

## **CRIME AGAINST WOMEN**

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### **1. INTRODUCTION:**

Society consists of both men and women. Man, and women are born equal. Today women are one of the most powerless and marginalised sections of Indian society. Various social and economical indicators provide the evidence of inequalities and vulnerabilities of women in all sectors. Like economic, social, demographic, health, nutrition etc. The rising incidence of crime and violence against women are indicators of a decline in the respect of women in society. There are several forms of violence against women, murder (dowry deaths, honor killings), female infanticide, sexual crimes (rape, modesty related violence, human trafficking, forced prostitution, domestic violence), acid throwing, perpetration.

### **2. VIOLENCE AGAINST WOMEN:**

Violence against women (VAW), also known as gender-based violence and sexual and gender-based violence (SGBV) are violent acts primarily or exclusively committed by men or boys against women or girls. Such violence is often considered a form of hate crime, committed against women or girls specifically because they are female, and can take many forms.

VAW has a very long history, though the incidents and intensity of such violence have varied over time and even today vary between societies. Such violence is often seen as a mechanism for the subjugation of women, whether in society in general or in an interpersonal relationship. Such violence may arise from a sense of entitlement, superiority, misogyny or similar attitudes in the perpetrator or his violent nature, especially against women.

#### **1. The UN Declaration on the Elimination of Violence Against Women states**

Book Name Sociology, Author Dr. S.R. Myneni. p. 484 "Women and society" "Violence against women is a manifestation of historically unequal power relations between men and women" and "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men."

Violence against women and girls is a problem of pandemic proportions. At least one out of every three women around the world has been beaten, coerced into sex, or otherwise abused in her lifetime with the abuser usually someone known to her.

## 2 FORMS OF VIOLENCE:

Violence against women can fit into several broad categories. These include violence carried out by individuals as well as states. Some of the forms of violence perpetrated by individuals are Rape, domestic violence, sexual harassment, acid throwing, reproductive coercion, female infanticide, prenatal sex selection, obstetric violence, online gender-based violence and mob violence; as well as harmful customary or traditional practices such as honor killings, dowry violence, female genital mutilation, marriage by abduction and forced marriage. There are forms of violence which may be perpetrated or condoned by the government, such as war rape; sexual violence and sexual slavery during conflict; forced sterilization; forced abortion; violence by the police and authoritative personnel; stoning and flogging. Many forms of VAW, such as trafficking in women and forced prostitution are often perpetrated by organized criminal networks. Historically, there have been forms of organized VAW, such as the Witch trials in the early modern period or the sexual slavery of the comfort women. The Gender Equality Commission of the Council of Europe identifies nine forms of violence against women based on subject and context rather than life cycle or time period:

- a. Violence within the family or domestic violence
- b. Rape and sexual violence
- c. Sexual harassment
- C. Violence in institutional environments
- d. Female genital mutilation

2. "Explained: How gender equals India as per the 2022 Global Gender Gap Index?". The Indian Express. 2022-07-13. Retrieved 2023-12-18.

### Issues of Violence Against Women

- e. Forced marriages
- f. Violence in conflict and post-conflict situations
- g. Killings in the name of honour
- h. Failure to respect freedom of choice with regard to reproduction

### By Age Groups:

The World Health Organization (WHO) has developed a typology of violence against women based on their cultural life cycle.

#### 1. Pre-birth:

- Sex-selective abortion
- Effects of battering during pregnancy on birth outcomes

## 2. Infancy:

- Female infanticide
- Physical, sexual, and psychological abuse

## 3. Girlhood / Child Marriage:

- Female genital mutilation
- Physical, sexual, and psychological abuse
- Incest
- Child prostitution and pornography

## 4. Adolescence and Adulthood:

- Dating and courtship violence (e.g., acid throwing and date rape)
- Economically coerced sex (e.g., schoolgirls having sex with "sugar daddies" in return for school fees)
- Incest
- Sexual abuse in the workplace
- Rape
- Sexual harassment
- Forced prostitution and pornography
- Trafficking in women
- Partner violence
- Marital rape
- Dowry abuse and murders
- Partner homicide
- Psychological abuse
- Abuse of women with disabilities
- Forced pregnancy

### Source:

**Human Rights** – Author Dr. U. Chandra, Pg. No. 246, Chapter V

## 1. Elderly:

- Forced "suicide" or homicide of widows for economic reasons
- Sexual, physical, and psychological abuse

### 3. Kinds of Offences Against Women

#### a. Sexual Offences

##### 1. Rape:

Rape is a type of sexual assault involving sexual intercourse or other forms of sexual penetration carried out against a person without their consent. The act may be carried out by:

- Physical force
- Coercion
- Abuse of authority
- Against a person incapable of giving valid consent (e.g., someone unconscious, incapacitated, with an intellectual disability, or below the legal age of consent)

The term **rape** is sometimes used interchangeably with **sexual assault**.

Rape can be categorized in different ways, such as:

- The **situation** in which it occurs
- The **identity or characteristics** of the victim
- The **identity or characteristics** of the perpetrator

These categories are not mutually exclusive—for example, a rape case can be both a **prison rape** and a **gang rape**, or both a **custodial rape** and the **rape of a child**.

#### Types of Rape:

##### 1. Aggravated Rape:

Aggravated rape occurs when the crime is committed by someone in a position of power or trust over the victim. This includes:

- **Persons in authority or control over the victim** (e.g., police officers, public servants, armed forces personnel, jail staff)
- **Persons in a position of trust** (e.g., hospital staff, relatives, guardians)
- **Special nature of victims**, such as those who are particularly vulnerable due to their circumstances

#### References:

 [Rights of Rape Victims in India](#)

 Indian Penal Code, 1860

## Types of Rape & Punishments in India

### 1. Aggravated Rape (Rape Involving Violent Circumstances)

- In cases of aggravated rape, where the crime involves extreme violence, the punishment is **rigorous imprisonment of 10 years to life**, along with a fine.

### 2. Crime of Rape & Murder

- If a rape results in the victim's **death** or leaves her in a **vegetative state**, the accused can be sentenced to:
  - **Death penalty** or
  - **Life imprisonment**

### 3. Gang Rape (Section 376D IPC)

- If a woman is raped by a **group of people at the same time**, each perpetrator is held guilty.
- The punishment includes:
  - **Rigorous imprisonment for 20 years** or
  - **Life imprisonment**

### 4. Repeat Offenders (Section 376E IPC)

- If a person is **convicted of rape for the second time**, the law allows for the **death penalty**.

## Laws for Rape Crimes in India

### Indian Penal Code (IPC) – Section 375

Under **Section 375 IPC (1860)**, a man is said to commit **rape** if he has sexual intercourse with a woman under any of the following circumstances:

1. **Against her will**
2. **Without her consent**

### Relevant Legal Provisions:

- **Section 375 IPC (1860)** – Defines rape
- **Section 376D IPC (2013 Amendment)** – Punishment for gang rape
- **Section 376E IPC (2013 Amendment)** – Punishment for repeat offenders

### Conditions of Consent in Rape Cases

1. **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.
2. **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.
3. **With her consent**, when, at the time of giving such consent, by reason of unsoundness of mind, 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.
4. **With or without her consent**, when she is under sixteen years of age.

**Explanation:** Penetration is sufficient to constitute the sexual intercourse necessary to the offense of rape.

### Criminal Law (Amendment) Act, 2013

In 2012, the capital of India, Delhi, witnessed the most horrific gang rape, referred to as the **Nirbhaya rape case**, which shook the entire nation and led to the introduction of tougher laws in the form of the **Criminal Law (Amendment) Act, 2013**.

Under the new **Amendment Act of 2013**, the minimum sentence for rape was altered from **seven years to ten years**. Furthermore, in cases resulting in the **death of the victim or leaving the victim in a vegetative state**, the minimum sentence was increased to **twenty years**.

However, under the case cited above, since **one of the accused was still a minor**, he had to be tried as a **juvenile** at that time. Thus, this specific accused **escaped the complete brunt of the law**, despite being **17 years old** and just a few months shy of becoming an adult.

To avoid such cases in the future, **the age for being tried as an adult for violent crimes such as rape and murder was rightfully altered from 18 to 16**.

The legislation further upheld that if children...

**Criminal Law (Amendment) Act, 2013, S.9 (w.r.e.f. 3.2.2013)**

### Juvenile Justice and Violent Crimes

If individuals between the ages of **16 to 18** engage in gruesome and violent crimes such as **murder and rape**, they deserve to be **tried and punished as adults**.

### Protection of Children from Sexual Offences Act, 2012 (POCSO Act, 2012)

To effectively address crimes related to **sexual abuse and sexual exploitation of children**, the **Ministry of Women & Child Development** introduced the **POCSO Act, 2012**.

This Act was enacted to **protect children from sexual assault, sexual harassment, and pornography**. Additionally, in **2019**, the Act was **amended** to enhance punishments for various offenses, ensuring the **safety, security, and dignity of children**.

### Salient Features of the POCSO Act

- The Act is **gender-neutral** and considers the **best interest and welfare of the child** as a matter of paramount importance at every stage, ensuring their **physical, emotional, intellectual, and social development**.
- It **defines various forms of sexual abuse**, including:
  - **Penetrative sexual assault**
  - **Non-penetrative sexual assault**
  - **Sexual harassment**
  - **Child pornography**
- It considers **sexual assault to be aggravated** in cases where:

- The abused child is **mentally ill**.
- The abuse is committed by a person in a **position of trust or authority** over the child, such as a **family member, police officer, teacher, or doctor**.
- **Child trafficking** for sexual purposes is also **punishable** under the provisions of **abetment in the act**.
- The Act prescribes **stringent punishments**, graded as per the **severity of the offense**, with a **maximum penalty of life imprisonment and fines**.
- It defines **child pornography** as **any visual depiction of sexually explicit conduct involving a child**, including:
  - Photographs
  - Videos
  - Digitally or computer-generated images **indistinguishable from an actual child**

## Protection of Children from Sexual Offences Act, 2012 (POCSO Act, 2012)

### Rights of a Rape Victim

#### 1. Right to Zero FIR

The term **Zero FIR** means that a person can file an **FIR (First Information Report)** in **any police station**, regardless of the location where the crime occurred. The same FIR is later **transferred to the police station that has jurisdiction** over the case for further investigation.

For example, suppose a girl is raped in **West Bengal** but does not immediately report it. Later, she moves to **Delhi** and decides to file an FIR. She can **lodge the FIR at any police station in Delhi**, and the **Delhi Police will transfer it to the appropriate police station in West Bengal**.

This concept of **Zero FIR** was introduced after the **Nirbhaya case** to ensure that victims do not face procedural delays in seeking justice.

#### 2. Free Medical Treatment in Any Private or Government Hospital

According to **Section 357C** of the **Code of Criminal Procedure (CrPC)**:

- **No private or government hospital** can charge a **fee** for the treatment of rape victims.
- **All hospitals**, whether private or public, **must provide immediate first aid and medical care free of cost**.
- If a hospital demands a fee for treating a rape victim, it can be **punished under Section 166B of the IPC (Indian Penal Code) for non-treatment of the victim**, which carries a **penalty of up to 1 year of imprisonment, a fine, or both**.

#### 3. No Two-Finger Test During Medical Examination

- **No doctor** has the right to conduct the **two-finger test** while performing a medical examination of a rape victim.
- **Section 164A** of the **Code of Criminal Procedure (CrPC)** provides guidelines on **how a medical report should be prepared and what details should be included**.
- In the case of **Lillu Alias Rajesh & Another vs. State of Haryana**, the **Supreme Court of India** ruled that the **two-finger test and its interpretation violate the rape survivor's rights to privacy, mental integrity, and dignity**. Hence, it is **illegal**.

The only responsibilities of the doctor during a medical examination are:

1. **To check whether there are any injuries in the private parts.**
2. **To determine whether the victim has been raped.**

**References:**

- [Legal Service India: Rights of Rape Victims in India](#)
- **Indian Penal Code, 1860**

**Medical Examination and Rights of a Rape Victim****1. Medical Examination Guidelines**

- The doctor must determine **whether any recent sexual activity has occurred.**
- **No doctor has the right to check or comment on the victim's past sexual activity.**

Keeping this in mind, the **Ministry of Health** issued guidelines under which a **medico kit** has been provided in every hospital to **collect DNA samples for forensic testing.**

**2. Required Details in the Medical Report**

The medical report of the victim shall contain:

1. **Name and Address**
2. **Age**
3. **Description of the material taken for DNA testing**
4. **Marks of injury (if any) and general mental condition**
5. **Other relevant material (if any)**

Additionally:

- If a **male doctor** is conducting the examination, he must first **obtain the victim's consent.**
- The doctor must **inform the victim about the objects used during the examination and the procedure that will be followed.**
- However, a **two-finger test is strictly prohibited.** If a doctor conducts this test, he may be **charged with rape under Section 375 of the IPC**, as inserting an object into the private parts without consent is considered **rape** under the law.

**3. Harassment-Free and Time-Bound Police Investigation**

- According to **Section 154(1) of the CrPC (Code of Criminal Procedure), 1973**, the statement of the rape victim **must be recorded by a female police officer** or any other designated officer.
- The officer must **arrange the time and place** for recording the statement based on **the victim's preference and convenience.**
- The **female police officer** must record the statement **in the presence of the victim's parents or guardian.**



#### 4. Judicial Statement Recording

- As per **Section 164(5A) of the CrPC, 1973 (amended by Act 5 of 2009)**, the victim's statement must be recorded **by a magistrate**.
- A **female police officer** must take the victim to court, and the statement must be recorded **in the magistrate's chamber** to ensure privacy.
- If the rape victim is **dumb or mentally disabled**, an **analyzer, educator, or social interpreter** must be present to **assist in understanding the victim's signs and communication**.

#### Legal References:

- **Section 154(1), CrPC, 1973**
- **Section 164(5A), CrPC, 1973 (Amended by Act 5 of 2009)**

#### Trial with Full Dignity, Speedy Justice, and Protection

##### Legal Provisions Ensuring Fair and Dignified Trial for Rape Victims

1. **Section 26 of CrPC:**
  - The trial **shall be conducted, if practicable, by a court presided over by a woman judge**.
  - No questions shall be asked to the victim that **assassinate her character**.
2. **Section 53A of the Indian Evidence Act:**
  - Any question **pertaining to the victim's previous sexual history is irrelevant** in the trial.
3. **Section 327(2) of CrPC:**
  - The **inquiry and trial of rape cases shall be conducted in-camera** (i.e., not open to the public) to protect the victim's privacy.
4. **Section 327(3) of CrPC:**
  - The **statement given by the victim to the magistrate shall remain confidential** and cannot be disclosed publicly.
5. **Section 173(1A) of CrPC:**
  - The **investigation of a rape case must be completed within two months** from the date of filing the FIR.

#### Right to Compensation

- A **new provision, Section 357A of CrPC**, introduces the **Victim Compensation Scheme**.
- The **Supreme Court**, in the case of **Nipun Saxena vs. Union of India**, laid down provisions for framing a **compensation scheme** for rape victims.
- Based on this judgment, the **National Legal Services Authority (NALSA)** established rules for compensating **women victims of crimes**.

## Related Case Law

### 1. Tukaram and Ganpat vs. State of Maharashtra (1972) – The Mathura Rape Case

- The **trial court acquitted the accused**, stating that the victim, **Mathura, had given voluntary consent** because she was **accustomed to sexual intercourse**.
- However, the **Bombay High Court overturned the decision** and sentenced the accused to imprisonment.
- The **Supreme Court (SC) later acquitted the accused**, sparking **public outrage**.
- This case **highlighted the need for reforms in rape laws**, leading to amendments in the **Indian Evidence Act and CrPC**.

### Relevant Legal Provisions:

- **Section 26 of CrPC**
- **Section 327(2) of CrPC**
- **Section 327(3) of CrPC**
- **Section 53A of the Indian Evidence Act (IEA)**
- **Section 173(1A) of CrPC**

## Landmark Rape Cases in India

### 1. State of Punjab vs. Gurmit Singh (1984)

- The **Supreme Court** advised the lower judiciary **not to describe a rape victim as having a loose character**, even if she was proven to be **habituated to sex**.
- The judgment emphasized that the **focus should be on the act of rape itself, not on the victim's past character**.

### 2. Nirbhaya Case (Mukesh & Anr. v. State for NCT of Delhi & Ors.)

- One of the most **significant rape cases in India**, this **horrific incident occurred on December 16, 2012**.
- The verdict was **delivered on September 15, 2017**, resulting in a **lengthy five-year legal process**.
- The final implementation of the **death penalty for the convicts took place in 2020**.
- **Concerns Raised:**
  - **Delayed justice** raises doubts about the **effectiveness of India's rape prevention measures**.
  - While India has **strict rape laws**, **poor implementation** weakens their deterrent effect.
  - **Swift and severe punishments** are essential to curb such crimes.
- Despite challenges like the **COVID-19 pandemic**, the **judgment was widely supported**.
- **Need for Reform:**
  - **India must improve its legal process** to ensure **faster and more efficient trials**.
  - **Timely justice** is crucial for **creating a safer society** and preventing further crimes.

## Unnatural Offences Under Section 377 of IPC

## 1. Overview of Section 377 of the Indian Penal Code (IPC), 1860

- This section originally criminalized any form of carnal intercourse "against the order of nature" with any man, woman, or animal.
- The punishment included:
  - Imprisonment for life OR
  - Imprisonment for up to 10 years + fine.

## 2. Decriminalization of Consensual Same-Sex Relationships

- In 2018, the Supreme Court of India struck down Section 377 as it applied to consenting adults in same-sex relationships.
- This judgment decriminalized same-sex relationships between consenting adults, affirming LGBTQ+ rights in India.

## 3. When Section 377 Still Applies

Despite the 2018 ruling, Section 377 remains in effect in the following cases:

- If the act is committed **without consent**.
- If the act involves a person **below the age of 18**.
- If the act involves **an animal**.

### Relevant Legal Provisions:

- State of Punjab vs. Gurmit Singh (1984)
- Mukesh & Anr. v. State for NCT of Delhi & Ors. (Nirbhaya Case, 2012)
- Section 377 of IPC, 1860 (Amended in 2018 by the Supreme Court)

## Laws Protecting Women from Sexual Harassment and Insult

### 1. Insulting the Modesty of a Woman

#### Section 509, IPC (Indian Penal Code)

This section criminalizes acts intended to insult the modesty of a woman, including:

- Uttering any word,
- Making any sound or gesture,
- Exhibiting any object,
- Intruding upon a woman's privacy,

if done with the intention that the woman hears or sees it.

#### Punishment:

- Before the 2013 amendment: Up to 1 year of imprisonment.
- After the 2013 amendment: Increased to up to 3 years of imprisonment.

## 2. Sexual Harassment and Outraging the Modesty of a Woman

### Section 354, IPC

This section punishes **assault or use of criminal force** on a woman with the intention of **outraging her modesty** or knowing that such an act is likely to **outrage her modesty**.

#### Punishment:

- Up to 2 years of imprisonment.

### Section 355, IPC

- Using assault or criminal force to **dishonor a person** is also a punishable offense.

### 2013 Amendment to Section 354 IPC

Under the **Criminal Law (Amendment) Act, 2013**, sub-sections (A) to (D) were added to strengthen the law against sexual harassment.

### Expanded Offenses Under Section 354 IPC

1. **Section 354(A), IPC – Sexual Harassment**
  - Physical contact and advances,
  - Sexual overtures,
  - Demand for sexual favors,
  - Making sexually colored remarks,
  - Showing pornography.
2. **Section 354(B), IPC – Disrobing a Woman**
  - Assaulting or using criminal force against a woman **with the intention of disrobing her or forcing her to be naked**.
  - Abetting such acts is also punishable under this section.

### Relevant Legal Provisions:

- Section 509, IPC – Insulting the Modesty of a Woman
- Section 354, IPC – Outraging the Modesty of a Woman
- Section 355, IPC – Dishonoring a Person Using Criminal Force
- Section 354(A), IPC – Sexual Harassment
- Section 354(B), IPC – Disrobing a Woman

## Laws Related to Sexual Offenses and Marital Offenses

### 1. Sexual Harassment & Related Offenses

#### Section 354(C), IPC – Voyeurism

- **Viewing and/or capturing images** of a woman engaged in **private acts** is a punishable offense.
- This includes situations where the woman believes **no one is watching her**, such as:
  - **Using a toilet,**
  - **Being undressed or in underwear,**
  - **Engaged in a sexual act.**
- **Privacy Act Protection:** Watching a woman in a place where she has a **reasonable expectation of privacy** is an offense.

#### Section 354(D), IPC – Stalking

- **Following a woman or contacting her repeatedly** despite **clear disinterest** is an offense.
- **Monitoring a woman's online activity**, including:
  - **Internet tracking,**
  - **Emails,**
  - **Other forms of electronic communication.**
- **Exceptions:**
  - **Law enforcement personnel** acting in **prevention or detection of a crime.**
  - **Legal obligations** that require monitoring.
  - **Reasonable or justified circumstances** based on the situation.

### 2. Selling Children for Prostitution

#### Sections 372 & 373 of IPC

- **Sale and purchase of minor girls** for the purpose of **prostitution** is a punishable offense.
- **Punishment:**
  - **Imprisonment for up to 10 years,** and
  - **Fine.**

### 3. Marital Offenses

#### 1. Marital Rape

- **Definition:** Sexual intercourse with one's spouse without consent.
- **Current Legal Status:**
  - **Not considered rape under Section 375 of IPC if the wife is above 15 years of age.**
- **Verma Committee (2013) Recommendation:**
  - Suggested **removal of this exception** to include **marital rape under Section 375.**
  - However, instead of **removing the exception**, the government introduced **Section 376(B), IPC** under the **Criminal Law (Amendment) Act, 2013.**

### Section 376(B), IPC – Forced Sexual Intercourse with Separated Wife

- Covers cases where a husband has sexual intercourse with his wife while they are living separately.
- Punishment includes **imprisonment and fine**.

#### Relevant Legal Provisions:

- **Section 354(C), IPC – Voyeurism**
- **Section 354(D), IPC – Stalking**
- **Sections 372 & 373 of IPC – Sale and Purchase of Children for Prostitution**
- **Section 375, IPC – Definition of Rape (Marital Exception Applies)**
- **Section 376(B), IPC – Sexual Intercourse with a Separated Wife**

### Marital Offenses and Related Legal Provisions

#### 1. Marital Rape

- **Punishment:**
  - **Imprisonment for a term of 2 years (extendable to 7 years) under Section 376(B), IPC.**
- **Legal Status:**
  - While **marital rape is not explicitly recognized as a criminal offense under Section 375, IPC**, it may still be considered "**sexual abuse**" under the **Prevention of Domestic Violence Act (PDVA), 2005**.
  - However, the **PDVA only provides civil remedies** (e.g., protection orders, financial relief) and does not impose criminal penalties.
- **Recent Developments (2022):**
  - The **Government of India** has initiated a process for **comprehensive amendments to criminal laws**, including discussions on **marital rape**.

#### 2. Cohabitation by Deception

##### Section 493, IPC

- **Definition:**
  - If a man **deceives a woman** into believing that she is **lawfully married to him** and engages in **cohabitation or sexual intercourse with her** under that false belief, he is guilty of an offense.
- **Punishment:**
  - **Imprisonment up to 10 years and fine.**

#### 3. Bigamy

##### Section 494, IPC

- **Definition:**
  - Bigamy is the act of **marrying another person while already being married**.
  - It applies **irrespective of religion**.

- **Punishment:**
  - **Imprisonment up to 10 years and/or fine.**
- **Applicability:**
  - If a **Muslim male marries for the fifth time** or a **Muslim female marries for the second time**, they can be prosecuted under this section.

#### 4. Adultery

##### Section 497, IPC (Struck Down in 2018)

- **Definition:**
  - Previously, adultery was defined as a **man having a sexual relationship with a woman who is married to another man.**
  - The husband of the woman could **prosecute the man**, but the **woman was not punishable** under this section.
- **2018 Supreme Court Verdict (Joseph Shine vs. Union of India):**
  - **Section 497 was struck down** as **unconstitutional** due to **gender discrimination.**
  - The court ruled that **adultery is a marital wrong, not a criminal offense**, and should have **only civil consequences** (e.g., grounds for divorce).
- **Landmark Case:**
  - **Joseph Shine vs. Union of India (2018)**
  - **Reference:** [Joseph Shine Case on Indian Kanoon](#)

##### Relevant Legal Provisions:

- **Section 376(B), IPC – Marital Rape (with separated wife)**
- **Prevention of Domestic Violence Act (PDVA), 2005 – Sexual Abuse in Marriage**
- **Section 493, IPC – Cohabitation by Deception**
- **Section 494, IPC – Bigamy**
- **Section 497, IPC – Adultery (Struck Down in 2018)**

#### Adultery, Enticement, and Live-In Relationships

##### Adultery as a Civil Wrong

- A **criminal offense** must be a **public wrong** against **society as a whole**, not just an **individual victim.**
- **Adultery is now considered a civil wrong**, meaning:
  - It may serve as **grounds for divorce** but is **not a criminal offense.**
  - This change was established by the **Joseph Shine vs. Union of India (2018)** case, where **Section 497, IPC was struck down.**

## 1. Enticing, Taking Away, or Detaining a Married Woman

### Section 498, IPC

- **Definition:**
  - If a person **entices, takes away, or detains** a woman whom he **knows to be the wife of another man**, with the **intention of illicit intercourse**, he is **guilty under this section**.
- **Legal Update (Post-Joseph Shine Case):**
  - If the act is done **with the woman's consent**, it is **no longer a criminal offense**.
  - The woman is considered an **equal partner** in the act and **cannot be treated as property** of her husband.

## 2. Live-In Relationships in India

### Definition:

- A **live-in relationship** is defined as:
  - **Continuous cohabitation** for a **significant period** between **unmarried partners** who share a **common household**.

### Legal Recognition:

- **Not illegal:** While **society may consider it immoral**, it is **not unlawful** under Indian law.
- **Right to Life (Article 21):** The **Supreme Court** has held that living together is a **fundamental right** and **cannot be deemed illegal**.
- **Legal Marriage Recognition:** If certain conditions are met, couples in a **long-term live-in relationship** may be recognized as **legally married**.
- **Children's Rights:**
  - Children **born out of live-in relationships** are **considered legitimate**.
  - They are **entitled to inheritance rights**.

### Legal Protections Available:

- **Protection Under Domestic Violence Act, 2005:**
  - Live-in partners can claim **relief under domestic violence laws**.
- **Maintenance Rights:**
  - If conditions are met, a **woman in a live-in relationship** can claim **maintenance under Section 125, CrPC**.

### Criminal Sanctions in Public Offenses:

- **Criminal laws apply** where there is a **public element** in the wrongdoing, such as:
  - **Offenses against state security**
  - **Other crimes involving public interest**



### Relevant Legal Provisions:

- Section 498, IPC – Enticing or Detaining a Married Woman
- Joseph Shine vs. Union of India (2018) – Adultery Decriminalization
- Domestic Violence Act, 2005 – Protection for Live-In Partners
- Section 125, CrPC – Maintenance Rights for Live-In Partners
- Article 21, Constitution of India – Right to Life & Personal Liberty

### Reference:

- Narayan CL, Narayan M, Deepanshu M, et al. *Live-in relationship in India – Legal and psychological implications*. *J Psychosexual Health*, 2021; 3(1): 18–23.

## Dowry & Domestic Violence Laws in India

### 1. Demand of Dowry by Husband or Relatives

#### Section 498A, IPC (Inserted in 1983)

- **Purpose:** Protects married women from cruelty by husband or in-laws for dowry-related demands.
- **Punishment:**
  - Up to 3 years imprisonment
  - Fine
- **Nature of Offense:**
  - **Cognizable** (Police can register a case without prior approval)
  - **Non-bailable** (Bail is not granted as a right)

### 2. Dowry Death

#### Section 304B, IPC (Inserted in 1986)

- **Definition:**
  - If a woman dies due to burns, bodily injury, or under unnatural circumstances within seven years of marriage, and it is proved that soon before her death, she was harassed for dowry, it is termed as "Dowry Death."
- **Legal Consequences:**
  - **Presumption of guilt** against the husband or in-laws.
  - **Punishment:** Minimum 7 years imprisonment, which may extend to life imprisonment.

### 3. The Protection of Women from Domestic Violence Act, 2005

- **Purpose:** Protects women from **domestic violence** in India.
- **Who is Covered?**
  - **Married women**
  - **Women in live-in relationships**
  - **Family members living together in a joint household**
- **Types of Abuse Covered:**
  - **Physical** abuse
  - **Verbal & Emotional** abuse (insults, humiliation, name-calling)
  - **Economic** abuse
  - **Sexual** abuse
  - **Harassment for Dowry**

#### Legal Provisions Under the Act:

- **Protection Officers:** Appointed by the State Government to assist victims.
- **Role of Police & Magistrate:** Ensure **timely protection and justice**.
- **Remedies Available:**
  1. **Protection Order** – Prevents further abuse.
  2. **Residence Order** – Ensures the woman can stay in her marital/shared household.
  3. **Custody Order** – Determines the child's custody.
  4. **Compensation Order** – Grants financial relief to the victim.

#### Relevant Legal Provisions

- **Section 498A, IPC (Inserted in 1983)** – Cruelty for Dowry
- **Section 304B, IPC (Inserted in 1986)** – Dowry Death
- **The Protection of Women from Domestic Violence Act, 2005**

#### Kidnapping, Abduction, and Trafficking Laws in India

##### 1. Kidnapping and Abduction

- **Kidnapping from lawful guardianship** applies to:
  - **Girls below 18 years**
  - **Boys below 16 years**
- **Abduction** is used for **persons above these ages**.
- **Punishment:** **Up to 10 years imprisonment + Fine** (Section 366, IPC).

#### Other Related Sections:

- **Section 366(A), IPC** – **Inducing a minor girl by any means** for illicit intercourse.
- **Section 366(B), IPC** – **Importing a girl above 21 years from a foreign country** for sexual exploitation.
- **Section 372, IPC** – **Selling a minor girl (below 18 years) for prostitution**.
- **Section 373, IPC** – **Buying a minor girl (below 18 years) for prostitution**.

## 2. Trafficking of Persons

### Section 370, IPC (Amended by the Criminal Law Amendment Act, 2013)

- **Broadened the definition of human trafficking** to include:
  - **Threat, fraud, use of force, abduction, abuse of power, and inducement.**
  - **Enhanced punishments** for trafficking minors or multiple victims.
  - **Stricter penalties** for **public servants** engaged in trafficking.

### Section 370A, IPC

- **Covers the engagement of minors for sexual exploitation** in any form.

## Cyber Pornography & Online Crimes

### Cyber Pornography under the Information Technology Act, 2000

- **Publishing, transmitting, or causing to publish** any **lascivious material** online is **punishable** under **Section 67** of the IT Act.
- **Punishment:**
  - **First Offense: Up to 3 years imprisonment + Fine up to ₹5 lakh.**
  - **Subsequent Offense: 5-7 years imprisonment + Fine up to ₹10 lakh.**

### Relevant Legal Provisions:

- **Section 366, IPC** – Kidnapping for illicit intercourse
- **Section 366(A), IPC** – Procuring a minor girl
- **Section 366(B), IPC** – Importing a girl above 21 years for prostitution
- **Section 372, IPC** – Selling a minor for prostitution
- **Section 373, IPC** – Buying a minor for prostitution
- **Section 370, IPC** – Trafficking of persons
- **Section 370A, IPC** – Exploiting minors for sexual purposes
- **Section 67, IT Act, 2000** – Cyber pornography

## Cyber Crimes & Online Sexual Exploitation

### 1. Transmission of Sexually Explicit Material (Section 67A, IT Act, 2000)

- **Punishment:**
  - **5–7 years imprisonment**
  - **Fine up to ₹10 lakh**
- **Exemptions:**

- If the material is used for public good, education, scientific research, heritage, or religious purposes, it is **not punishable**.

## 2. Child Sexual Exploitation (Section 67B, IT Act, 2000)

- **Prohibited Activities:**
  - Depicting **children (below 18 years)** in sexually explicit content.
  - **Browsing, downloading, advertising, promoting, exchanging, or distributing** such content.
  - **Inducing or enticing children into sexual acts online.**
  - **Recording or sharing abuse involving minors.**
- **Punishment:**
  - **5–7 years imprisonment**
  - **Fine up to ₹10 lakh**

## 3. Legality of Watching Pornography

- **Watching pornography in private (not involving minors) is not illegal.**
- **However, the following are prohibited:**
  - **Creating, producing, storing, or transmitting pornography.**
  - **Watching it in public or in a group.**
  - **Content depicting violence against women.**

## Workplace Harassment

### Definition

Workplace harassment is **not limited to sexual harassment**. It includes:

- **Quid pro quo harassment** – When employment decisions (hiring, promotion, demotion, salary cuts) depend on accepting or rejecting unwanted conduct, usually of a sexual nature.
- **Hostile work environment** – Offensive conduct based on **protected categories** (gender, race, disability, etc.), creating a toxic workplace.

### Legal Provisions & International Perspective

- **United States Department of Labor** defines workplace harassment as broader than just sexual harassment.
- **India's Workplace Harassment Laws** are governed by:
  - **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.**
  - **Indian Penal Code (IPC) Section 354A** (Sexual Harassment).

### Sources & Legal References:

- **The Information Technology Act, 2000** – [Read more](#)
- **Sexual Harassment Laws in India** – [Read more](#)

## Famous Case Law: Vishaka and Ors. v. State of Rajasthan (1997)

### Background:

- A Public Interest Litigation (PIL) was filed by women's rights groups, led by **Naina Kapur** and her organization **Sakshi**, after the brutal **gang rape of Bhanwari Devi**, a social worker in Rajasthan.
- Bhanwari Devi was **assaulted for stopping a child marriage** as part of her work.

### Supreme Court Ruling:

- The court recognized the **importance of international conventions and norms** in interpreting fundamental rights.
- It emphasized **gender equality, the right to work with dignity, and protection from sexual harassment** under **Articles 14, 15, 19(1)(g), and 21** of the **Indian Constitution**.
- The ruling **led to the creation of the Vishaka Guidelines**, setting the foundation for workplace sexual harassment laws in India.

### Significance:

- The **Vishaka Guidelines (1997)** established **clear definitions of sexual harassment and guidelines for redressal**.
- This judgment influenced the later enactment of **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013**.

## Acid Attacks & Related Offenses

### Legal Provisions (Indian Penal Code, 1860)

#### 1. Section 326(A) - Acid Attack Resulting in Disfigurement or Injury

- **Punishment:** Minimum **10 years imprisonment**, extendable to **life imprisonment**.
- **Fine:** Sufficient to cover medical expenses of the victim.

#### 2. Section 326(B) - Attempt to Throw Acid

- **Punishment:** Minimum **7 years imprisonment**, extendable to **10 years**.

#### 3. Section 100, IPC - Right to Private Defense Against Acid Attacks

- This section was **amended to allow self-defense against acid attack attempts**, permitting the victim to retaliate against the attacker.

### Significance:

- The **Criminal Law (Amendment) Act, 2013** strengthened laws against acid attacks.
- Acid attacks were recognized as **heinous crimes**, requiring **strict punishment and compensation for victims**.

## **Sale, Letting to Hire, Distributing, etc., of Obscene Objects to Young Person**

### **Section 293, IPC**

Selling, letting to hire, distributing, exhibiting, or circulating to any person under the age of 20 years such obscene object such as a book, pamphlet, paper, writing, drawing, painting, representation, figure, or any other object is punishable with imprisonment of either description up to 3 years, and with fine, or on the second occasion with imprisonment up to 7 years and fine. Anything lascivious or appealing to the prurient interest or depraving or corrupting is considered to be obscene.

### **Obscene Acts and Songs**

### **Section 294, IPC**

Doing any obscene act in any public place, or singing, reciting, or uttering any obscene song, ballad, or words in or near any public place, to the annoyance of others, is punishable with imprisonment up to 3 months or with a fine or both.

### **Constitutional Provisions for Women in India**

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favor of women for neutralizing the cumulative socio-economic, educational, and political disadvantages faced by them.

- **Article 14** confers on men and women equal rights and opportunities in the political, economic, and social spheres.
- **Article 15** prohibits discrimination against any citizen on the grounds of religion, race, caste, sex, etc.
- **Article 15(3)** makes a special provision enabling the State to make affirmative discrimination in favor of women.
- **Article 16** provides for equality of opportunities in matters of public appointments for all citizens.
- **Article 39(a)** further mentions that the State shall direct its policy towards securing to all citizens, men and women equally, the right to means of livelihood.
- **Article 39(c)** ensures equal pay for equal work.
- **Article 42** directs the State to make provisions for ensuring just and humane conditions of work and maternity relief.
- Above all, the Constitution imposes a fundamental duty on every citizen through **Article 51(A)(e)** to renounce practices derogatory to the dignity of women.

## **Social Legislative Measures to Uplift the Status of Women in India**

### **1. During British Period**

The wave of reformist movements in the 19th century initiated by Raja Ram Mohan Roy and followed up by Ishwar Chandra Vidyasagar, Dayanand Saraswati, Keshava Chandra Sen, Mrs. Ranade, Pandit Ranabai, and Mrs. Annie Besant forced the Government to take some legislative measures, enacting the following Acts:

1. **The Prevention of Sati Act, 1829**
2. **The Hindu Widow Remarriage Act, 1856**
3. **The Civil Marriage Act, 1872**
4. **The Child Marriage Restraint Act, 1929**
5. **Hindu Married Women's Right to Separate Residence and Maintenance Act, 1945**

## 2. After Independence

Some specific laws were enacted by the Parliament to fulfill Constitutional obligations for women empowerment:

1. **The Equal Remuneration Act, 1976**
2. **The Dowry Prohibition Act, 1961**
3. **The Immoral Traffic (Prevention) Act, 1956**
4. **The Maternity Benefit Act, 1961**
5. **The Medical Termination of Pregnancy Act, 1971**
6. **The Commission of Sati (Prevention) Act, 1987**
7. **The Prohibition of Child Marriage Act, 2006**
8. **The Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994**
9. **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013**

### International Commitments of India for Women Empowerment

India is a party to various international conventions and treaties committed to securing equal rights for women. One of the most important among them is the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, ratified by India in 1993.

### Landmark Judgments on Offenses Against Women under the Indian Penal Code, 1860

#### 1. Tukaram v. The State of Maharashtra

- A case of custodial rape where the accused were acquitted due to lack of direct evidence.
- Led to the **Criminal Law Amendment Act, 1983**, which amended **Section 114A of the Indian Evidence Act**, making it clear that consent must be explicitly given.
- **Section 376 IPC** was also amended to extend punishment for custodial rape to **7 years** and shifted the burden of proof to the accused.

#### 2. Vishaka & Ors. v. State of Rajasthan

- Recognized **sexual harassment at the workplace** as a violation of fundamental rights under **Articles 14, 19(1)(g), and 21** of the Constitution.
- Issued guidelines for employers to create a **safe working environment** for women.
- Led to the enactment of **The Sexual Harassment of Women at Workplace Act, 2013**.

#### 3. Laxmi v. Union of India (Acid Attack Case)

- A PIL was filed for stricter laws on **acid attacks**.
- Led to amendments in **Section 326A and 326B of IPC**, defining acid attacks and increasing punishment.
- **Minimum compensation of ₹3,00,000** was mandated for acid attack victims.

#### 4. Ritu Kohli Case (First Cyberstalking Case in India, 2001)

- A case of online stalking and harassment under **Section 509 IPC**.
- Led to an amendment in the **Information Technology Act, 2000**, introducing **Section 66E** to address cyber harassment.

## 5. Mukesh & Anr v. State for NCT of Delhi (Nirbhaya Rape Case, 2012)

- Recognized as a "rarest of the rare" case, leading to the death penalty for the accused.
- Led to **Criminal Law Amendment, 2013**, which:
  - Expanded the definition of **rape (Section 375 IPC)**.
  - Introduced **Section 376(2)(c) (rape by armed forces personnel)**.
  - Introduced **Section 376A (rape leading to death or vegetative state)**.
  - Introduced **Section 376D (gang rape)**.
  - Increased punishment for repeat offenders to **life imprisonment or death penalty**.

### Comparison of IPC and BNS Provisions on Crimes Against Women

S.No.	Offense	IPC Sections	BNS Sections
1	Rape and its punishment	Sec. 375 to 376(A)-376(E)	Sec. 63 to 71
2	Unnatural offenses	Sec. 377	-
3	Insulting modesty of a woman	Sec. 509	Sec. 78
4	Assault, sexual harassment	Sec. 354	Sec. 73
5	Sale and purchase of minor girls	Sec. 372 to 373	Sec. 96 to 97
6	Marital offenses	Sec. 493 to 498A	Sec. 80 to 84
7	Dowry death	Sec. 304B	Sec. 79
8	Kidnapping (exploitation)	Sec. 366	Sec. 141
9	Trafficking of persons	Sec. 370	Sec. 142
10	Victim compensation	Sec. 357A to 357C	Sec. 396 to 397

### Conclusion

Only legislation and law enforcement agencies cannot prevent incidents of crime against women. There is a need for social awakening and a change in the attitude of the masses so that due respect and equal status are given to women. It is time that women are given their due.

This awakening can be brought about through educational campaigns among the youth, making them aware of existing social evils and the means to eradicate them. Mass media can play an active role, as it has reached every corner of the nation in the present day.

Various NGOs can also hold a responsible position by highlighting the socio-economic causes leading to such crimes and disseminating information about their catastrophic effects on womanhood and society at large.

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