is based. Wives (Women) are considered as a better half and religious partners of their husband which means the half part of a man belongs to his wife. Apart from these there are some peoples who still exists while saying a girl child is being a burden towards the family so it's better to abort the baby it is because there is lack of knowledge that in today's world a girl can do everything just she needs support and love to care for her effort to overcome. The increasing numbers of rapes include cases against minors such as the recent case in KATHUA RAPE CASE (10th Jan 2018-17th Jan 2018) portrays the brutality the women in the society face characterized by heinous acts that ashamed humanity as a whole. These acts take the form of rapes, harassment, trafficking and numerous other crimes that the pertaining government laws have failed to cease. The cause behind this mainly revolves around the patriarchal norms of society. These norms have internalized the

‘vulnerability’ of women in society. Women are continued to be treated as inferior by men, completely ignorant of the safeguards the law provides to women. In such a scenario, the violence against women increases unhindered and worse affected by the patriarchal perception. Therefore it is the need of the hour to subvert the patriarchal regime of the society and kindle the essence of gender equality and respect towards women among the men parallelly the women must be aware of the laws that protect them against violence and encourage them to overcome the social obstacles to raise their voice against violence. The lack of security, in this case, accounts for the 99% cases of volume that remain unreported. Although the women in the North East are believed to enjoy a safer environment than the rest of India, the records have shown a contradictory outlook. Assam ranks second to Delhi in the highest rate of crimes against women in India with reported cases of rapes, acid attacks, and other forms of abuse. The State of Meghalaya which as a matriarchal society was presumed to be safe against such violence has also reported increasing numbers of cases of violence against women in the last decade. This has called for better preventive measures and women empowerment in these regions. In a society where women thrive to be equal to men in all spheres, it has become important to provide them a safe environment that is free from discrimination and violence. This is possible in the presence of strict laws against violence and due cooperation of the society. It is high time that the women are not treated as commodities of use subjected to inhuman brutality but are respected as they stand flesh and bones demanding an equal stature as the other gender.

CONSTITUTIONAL RIGHTS AND LEGAL RIGHTS

The rights available to the woman in India can be classified into two categories. The Constitutional rights – The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights- on the other hand, are those which are provided in the various laws (acts) of the Parliament and the State Legislatures.

Where the Constitution had declared that there should be equal respect and status for women than why there is a lack of provisions for women. Due to lack of Rule of Law and their enforcement, such offenses like Rape, Acid Attack, Domestic Violence, Eve Teasing, Prostitution, Dowry Death, Bride Burning, etc are still going on and also there is lack of Good

Governance which brings a major threat towards the development of our country. Our country will only develop if we start treating Equally not on Gender-based.

FUNDAMENTAL RIGHTS^{vi}

Article 14 Equality before law and equal protection of the law

Exceptions: Doctrine of Classification

Article 15 No discrimination against any citizen on grounds of religion, race, caste, sex, place of birth. Exceptions: 15 (3) The State can make special provision for women and children

Article 16 Equality of opportunity of all citizens in matters relating to employment to any office under the State

Article 17 Untouchability is abolished and its practice in any form is forbidden

Article 18 Abolition of Titles

Article 19 Freedom

1. Freedom of speech,
2. Assemble without arms,
3. Form association,
4. Freedom of movement,
5. Reside or settle in any part of India,
6. Practice any profession or carry on any occupation

Article 20 Protection on arrest and detention

Article 21 Right to Life and Personal Liberty. It includes right to clean and wholesome environment Article 22 Rights of arrested Person

Article 23 Right against exploitation. Traffic in human and forced labour

Article 24 Prohibition of employment of children in factories

DIRECTIVE PRINCIPLES OF STATE POLICY

Article 38 - Promotion of welfare of the people

Article 39 and 39A - Equal Justice and free Legal Aid

Article 40 - Village Panchayat

Article 41 - Right to Work, Educate and Public Assistance

Article 42- Just and human condition of work and maternity

Article 43- Wages of worker and participation in management

Article 44- Uniform Civil Code Article

Article 45- Free compulsory education for children

Article 46 - Education, economic interest of SC, ST and weaker sections

Article 47- Level of nutrition, standard of living, public health

CONSTITUTIONAL PROVISIONS

Crime against basic human rights and is also violative of the victims who cherished of Fundamental Rights, normally the Right to live life contained in Art.21 states women also have the right to life and liberty, they also have the fundamental right to be respected and treated as an equal citizen also they have the right to lead an honorable and peaceful life.

The Supreme Court passed a landmark judgment in the same Vishaka case laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment. Vishaka Guidelines were stipulated by the Supreme Court of India, in *Vishakha and others v State of Rajasthan* case in 1997, regarding sexual harassment at the workplace. The court stated that these guidelines were to be implemented until legislation is passed to deal with the issue. The court decided that the consideration of “International Conventions and norms are significant for the interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein.”

The Fundamental rights which are enshrined in PART-III of the Constitution of India (Art.12-Art.35) which apply to all the citizen residing in India.

^{vii}Art 21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to the procedure established by law.

The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [Article 243-T(4)].

LEGAL RIGHTS TO WOMEN:

1. **Protection of Women from Domestic Violence Act (2005)** is comprehensive legislation to protect women in India from all forms of domestic violence. ^{viii}It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.

Kinds of domestic violence

- Dowry Death
- Cruelty against Women
- Hurt & Grievous Hurt
- Abetment to commit Suicide
- Sexual intercourse during the period of Judicial Separation
- Wrongful confinement

2. **Immoral Traffic (Prevention) Act (1956)** is the premier legislation for the prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for prostitution as an organized means of living.

3. **Dowry Prohibition Act (1961)** prohibits the giving or taking of dowry at or before or any time after the marriage from women.

4. **Maternity Benefit Act (1961)** regulates the employment of women in certain establishments for certain periods before and after child-birth and provides for maternity benefit and certain other benefits.

5. **Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994)**^{ix} prohibits sex selection before or after conception and prevents the misuse of prenatal diagnostic techniques for sex determination leading to female foeticide.

6. **Equal Remuneration Act (1976)** provides for payment of equal remuneration to both men and women workers for the same work or work of a similar nature.^x It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.

- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [Article 39(e)].
- ^{xi}The state shall make provision for securing just and humane conditions of work and maternity relief [Article 42]
- ^{xii}It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [Article 51-A(e)].
- ^{xiii}One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [Article 243-D(3)].
- ^{xiv}One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [Article 243-D(4)].
- ^{xv}One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [Article 243-T(3)].

7. **Muslim Women (Protection of Rights on Divorce) Act (1986)** protects the rights of

Muslim women who have been divorced by or have obtained a divorce from their husbands. According to Sec. 2(viii) of The Dissolution of Muslim Marriage Act, 1939 —cruelty means-

a. Habitually offending the wife or ill-treating her
b. Forcing the wife to lead an immoral life
c. Disposing of wife's property without her consent
d. Not allowed to practice religious practice

8. **Family Courts Act (1984)** provides for the establishment of Family Courts for speedy settlement of family disputes.

9. **Indian Penal Code (1860)** contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offenses.

10. **Code of Criminal Procedure (1973)** has certain safeguards for women like the obligation of a person to maintain his wife, arrest of a woman by female police and so on.

11. **Hindu Marriage Act (1955)** introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian men and women concerning marriage and divorce. According to the Hindu Marriage Act Sec 13(1)(a) defines Cruelty is a legal ground for divorce. Since the term cruelty is not defined in this Act but it is taken to mean an offense that acts of physical as well as mental cruelty.

12. **Hindu Succession Act (1956)** recognizes the right of women to inherit parental property equally with men.

13. The following other legislation also contains certain rights and safeguards for women:

- Employees' State Insurance Act (1948)
- Plantation Labour Act (1951)
- Bonded Labour System (Abolition) Act (1976)
- Legal Practitioners (Women) Act (1923)
- Indian Succession Act (1925)
- Indian Divorce Act (1869)
- Parsi Marriage and Divorce Act (1936)
- Special Marriage Act (1954)
- Foreign Marriage Act (1969)
- Indian Evidence Act (1872)

- Hindu Adoptions and Maintenance Act (1956).
- (Glimpses of India Penal Code,1860)

1. Kidnapping (Sec 359,360,366)

Section 359 in The Indian Penal Code ^{xvi} 359. Kidnapping.—Kidnapping is of two kinds: kidnapping from 1[India], and kidnapping from lawful guardianship.

Section 360 in The Indian Penal Code

360. ^{xvii}Kidnapping from India.—Whoever conveys any person beyond the limits of 1[India] without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from India.

^{xviii}**Section 366 in The Indian Penal Code** 366. Kidnapping, abducting or inducing woman to compel her marriage, etc.—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that she will likely be, forced or seduced to illicit intercourse with another person shall be punishable as aforesaid

2. Eve Teasing (Sec 509)

^{xix}**Section 509 in The Indian Penal Code** 509. ^{xx}Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

3. Rape (Sec 375, 376,376A,376B,376C,376D, 376E) Criminal Law (Amendment) Act, 2013 Substitution of new sections for sections 375, 376, 376A, 376B, 376C and 376D.

^{xxi}For sections 375,376,376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

Sec .375 Defines Rape. A man is said to commit “rape” if he— penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her do ^{xxii}so with him or any other person; or inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any of body of such woman or makes her to do so with him or any other person;^{xxiii} or applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions Firstly.—Against her will. Secondly.—Without her consent. Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt. Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. Fifthly.—With her consent when, at the time of giving such consent, because of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent. Sixthly.—With or without her consent, when she is under eighteen years of age. Seventhly.—When she is unable to communicate consent.

^{xxiv}**SEC.376. Punishment for rape.** 1. Whoever, except in the cases provided for in subsection ^{xxv}(2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine. 2. Whoever,— a. being a police officer, commits rape—

1. Within the limits of the police station to which such police officer is appointed; or ii. in the premises of any station house; or iii. on a woman in such police officer’s custody or in the custody of a police officer subordinate to such police officer; or b. being a

public servant commits rape on a woman in such public servant's custody or the custody of a public servant subordinate to such public servant or ^{xxvi}c. being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or ^{xxvii}d. being on the management or on the staff of a jail, remand home or other place of custody established by or ^{xxviii}under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or e. being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or f. being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or g. commits rape during communal or sectarian violence; or h. commits rape on a woman knowing her to be pregnant, or i. commits rape on a woman when she is under sixteen years of age or j. commits rape, on a woman incapable of giving consent; or k. being in a position of control or dominance over a woman commits rape on such woman or l. commits rape on a woman suffering from mental or physical disability, or m. while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman or n. commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

SEC. 376A. Punishment for causing death or resulting in a persistent vegetative state of the victim. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

SEC. 376B. Sexual intercourse by husband upon his wife during separation Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either

description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine..

SEC. 376C. Sexual intercourse by a person in authority. Whoever, being— a. ^{xxxix}in a position of authority or a judiciary relationship; or b. a public servant; or c. superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women’s or children’s institution; or d. on the management of a hospital or being on the staff of a hospital, abuses such position or judiciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offense of rape shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

SEC. 376 Gang rape. ^{xxx}Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person’s natural life, and with fine: Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: Provided further that any fine imposed under this section shall be paid to the victim.

SEC. 376- Estates: “Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376AB or section Sec.376D or Sec.376DA or Sec.376DB and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, or with death.”

Constitutional Validity Of Section 376-E IPC.

The Bombay High Court, on Monday, upheld the Constitutional validity of Section 376-E of IPC which provides that repeat offenders in rape cases can be awarded life imprisonment or death penalty

4. Domestic Violence (Sec 498A) **Section 498A in The Indian Penal Code** ^{xxxi} 498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.— For the purpose of this section, —cruelty means— any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

5. Sexual Harassment (Sec 354A) A man committing any of the following acts— physical contact and advances involving unwelcome and explicit sexual overtures; or a demand or request for sexual favours; or showing pornography against the will of a woman; or making sexually colored remarks, shall be guilty of the offense of sexual harassment¹. Any man who commits the offense specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both. Any man who commits the offense specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

6. Cyber Crimes, Stalking (Sec 354D), Pornography Cybercrime is defined as a crime that is committed using a network-connected device such as a computer or a mobile phone. Those who commit cyber-crime are known as cybercriminals or cyber crooks. Cyberstalking is a kind of cybercrime involves online harassment where the user is subjected to a plethora of online messages and emails. Usually, cyberstalkers use social media, websites and search engines to intimidate a user and instill fear. Usually, the cyberstalker knows their victim and makes the person feel afraid or concerned for their safety. Child pornography is a crime in India. Information Technology Act, 2000 & Indian Penal Code, 1860 protects child pornography. The child is the person who is below the age of 18 years. In February 2009, the Parliament of India passed the Information Technology Bill which made the creation and transmission of child pornography illegal. The newly passed Information Technology Bill is set to make it illegal to

not only create and transmit child pornography in any electronic form but even to browse it. The punishment for a first offense of publishing, creating, exchanging, downloading or browsing any electronic depiction of children in —obscene or indecent or sexually explicit manner^l can attract five years in jail and a fine of Rs 10 lakh.

Cybercrimes and The Indian Penal Code (IPC)

Sec. 292 IPC: Obscenity

Sec. 292A IPC: Printing etc. of grossly indecent or scurrilous matter or matter intended to blackmail

Sec. 293 IPC: Sale, etc., of obscene objects to young person

Sec. 294 IPC : Obscene acts and songs

Sec. 420 IPC : Bogus websites, cyber frauds

Sec. 463 IPC : E-mail spoofing

Sec. 464 IPC : Making a false document

Sec. 468 IPC : Forgery for purpose of cheating

Sec. 469 IPC : Forgery for purpose of harming reputation

Sec. 499 IPC : Sending defamatory messages by e-mail

Sec. 500 IPC : E-mail abuse

Sec. 503 IPC : Sending threatening messages by e-mail

Sec. 506 IPC : Punishment for criminal intimidation

Sec. 507 IPC : Criminal intimidation by an anonymous communication
CYBER CRIME AND
THE INFORMATION TECHNOLOGY ACT(IT)

Section 43 – Penalty and Compensation for damage to computer, computer system, etc

Section 65 – Tampering with Computer Source Documents

Section 67B – Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form

Section 67 – Punishment for publishing or transmitting obscene material in electronic form

Section-66F Cyber Terrorism

Section 66E – Punishment for violation of privacy

^{xxxii}7. Dowry deaths are deaths of married women who are murdered or driven to suicide by continuous harassment and torture by their husbands and in-laws over a dispute about their dowry, making women's homes the most dangerous place for them to be. Dowry deaths are found predominantly in India.

8. Acid Attacks (Sec 326A,326B)

Section 326 A in the Indian Penal Code ^{xxxiii}Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of ^{xxxiv}causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine

Section 326 B in the Indian Penal Code

^{xxxv}Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity of burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for ^{xxxvi}a term which shall not be less than five years, but which may extend to seven years and also be liable to fine.

9. Women trafficking (Sec 370,370A,372, 373)

Section 370 in The Indian Penal Code Whoever, for the purpose of exploitation,

- (a) recruits,
- (b) transports,
- (c) harbours,
- (d) transfers, or

^{xxxvii}(e) receives, a person or persons, by— using threats, or using force, or any other form of coercion, or by abduction, or by practising fraud, or deception, or by abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harbored, transferred or received, commits the offense of trafficking.

10. Outraging Modesty of Women (Sec 354 IPC)

Section 354 in The Indian Penal Code The law under sec.354 makes it a special crime to use force against a woman, or even threaten to use force if the intention is to ‘outrage her modesty’. It treats it more seriously than normal and criminal force by allowing the police to make arrests for such crimes without a warrant.

11. Protection of Children from Sexual offenses (POCSO) Act, 2012, which has come into effect from 14th November 2012 is a special law to protect children from sexual abuse and exploitation.^{xxxviii} It provides precise definitions for different forms of sexual abuse, including penetrative and non-penetrative sexual assault, sexual harassment

Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376B, 376C, 376D and 509 have been amended and inserted by The Criminal Law(Amendment) Act.

INDIAN DOMESTIC LAW AND THE INTERNATIONAL AGENDA^{xxxix}

The extent to which the Indian constitution should encompass every cultural personal law under the aegis of a uniform civil code is a matter that still poses many problems for both statute drafters and policy makers. Article 44 of Indian Constitution claims that, “the state shall

endeavour to secure for the citizens a uniform civil code throughout the territory of India.”. This in reality is unfeasible for many reasons. India has 28 states, 22 languages and several religions, the major branches of which are Hinduism, Buddhism, Muslims, Christians and Sikhism. During the British period of colonial control, all these cultures and varieties were respected under the principle of divide et impera. Hindu populations were ruled according to the rules of Hindu personal law, Muslims by Islamic personal law, and so on. This policy was maintained by after decolonization. When India proclaimed its Constitution in 1950, as a result of two years of negotiations, it presented one of the longest and most detailed systems for a contemporary democracy, and is still considered to be a document that is able to guarantee equal rights to all Indians . Section III of the paper presents a Bill of Rights that granted equality regardless of culture, sex and religion. However, according to Article 13, the Bill of Rights are applicable only to matters concerning those laws in force which are “laws passed or made by a legislature or other competent authority”. Thus personal law is outside the ambit of Article 13 as it is not considered a law in force and does not emerge from a legislative process. The source of personal laws is usually attributed to a divine source. Therefore any trial concerning an Indian personal law is considered ineligible to take advantage of section III of the Indian Constitution, and the rights and protections provided therein. Given this legal lacuna, different judges of lower courts and the Supreme Court have applied the provisions of Section III differently. A brief preview at the case law suggests that the interpretation of a “law in force” and “personal law” has not always been consistently resolved by the judicial system. Admittedly, the case of Maneka Gandhi signalled a shift in Indian law as it gave meaning to the right of equality stated in the Constitution on a matter that had previously belonged to personal law. The woman in that case used the court system to obtain her share in property despite the operation of a traditional personal law that prevented her from claiming the same. The litigant won her case in court and many commentators have seen the verdict as a starting point of due process in India, and a tacit removal of discriminatory personal laws.

CONCLUSION

As of now, India is home to a terrible reality in which in excess of twenty ladies each day are still consumed by their spouses due to social traditions, regardless of the lawful resolutions sanctioned to kill endowment demise. However India, legitimately talking, has offered an

explanation to sex based wrongdoings with various arrangements proposed to apply at both the homegrown level just as in the public setting. In a little however significant manner, the presence of these laws has gotten an ascent cognizance of ladies, who were and are enabled to allude to state position to have their privileges upheld. However, from a worldwide point of view, an enormous hole actually stays for tending to social conditions that license negative socio-social standards and conventions to overwhelm law. Considering homegrown enactment authorized to forestall sex wrongdoings, three principle reactions remain. To start with, most of laws were proposed by strategy creators who were men without contribution from ladies. Second, legitimacy frequently neglects to think about the social setting in which it should apply. Third, not all people have discovered that they can access the overall set of laws. On account of India these three shortcomings are distinctly obvious, what's more, clarify why law has not had the option to authorize ladies' privileges and improve their status in the public eye. Further, the absence of ladies standing firm on powerful footholds is a huge hole in enabling measures and initiative abilities at the grassroots level. Albeit the Indian president today is a lady, and preceding her time a few ladies like Indira Gandhi have held significant workplaces in India's set of experiences, by and large females are retained from political and jurisdictional position

ENDNOTES

ⁱ Nigam, S. (2008) Domestic Violence in India: What one should know? A resource book,p.198

ⁱⁱ https://www.researchgate.net/profile/Balasubramanian_Thirugnanam

ⁱⁱⁱ <https://johndmond.co.za/are-you-human.html>

^{iv} <https://optimizeias.com/role-of-women-and-women-organisation/>

^v <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{vi} https://www.iitk.ac.in/wc/data/Majlis_Legal-rights-of-women.pdf

^{vii} <https://www.clearias.com/procedure-established-by-law-vs-due-process-of-law/>

^{viii} <https://amritaias.com/2018/10/24/indecent-representation-of-women-prohibition-act/>

^{ix} <http://www.aus.ac.in/hindi-department/wp-content/uploads/sites/10/2017/11/B.A.LL .B.Honours-SYLLABUS.pdf>

^x <https://english.mathrubhumi.com/features/women/women-know-your-rights--1.3888330>

^{xi} <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{xii} <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{xiii} <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{xiv} <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{xv} <https://madhavuniversity.edu.in/women-rights-in-india.html>

^{xvi} <https://safecity.in/kidnapping-and-abduction-know-your-rights/>

^{xvii} <https://indiankanoon.org/doc/243306/>

- xviii <https://tilakmarg.com/acts/indian-penal-code-ipc-section-366-kidnapping-abducting-or-inducing-woman-to-compel-her-marriage-etc/>
- xix <https://indiankanoon.org/doc/68146/#:~:text=%E2%80%94%20Whoever%2C%20intending%20to%20insult%20he,shall%20be%20punished%20with%20simple>
- xx <http://bdllaws.minlaw.gov.bd/act-11/section-3572.html#:~:text=Whoever%2C%20intending%20to%20insult%20the,shall%20be%20punished%20with%20simple>
- xxi <https://bnblegal.com/bareact/criminal-law-amendment-act-2013/>
- xxii <http://www.womenlawsindia.com/legal-awareness/crimes-against-women/>
- xxiii <https://www.iralr.in/post/the-plight-of-male-rape-survivors>
- xxiv <https://www.writinglaw.com/section-376-ipc/>
- xxv <https://www.lawhousekolkata.com/2019/03/09/section-376-indian-penal-code-1860-ipc-punishment-for-rape/>
- xxvi <http://safecity.in/faq/>
- xxvii <https://www.loc.gov/law/help/sentencing-guidelines/india.php>
- xxviii https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688
- xxix <https://www.latestlaws.com/bare-acts/central-acts-rules/criminal-laws/the-code-of-criminal-procedure-1973/criminal-law-amendment-act-2013/>
- xxx <https://inbreakthrough.org/criminal-amendment-act-2013-changes-rape-law-post-16-12-12/>
- xxxi <https://www.sconline.com/blog/post/2018/12/03/law-for-laymen-section-498-a-ipc-and-allied-sections-cruelty-to-women/#:~:text=Section%20498%2DA%3A%20Husband%20or,also%20be%20liable%20to%20fine.>
- xxxii https://en.wikipedia.org/wiki/Dowry_death
- xxxiii <https://www.latestlaws.com/bare-acts/central-acts-rules/ipc-section-326a-voluntarily-causing-grievous-hurt-by-use-of-acid-etc-/>
- xxxiv [https://www.advocatekhoj.com/library/bareacts/criminallawamendment/5.php?Title=Criminal%20Law%20\(Amendment\)%20Act,%202013](https://www.advocatekhoj.com/library/bareacts/criminallawamendment/5.php?Title=Criminal%20Law%20(Amendment)%20Act,%202013)
- xxxv <https://wecapable.com/acid-attack-punishment-ipc/>
- xxxvi https://advocatespedia.com/Section_326B,_IPC:_voluntarily_throwing_or_attempting_to_throw_acid
- xxxvii <https://www.casemine.com/judgement/in/58a5655e4a93266eac2e08a1>
- xxxviii <https://mea.gov.in/human-trafficking.htm>
- xxxix <https://www.luc.edu/media/lucedu/prolaw/documents/pdfs/3studentjournalcorsini1.pdf>