

SOCIAL LAWS: AN OUTLINE OF SOCIOLOGY

Shrimayee Puhan
Razina Ahmed
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CHAPTER 1

DOMESTIC VIOLENCE AGAINST WOMEN

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ABSTRACT: Any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life, is defined by the United Nations as violence against women. Domestic violence is an everyday occurrence in families all around the globe. Domestic violence affects 1.3 million women each year, according to the National Coalition Against Domestic Violence. In India, violence against women is a severe issue. Physical violence has been reported by one-third of women aged 15 to 49, while sexual violence has been reported by one out of every ten women. It is both disconcerting and disappointing to consider that a society that celebrates female via epics and devotion to gods can be so disrespectful and uncaring to the country's ordinary women. Although there are laws in place to address domestic abuse, they are not successfully executed. This paper understands the overview of domestic violence against women, domestic violence law, consequences of domestic violence and step to file complaint against PWDVA.

KEYWORDS: Abuse, Domestic Violence, Harassment, Spouse, Social.

1. INTRODUCTION

Domestic violence has been documented in practically every group and civilization throughout recorded history. Every patriarchal culture accepts discrimination and injustice that leads to physical, mental, or emotional violence[1]. Domestic abuse has been socially and legally tolerated for a long time, unless there is a recent reference. Some significant events, laws, and ordinances give historical background within which domestic violence is clearly defined. Male domination and portraying women as 'property,' an object belonging to men, and second demands from women as an ideal 'role model,' combine to render women susceptible to discrimination, oppression, and other forms of victimization, and so impose their subjugation[2].

"Violence against women is a symptom of historically uneven power relations between men and women, which have resulted in male dominance and discrimination against women, as well as the impediment to women's complete progress." 1 Domestic violence occurs when one's spouse, partner, or other family member is subjected to physical, sexual, or psychological abuse. When a household members, spouse, or ex-partner tries to physically or mentally control or hurt the other, it is known as domestic violence. Domestic abuse may occur in every culture, and offenders can be of any race, ethnicity, or religion. Women's violence, especially intimate relationship assault and sexual assault, is a serious public health issue and a violation of women's fundamental rights. According to a global evaluation of available statistics from 2013, 35% of women throughout the globe have suffered physical and/or sexual intimate relationship abuse or non-partner sexual assault. However, according to certain national violence surveys, up to 70% of women have suffered physical or sexual abuse from an associated partner at some point in their lives[3].

Women's violence is defined by the United Nations. It might be either verbal or physical. This article concentrates on domestic abuse against women, current legislation, and the

implementation of a new act to protect women from domestic violence. Over the millennia, the position of females in India has changed dramatically[4]. The past of females in India has been dramatic, ranging from equality with males in ancient ages through the lowest periods of the medieval era to the advancement of equal rights by numerous reformers. It's both frightening and depressing to believe that a society that celebrates female via epics and devotion to gods can be so dismissive of and insensitive to the nation's ordinary females.

Sexual, physical, or sentimental abuse by an intimate companion; physiological or sexual violence by household representatives or various; sexual bullying and abuse by authority figures (like teachers, police officers, or employers); smuggling for forced labor or sex; and traditional practices such as forced or child weddings, dowry-related violence; and honor killings, in which women are murdered in the name of household honor [5].

Domestic violence is an everyday occurrence in families all around the globe. Domestic violence affects 1.3 billion females every year, according to the National Coalition Against Domestic Violence. Females account for 85 percent of domestic violence cases. Domestic abuse is seldom reported to the authorities. Each year, roughly 16,800 killings are committed as a result of physical abuse. In roughly 40-45 percent of violent families, rape is linked to domestic violence[6].

Married women in India are more likely than anybody else to be subjected to physical or sexual assault by their spouses. Almost one-third of married females (37%) have been subjected to physically or sexual assault by their spouse. One in every four married women has been physically or sexually abused by her spouse. Spousal physical or sexual violence is substantially more common (49%) among women in low-income families than it is among women in higher-income homes (18 percent)[7].

Women whose moms was assaulted by their dads are twice as likely as females whose moms was not abused by their fathers to suffer violence: 60% compared to 30%. Never married women are also victims of physical and sexual assault. Since the age of 15, 16 percent of never married females have been victims of physical violence perpetrated by a parent, a sibling, or a teacher. Just 1% of never married women claim they've ever been sexually assaulted by someone, and 27% say the abuser was a relative[8].

Physical or sexual violence is prevalent in 6 percent in Himachal Pradesh, 13% in Jammu and Kashmir and Meghalaya, 46% in Madhya Pradesh and Rajasthan, and 59 percent in Bihar. Tripura, Manipur, Uttar Pradesh, Tamil Nadu, West Bengal, and Assam are among the states having prevalence rates of 40% or higher[9].

There are many different theories as to the causes of domestic violence. These include psychological theories that consider personality traits and mental characteristics of the perpetrator, as well as social theories which consider external factors in the perpetrator's environment, such as family structure, stress, social learning. As with many phenomena regarding human experience, no single approach appears to cover all cases.

- *Psychological theory*: Personality illness, psychopathology, poor impulse control, and low self-esteem affect 80 percent of males, according to psychological theory.
- *Behavioral, Social theories*: External aspects in the offender's environment, including as family structure, stress, and social learning, are discussed in behavioral and social theories.
- *Resource theory*: Women who are most financially reliant on their husband (e.g., homemakers/housewives, handicapped women, jobless women) and are the major caregivers for their children believe that if they leave their marriage, they would face

a greater financial burden. They have less alternatives and resources to deal with or modify their spouse's conduct since they are dependent.

- *Social stress theory*: Inadequate funds or other family difficulties may exacerbate tensions, according to the social stress hypothesis. Stress does not necessarily lead to violence, but it is one way that some individuals react to it. Some believe that poverty makes it difficult for a man to live up to his vision of "successful masculinity," and hence he is afraid of losing dignity and respect. According to theory, if he is unable to financially support and manage his wife, he may resort to sexism, drug addiction, and criminality as means to display masculinity[10].
- *Social learning theory*: People learn through seeing and mimicking other people's behavior, according to social learning theory. It is more probable to replicate aggressive conduct if one witnesses it. If there are no unfavorable repercussions (for example, if the victim accepts the violence in submission), the conduct is likely to persist. Violence is often passed down from generations to generations in a cyclical fashion.
- *Power and control theory*: Violence is seen to occur in certain relationships as a result of a perceived desire for power and control, according to the power and control hypothesis.

1.1 Domestic violence law:

- *Domestic violence Act, 1983*: Domestic abuse were becoming a particular criminal offense in 1983 when section 498-A of the Indian Penal Code was enacted. This section is about a husband's or his family's cruelty to a married lady. This statute covers four different categories of cruelty:
 - Conduct that has the potential to push a woman to commit suicide.
 - Conduct that has the potential to endanger the woman's life, limb, or health.
 - Harassment with the intent of compelling the lady or her family to hand up part of their belongings.
 - Harassment of a lady or her family when they refuse to give in to requests for more money or property. The penalty is a maximum of three years in jail and a fine. The individual who has been subjected to cruelty does not have to file a complaint. Any of her relatives might file the case on her behalf. The penal rules of a higher serious offense are discussed in the preceding section. The civil law, on the other hand, does not cover the full phenomena. Within the larger context of civil and criminal laws, there was a requirement for a legal provision with more flexible remedies to give. A legislation was adopted to provide for a civil remedy to protect women from becoming victims of domestic violence and to avoid the incidence of domestic violence in society, bearing in mind the rights granted by articles 14, 15, and 21 of the constitution.
- *Protection of Women from Domestic Violence Act 2005 (PWDVA)*:The Indian government implemented the Protection of Women from Domestic Violence Act 2005 (PWDVA) on October 26, 2006. Parliament enacted the Act in August 2005, and the President signed it on September 13, 2005.The Act is divided into five chapters and 37 parts. The Act's key provisions are shown below.
- *Section 2*: Section 2 lists the numerous definitions that will be used throughout the Act.
- *Section 3*: Domestic Violence Definition: Any act, omission, action, or behavior of the responder would be considered domestic violence for the provisions of this Act.

- *Section 4:* establishes a social duty on members of the general public who are aware of an imminent or previously perpetrated act of domestic abuse to come forward and make a report on account of the victim; this suggests that even a person has a responsibility to respond to violence.
- *Section 5:* Section 5 of the PWDVA is a social legislation that establishes a variety of legal, social, legal, and administrative measures to aid domestic violence victims. Wherever applicable, this section highlights the availability of Protection Officers' services; her entitlement to free legal assistance under the Legal Assistance Authorities Act, 1987; and her right to make a complaint under Section 498-A of the Indian Penal Code (45 of 1860).
- *Section 6:* Section 6 explains that Shelter Homes must offer shelter.
- *Section 7:* Section 7 specifies that the individual in charge of a medical institution is responsible for providing medical assistance to those who have been wronged.
- *Section 8:* Protection Officers should, as much as practicable, be women, and full-time posts should be established, according to Section 8 of the Act.
- *Section 9:* The Protection Officers' tasks and powers are defined in of the PWDVA.
- *Section 10:* Section 10 outlines the obligations of Services Suppliers.
- *Section 11:* Section 11 outlines the government's responsibilities, including publicizing the Act widely through the media, conducting periodic sensitization and awareness training for state/central/police/judicial officers, coordinating various ministries/departments, conducting periodic reviews, and ensuring that protocols for the numerous ministers involved, including courts, are prepared and implemented. The most essential aspect of this legislation is Section 36, which states that the Act must be in addition to and not in derogation of any another law already in force.
- *Section 17:* Section 17 of the legislation empowers any woman in a domestic partnership to “have the right to reside in the common home whether or not she has any right, title or benefit interest in it... The aggrieved individual must not be evicted or excluded from the shared home or parts save in line with the procedures established by law.
- *Section 19:* Section 19 must not be confounded with any clause granting property rights to women. It simply prohibits the responder from removing the victim from the common residence or disturbing her. An order may be issued under this section instructing the respondent to leave the shared home, but no such orders can be issued against women. Orders may also be issued prohibiting a responder or his family members from accessing any part of the victim's home. This section may assist victims in finding alternative housing, obtaining police protection, making lease and various payments, or obtaining directives for the return of land, stridhan, or other valuables to the lady.

1.2 Steps to file a complaint under the PWDVA:

- *Step 1:* The grievance can be created by the aggrieved or by any other person on her behalf to the police officer, support provider then informs the protection officer (who ideally is an outreach policeman of the court liaise between the aggrieved person, police & the support providers (Sec. 5, Rule 5, Form I). He then produces Domestic Incidence Report (DIR), develop safety plan (Form V) as required by the aggrieved to prevent additional domestic violence.
- *Step 2:* He organizes legal, medical help, shelter home, & transportation for such institutions. He also updates list of all service providers in the area.
- *Step 3:* The protection officer transmits the DIR to the Magistrate.

- *Step 4:* The magistrate may accept application asking remedy directly from the aggrieved, from any person on her account or from the protection officer (Sec.12).
- *Step 5:* On reception of application the magistrate then initial date of hearings, 3 days after filing of Application. In case of woman facing grave risk, the court might give expert interim order in her favour and later establish the date. He should also strive to dispose of every application within 60 days after the first hearing {Sec. 12(5)}
- *Step 6:* The respondent is then provided with notice of the date of hearing, through the protection officer, within 2 days after filing application and is asked to attend the court.
- *Step 7:* The Magistrate after hearing both the sides may seek aid of welfare expert (Sec.15) or require both parties to undergo counselling (Sec. 14).
- *Step 8:* Any order made by the Magistrate within 60 days of the submission of the application under Sections 17, 18, 19, 20, 21 of the PWDVA or any other order made by the Magistrate is enforceable throughout India and will remain in effect until the aggrieved party asks for discharge.
- *Step 9:* Either party has 30 days from the moment of formal receipt of the Magistrate's order to file an appeal against it (Sec. 29)
- *Step 10:* A violation of a Magistrate's order is punishable by a year in jail or a fine of up to Rs. 20,000/-, or both [Sec 31(1)].

1.3 World health organization (WHO) responses against Domestic violence:

WHO and partners work together to reduce violence against women by implementing projects that aim to identify, measure, and react to the issue, such as:

- Obtaining data on the extent and forms of violence in various environments. This is a crucial stage in determining the scope and nature of the issue on a worldwide scale.
- Developing recommendations for Members Governments and health professionals on how to avoid and respond to violence in the health sector.
- Providing information to nations and assisting national initiatives to promote women's rights and avoid violence.
- Working with international institutions and groups to prevent violence against women across the world.

1.4 Consequences of domestic violence against women:

- *Health consequences:* Violent actions or the long-term ramifications of violence may have a direct or indirect impact on one's health. Injuries are often related with bodily and sexual assault by a spouse. Intimate partner violence is the biggest cause of non-fatal injuries.
- *Injuries:* Injuries are often related with physical and sexual assault by a spouse. Intimate partner violence is the biggest cause of non-fatal injuries.
- *Honor murders:* by relatives for cultural reasons, suicide, and maternal death through unsafe abortion are all examples of violence against women that result in death.
- *Sexual and reproductive health:* Violence against women is linked to STDs such as HIV/AIDS, unwanted pregnancies, gynecological issues, induced abortions, and negative pregnancy outcomes such as miscarriage, low birth weight, and fetal death.
- *Risky behavior:* Sexual abuse, drug addiction, and subsequent victimization are all risky behaviors. Each of these habits raises the likelihood of developing health issues.
- *Mental health:* Depression, post-traumatic stress disorder, sleep problems, eating disorders, and mental anguish are all increased by violence and abuse as shown in figure 1.

- *Physical health:* Abuse may cause a variety of health issues, such as headaches, back pain, stomach pain, fibromyalgia, gastrointestinal disorders, reduced mobility, and poor overall health.
- *Social and economic costs:* The social and financial costs of violence towards females are tremendous, and they have far-reaching consequences across society. Isolation, inability to work, income loss, lack of engagement in regular activities, and decreased capacity to care for themselves and their kids are all possible outcomes for women (Figure 1).

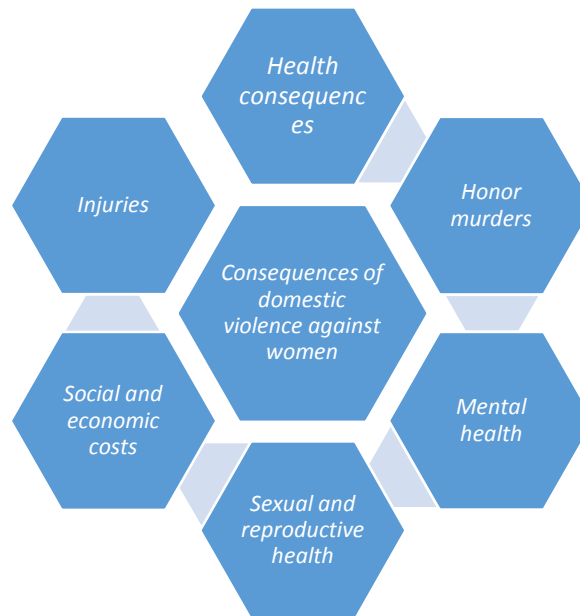


Figure 1: Diagrammatic Representation of Consequences of domestic violence against women

2. DISCUSSION

Domestic violence is defined as one adult in a partnership abusing his or her authority to dominate another. It is the use of violence and other types of abuse to build dominance and terror in a relationship. Bodily abuse, psychological assault, social abuse, economic abuse, and sexual assault are all examples of violence. The aggression might be intermittent, infrequent, or chronic in nature. "Domestic abuse isn't just a debate. It's a pattern of one individual exerting coercive control over another. Abusers utilize physical and sexual abuse, threats, emotional insults, and financial deprivation to control and manipulate their victims." Domestic violence, according to the Prevention of Girls from Domestic Violence Act of 2005, is defined as any act, behavior, omission, or action that damages or injures, or has the potential to harm or injure, a woman. Domestic violence may be defined as a single act of omission or conduct; in other words, women do not need to be abused for a lengthy time before seeking legal help. The legislation also applies to minors. Both males and females are perpetrators and victims of domestic abuse. Women, particularly in our nation, are the most prevalent victims. Even in the United States, it has been stated that intimate partner violence accounts for 85 percent of all violent crimes committed by women, compared to just 3% of violent crimes committed by males. As a result, domestic violence in India mostly relates to violence against women.

The most frequent type of violence towards women is domestic violence. It impacts women at all stages of their lives, from sex-selective abortion of female babies to attempted suicide and abuse, and it can be found in every community on the planet to some extent. According

to the World Health Organization, the percentage of women who had ever been subjected to physical or sexual assault or both by an intimate partner varied from 15% to 71 percent, with the majority falling between 29 and 62 percent. A considerable number of married females have been bodily or sexually assaulted by their spouses at some point in their life, according to India's National Family Health Survey-III, which was conducted in 29 states in 2005-06. According to the report, 37.2 percent of women in the United States "experienced violence" after marriage. Bihar was reported to be the most violent, with a 59 percent prevalence of domestic violence against married women. Surprisingly, metropolitan households reported 63 percent of these events, instead than the state's poorest areas. Madhya Pradesh (45.8%), Rajasthan (46.3%), Manipur (43.9%), Uttar Pradesh (42.4%), Tamil Nadu (41.9%), and West Bengal (41.9%) were the next states (40.3 percent).

The rise of violence against women was recently noted by India's National Crime Records Bureau (NCRB), which said that whereas 125 women were victimized by domestic violence on a daily basis in 2000, that number increased to 160 in 2005. Domestic abuse affects over two-thirds of married women in India, according to a new United Nations Population Fund survey. Violence kills and disables as numerous women in India between the ages of 15 and 44 as cancer, and it has a greater impact on women's health than traffic disasters and malaria combined. Even these worrisome estimates are likely to be greatly underestimated, since domestic violence remains a taboo issue in both industrial and developing nations.

Domestic violence against women is a long-standing problem. Women have long been seen as weak, defenseless, and easily manipulated. Women have traditionally been seen to be the victims of violence. Although cultural norms, religious traditions, economic and political circumstances may influence the initiation and perpetuation of domestic violence, committing an act of violence is ultimately a personal decision made from a variety of possibilities. Although macro system-level forces (such as cultural and social norms) play an important role in the etiology of gender-based violence in any country, including India, individual-level variables (such as witnessing violence between one's parents as a child, having an absent or rejecting father, and being associated with delinquent peers) also play a role in the development of such violence. Differences in physical strength and stature contribute to the gender imbalance in domestic violence. Women are also socialized into their gender roles in many civilizations across the globe. Women in patriarchal countries with fixed gender norms are generally ill-equipped to defend themselves if their spouses turn violent. However, part of the discrepancy stems from how men's reliance and fearfulness contribute to a cultural disarming. Husbands who hit their spouses often believe they are exercising a right by keeping the household in order and punishing their wives' misbehavior, particularly their inability to retain their appropriate position.

3. CONCLUSION

Domestic violence is not just obvious, but it is also a part of women's everyday lives in India. She is subjected to violence from the moment her mother conceives her in the womb, and she has to battle for her survival in this cruel society at every stage of her life. Because the majority of women in our nation are illiterate and unaware of fundamental legal provisions as well as their rights, they often fail to file complaints against those who violate their rights and conduct crimes against them. Lack of understanding of the law and the rights provided to them under that legislation, but the most important issue is that women are unaware of their rights owing to traditional practices. Victims are unable to get the legal remedies that the government guarantees for women's protection. Women are still viewed as second sex in our culture, which is claimed to be tradition-bound and male-dominated, causing them to endure

assault in silence. The reality that women in India are subjected to gender-based human rights violations. She is often overlooked and undervalued.

The Parliament approved the Protection of Women from Domestic Violence Act (PWDVA) in 2005 in response to international demand for similar legislation and as a result of the ongoing efforts of women's organizations. Women's rights and protection are guaranteed under the act. Prior to the PWDVA 2005, the victim's remedies were limited to punishing the criminal under the IPC, the civil remedy of divorce and maintenance did not provide her with the ultimate relief, and the remedies available were limited to marital proceedings and judicial proceedings. Women had access to statutory and constitutional safeguards, but they were inadequate, and the most serious issue was a lack of understanding of their rights, which the constitution protects. Domestic violence transcends ethnicity, caste, religion, and social status. According to the Global Review Data, 35% of women throughout the globe have suffered physical and sexual intimate relationship violence or non-partner sexual assault in 2013. According to certain National Violence Surveys, up to 70% of women have suffered bodily or sexual violence from an intimate partner at some point in their lives. 153 In a 2010 survey in New Delhi, 66 percent of women said they had been sexually harassed among two and 5 times in the previous year.

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CHAPTER 2

ME-TOO MOVEMENT AND ITS IMPACT

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ABSTRACT: Social media provides a shared forum for the public to speak out against social injustice and file complaints about government policies. They also get together to combat crime. Social media has played an important role in spreading gender inequality demonstrations throughout the globe. The goal of this research is to examine the impact of the "#me too" movement on the intention to regulate sexual harassment against women and to provide a framework for creating awareness and controlling sexual harassment against women using mass communication as a tool. To examine the data, multivariate data analysis was performed using partial least squares path modeling (pls-sem). The questionnaire was sent to 800 Indian participants through WhatsApp and email. According to the findings, social media movements such as the "#me too" campaign have a beneficial impact on the desire to regulate sexual harassment against women. This study found that involvement in these types of social movements raises knowledge about sex-based offenses, which leads to the establishment of a desire to regulate sexual harassment against women.

Keywords: Social media engagement, me too movements, sexual harassment.

1. INTRODUCTION

Tarana Burke is often seen as the movement's leader, but she feels that before she is a leader, she is a worker, and the movement aims to include both men and women, regardless of their skin color or age group. The initiative aided many marginalized members of society and communities. According to Milano, altering the laws around sexual harassment and assault is a goal for #MeToo, such as implementing standards that allow victims in all professions to submit complaints without fear of reprisal. She favors legislation that makes it more difficult for publicly listed corporations to conceal cover-up payments from their investors, and she wants employers to be prohibited from requiring new employees to sign non-disclosure agreements as a condition of employment [1].

Due to the economic consequences of reporting harassment, gender experts like Anna North have said that #MeToo should be handled as a labor problem. North proposes addressing fundamental power inequalities in certain industries, such as boosting the tipped minimum pay, and supports innovations such as the "portable panic buttons" imposed for hotel staff in Seattle [2].

Burke believes that women should not be embarrassed of reporting incidences of sexual harassment and provides ongoing support to them. Burke noted that the movement's major goal would be to offer victims with tools and a healing forum, as well as to ensure that changes are made to laws and practices. She thought that women needed to be educated on laws and regulations. There were several allegations leveled against Harvey Weinstein. The campaign drew the attention of women all across the globe, bringing to light the extent of sexual harassment crimes perpetrated against women.

The movement's study conclusively demonstrated the prevalence of sexual violence as calculated by the world health organization, which plainly shows that one-third of women globally are afflicted. According to the findings, 95 percent of incidences of sexual harassment/violence go unpunished. It has been noted that most incidents of sexual harassment are not even reported because women are afraid that their complaints will not be taken seriously by authorities since it is difficult to collect evidence to substantiate cases of sexual harassment. One reason culprits aren't intimidated and continue their wrongdoings is a lack of proof. Furthermore, it has been noticed that attackers are often persons close to the woman who think they cannot afford to go against them, hence the occurrences go undetected [3]–[6].

Social media engagement is interpreted as the measurement of individual's involvement with social media. It also refers to „individual attitude towards the relationship with social media use“ (xiaoli, 2020). Engagement is a complex structure, which consist behavior, cognition, and affection (hollebeek,2011; myers,1993). Hence, the present study aims to achieve the following objectives: the first objective of the study is to assess the influence of “#me too movement” on intention to control sexual harassment against women. The second objective of the study is to suggest a framework using mass communication as a tool to create awareness and control sexual harassment against women. To develop a framework using “#me too movement” as a tool to create awareness and control sexual harassment incidents, the social media engagement sale and the theory of planned behavior were used. Affective engagement, behavioral engagement and cognitive engagement construct were used to measure social media engagement of individuals. Hollander in (2018) stated in her research paper that the reporting could be a good tool to reduce the number of victimizations of sexual violence. Caputi et al., (2019) have discussed in their study that #me too movement has encouraged considerable interest in not only sex-based crimes, but also stimulated the actionable outcomes such as reporting and prevention.

2. Discussion

Sexual harassment

Sexual harassment in the workplace is regarded a major violation of women's rights worldwide, and it is another kind of violence that is pervasive against women. However, males have the advantage of being able to excuse harassment of women due to gender norms. Thus, sexual harassment is a mirror that reflects men's dominance over women, allowing them to maintain patriarchal relationships. Violence against women is often motivated by patriarchal ideals, which may be subtle or overt, and they are required to adhere to rigid gender norms. The biggest problem in resolving and preventing sexual harassment is the patriarchal ideals and attitudes of both men and women. Sexual harassment in the workplace, like other types of violence, is not innocuous. It has substantial health, human, economic, and social consequences, which are reflected in a country's overall development indexes.

Sexual harassment is a kind of gender discrimination that primarily targets marginalized persons, mostly women, in society. It comprises of a variety of activities, including sexual remarks and improper or uninvited offers of incentives in return for sexual services. Sexual harassment includes actions such as whistling, gazing, propositions for dates, inappropriate physical contact, and insulting words.

The act of requesting sexual favors in return for a promotion or employment is also termed sexual harassment at work (jacobson & eaton, 2018). Section 354 of the indian penal code defines sexual harassment, which is further subdivided under sections a, b, c, and d. Section 354 a addresses the definition and punishment of sexual harassment. This section defines sexual harassment as any physical contact, unwanted sexual advances, the display of pornography, or the making of sexual comments (tripathi, 2014). According to ncrb statistics,

crimes against women rose from 58.8 to 62.4 between 2018 and 2019. In 2019, 32,033 rape occurrences were documented (national crime records bureau, 2019).

FEMALES' SOCIAL MEDIA ENGAGEMENT

The use of the internet and social networks for political or social participation has piqued the interest of scholars in recent decades (schuster, 2013). Discussions focus on how online activism might reach the actual world (livingstone et al., 2005), while some argue that facebook profiles have been overlooked when it comes to political engagement (christensen, 2011; schuster, 2013). While multiple studies show several ways in which social media might influence collective action (valenzuela, 2013), few have committed efforts to understanding female protest involvement (loiseau & nowacka, 2015; schuster, 2017). Social media has shown to be a great instrument for bringing female interests and rights to the public's attention (Kapoor et al., 2017). The remarkable usage of social media by women marks a crucial step toward bringing opportunities and various dialogues about (in)equality, gender gap, and other issues into the media spotlight (loiseau & nowacka, 2015). Online involvement in demonstrations is a desire for many young women, particularly those who lack finances; also, this option allows them to choose how much of their identity will be disclosed (schuster, 2013). Of Brazil, political activities in 2013 were defined by considerable online involvement and participation, ushering in a new method of protesting in the nation (queiroz, 2017).

In terms of female online activism, the literature points to a wave of feminist forces attempting to steer efforts toward translating online social movements into practical change: the feminist fourth wave. This new wave would be distinguished by the extensive usage of social media as significant change agents (hollanda, 2018). As a result, it is inside the internet environment that women organize themselves and take a stance against abuse and gender discrimination by building a support network, sharing tales and testimonies, and organizing campaigns, social activities, and demonstrations.

Unlike earlier decades, the internet and social media permit a far greater capacity of information diffusion, allowing individuals to get knowledge while simultaneously debating their beliefs (moraes, consolmagno & pinheiro, 2020).

Previous research on females' political engagement behavior, on the other hand, indicates that women engage in less visible political behaviors on social media because they are more likely to use social media for relationship maintenance and appear to be able to overcome political confrontations and exposure (bode, 2016).

Many experts expressed worry about the influence of the #metoo movement on the general public, but they believed that the campaign has exacerbated the conflict between both genders, pitting women against men (kunst, bailey, prendergast, & gundersen, 2019). According to burstein and linton (2002), social movements may act as a revolution and bring about change in society by exerting influence on a large number of people (burstein & linton, 2002).

However, the motivations of most research studies were to investigate how social movements organize individuals to act, but there is a shortage of studies that explored the influence of social movements on the general public (louis, 2009). This research study also explored the impact of a collective public endeavor to build a centerpiece, such as teixeira, spears, and yzerbyt, in 2019. Many studies have been conducted to analyze the effect and impact of the #me too movement on a worldwide scale, however research on the influence of the #me too movement in the Indian context is still lacking. The current research study aims to address that vacuum by critically examining the impact of the "#me too" campaign on the desire to regulate sexual harassment events against women.

INDIA'S #METOO MOVEMENT

The #metoo campaign was born in india as a result of the worldwide #metoo movement in 2018. Women from many walks of life gathered to tell their tales of abuse by men in positions of authority, inspired by the global movement against sexual assault and harassment. And it all began in october 2018, when actress tanushree dutta accused actor nana patekar of sexual harassment when they were filming 'horn ok please' in 2008 [7].

Following this, complaints were made by a number of film actors, who detailed incidents in which they were assaulted or harassed while at work. Despite the fact that laws are in place to combat the increased sexual harassment of women. In india, vishakha v state of rajasthan, a writ petition was filed detailing a case of horrific gang rape and the dangers that women face at work. Despite the fact that india had adopted cedaw, the convention on the elimination of all forms of discrimination against women, and that the supreme court had urged the legislature to enact separate law, it took almost 13 years.

Harassment Of Women In India

Sexual harassment in india is well-known as a result of the vishakha judgment, which for the first time took into account the rise in sexual harassment. The posh act defines 'sexual harassment' in accordance with the supreme court's definition in the vishaka judgment. Sexual harassment, according to the posh act, includes unwelcome sexually tinted behavior, whether directly or indirectly, such as i physical contact and advances, (ii) demand or request for sexual favors, (iii) making sexually colored remarks, (iv) showing pornography, or (v) any other unwelcome physical, verbal, or nonverbal conduct of a sexual nature[8].

Sexual harassment is a heinous violation of women's equality and dignity. It stems from patriarchy and the associated belief that males are superior to women and that some sorts of violence against women are acceptable. One of them is workplace sexual harassment, which regards different types of such harassment as innocuous and insignificant. It is often justified as 'normal' masculine behavior or 'harmless flirting' that women like. Contrary to popular belief, it causes significant damage and is a clear expression of sex discrimination in the workplace. It is not only a violation of a woman's basic rights under article 19 (1) (g) of the indian constitution to "practice any profession or carry out any employment, trade or business," but it also erodes equality and jeopardizes employees' dignity and physical and psychological well-being. This results in low productivity and a detrimental effect on people's lives and livelihoods. To make matters worse, deep-rooted socio-cultural behavioral patterns that build a gender hierarchy tend to cast blame on the victim, exacerbating inequity in the workplace and in society at large.

WORKPLACE SEXUAL HARASSMENT

Though sexual harassment appears to be a gross violation of women's rights, the legislature enacted legislation, the sexual harassment of women at workplace (prevention, prohibition, and redressal) act, 2013, to ensure working spaces for women and to create an environment that provides equality of opportunity and status to women. The act's successful implementation will help to the realization of their rights to gender equality, life and liberty, and equitable working conditions everywhere. A feeling of security at work will increase women's involvement in the labor force, resulting in economic empowerment and inclusive development.

INFLUENCE ON CULTURE

Since a long time, bollywood has been accused of producing a culture that often promotes harmful concepts of masculinity as the ultimate, given social standard. In fact, one of the most popular plot lines in many films normalizes stalking as an acceptable kind of conduct in order to earn the female lead's attention. Furthermore, the proliferation of numerous item numbers and songs that exist without any significance to the storyline and exist just to increase the glamour factor in films continues to celebrate the objectification of women of course, this is the product of regressive, patriarchal values that are profoundly embedded in our culture and society. However, we are gradually heading toward a society that strives for gender equality and attempts to break free from discriminatory practices. There are more films being created now with female protagonists in the lead, which has pushed actresses to raise their pay to what they are due.

Deepika padukone, for example, was paid more than her male co-stars for the disputed epic-drama padmaavat, which was released last year. With more and more actresses breaking the stereotype of 'eye candy' or 'beauty without brains' and strongly voicing their opinions on various issues of critical importance, particularly their representation in films or unflattering experiences on a movie set, the #metoo movement has become an integral part of mainstream popular culture in india, and hopefully will not fade away anytime soon.

INFLUENCE ON POLITICS

Though the #metoo movement originated in the entertainment business, it quickly spread to the political arena, and renowned people were forced to speak out. Despite the fact that india is the world's biggest democracy, indian politics has always been a source of controversy. The head of the mahila congress, shri. Sushmita dev, was of the opinion that the movement should not be given political clout. She went on to say, "she was of the opinion that it is one of those problems that should not be politicized and termed it a people's movement." she went on to say, "#metoo is a movement that will not just center on facts, but it is a terrible truth that people must embrace." she thought that women should be able to share their experiences without fear of being judged. She vowed to ensure that laws are fully implemented and that new laws to empower women be approved.

Despite the fact that the women and child development minister, shri maneka gandhi, advocated the formation of a committee comprised of distinguished legal personalities to address all issues related to the movement. Furthermore, to provide a welcoming office atmosphere and to make it more secure and comfortable for her, a complaint site #shebox was launched, where complaints against offenders may be made immediately.

Theoretical perspectives on mass media

The mass media theory discusses how media is presented to the public and how the audience understands the messages presented by the media. Since the #metoo movement has gone viral, there has been an overabundance of media reportage about sexual assault survivors/victims' testimonies abuse as well as their allegations many celebrities, television executives, government officials, and other well-known people have been accused of sexual assault, and the media covers each incident differently, leaving the viewer to form their own views and conclusions concerning the circumstance although media outlets strive to avoid bias in their reporting, it is unavoidable at times.

It's tough not to have an opinion on the subject. Reports in the media attempt to educate the public about the top news items at the moment that will soon draw a wider audience are view of mass communication is combined with a discussion of mass media theory theoretical difficulties, as well as the function of the media in this setting (naveed 2019). This is the hypothesis speaks directly to a large number of people without the need of views there are

many tunnels in the communication flow from a source to a bigger audience. Newspapers, radio, magazines, and the internet are the most popular kinds of media outlets, as well as television. Public opinion, for example, is one sort of influence that the media may give education, popular culture, and societal portrayal.

Power hierarchies based on gender

Many study papers, articles, legal briefs, conferences, and seminars have been written in an effort to define sexual harassment, assault, or violence against women. Despite the fact that women have spoken, written, demonstrated, and testified, many definitions and most of the existing legal framework have been developed and determined by males. The majority of cultural behaviors are governed, legislated, and controlled by male-dominated faiths. Men predominate in most legislative and executive organizations. The legal profession is mostly ruled by males. The conventions are formed by patriarchal standards.

Diversity's invisibility

Most essential, in our search for a voice and action, we must recognize diversity. Women differ in a variety of ways, including skin color, ethnicity, sexual orientation, trans status, age, cultural views, and/or social background. Furthermore, certain women are more susceptible than others because of their overlapping identity marks. All of these variances need that all of their voices be heard, recognized, and taken into account. Diversity is still a weakness of both #metoo and international education. Too frequently, we talk in categories—immigrants, foreign students, first-generation students, transfer students—without considering what these categories reveal about the students' identities, experiences, and lives. Too frequently, the attractiveness of these broad categories leads to a lack of nuanced awareness that harassment or rape have varied meanings in different cultural and national contexts; what is a criminal conduct for some is a regular occurrence for others.

Too frequently, we concentrate only on kids, while professors and staff seem to be overlooked. We must acknowledge that many males face violence as a result of their skin color, sexual orientation, trans status, or/and class. As international educators, it is our obligation to collaborate with others on our campuses to create an environment where inclusion is valued by everyone.

FACILITATORS OF GLOBAL CONVERSATIONS: INTERNATIONAL EDUCATORS

While women now define harassment, violence, and/or assault depending on their own experiences, we, as international educators, must comprehend what this time implies for our institutions as well as our internationalization policies and methods. To be ubiquitous and thorough, internationalization must concentrate not just on what policies and programs should be established, but also on developing places conducive to intercultural learning, internationally aware debates, and spaces that embrace diverse perspectives and variety.

What are we hearing from women, including students, teachers, and staff members, and how can we turn their voices into a great learning and teaching moment? How can we promote the identification of our own socially, politically, and economically created cultures so that we may face and learn from this moment in order to better comprehend individuals with opposing views or beliefs? How eager are international organizations and top international officers to speak out about and welcome this moment? How can we become self-aware and acknowledge that international education administrators will have differing points of view? These are not new questions, yet many remain unanswered. The #metoo movement began in 2006, but it was only in 2017 that it was heard and recognized.

There are still difficulties.

Many students, professors, and staff members nowadays are acutely aware of their own agency and the intricacies of their identities; these are not minor aspects of identity. We need to be energized by the variety and variation that surrounds us as we rethink our internationalization efforts. As international educators, we have many tools at our disposal to

make this happen, including: study away and study abroad; joint teaching opportunities with partners from other countries; short-term, theme-focused seminars; collaborative research and internships with ngos; living and learning communities; annual themes that engage an entire campus in a conversation; staff exchanges; students' global leadership programs; and much more. Exploration of what diverse terminology, phrases, acts, policies, tactics, and daily practices mean will offer our students with chances and experiences for larger and more grounded dialogues in such circumstances; we must utilize all of the resources at our disposal.

New techniques need our collective knowledge, understanding, and commitment to listening, learning, and participating in intercultural, but also intracultural, dialogues via cross-unit discourse and action. Most importantly, as international educators, we must foster a feeling of belonging in the face of varied assumptions, beliefs, and practices.

SHE-BOX

The adoption of she-box is a great step forward in the indian government's ongoing efforts to promote a safe and equitable working environment for women. With this effort, female workers now have another avenue for reporting workplace sexual harassment. The government, on the other hand, will need to swiftly construct the necessary infrastructure and resources to administer this program in order to accomplish the intended results. While she-box is currently designed to cater to the interests of female employees, allowing them to file sexual harassment complaints in a timely manner without fear of retaliation, the government should also use this platform by providing employers with the necessary tools to help them comply with the anti-harassment law. For example, she-box might be used as a resource for employers or their icc if they have any queries about the procedure to be followed after receiving a complaint or how the report should be structured. It might also act as a repository for experienced employees who could serve as the employer's external member on the icc at several locations [9].

The mass media theory discusses how media is presented to the public and how the audience understands the messages presented by the media. The #metoo movement went global, and there has been a flood of media coverage of survivors' and victims' tales. Many celebrities, television executives, political officials, and other well-known people have been accused of sexual assault, and the media portrays each story differently, leaving the public to develop their own thoughts and views about the matter. The media outlets attempt not to display bias in their coverage, although it might be impossible not to convey thoughts on the subject at times. However, while studying the media stories, there were more opinion and commentary/criticism pieces than true news regarding the movement's aim and views on the legitimacy of the survivors/victims' abuse. The agenda setting idea falls under the mass media theory and claims that, over time, the media agenda becomes the public agenda and that they are inextricably linked. The media's influence may have an impact on the presentation of news items and topics that affect the public's opinion (mccombs and shaw 2011). News reports may shape a narrative such that when it is provided, it seems to have more relevance and attention than other news, and the audience perceives the story as the most important given to them[10].

3. CONCLUSION

#MeToo and social media were an ideal vehicle for breaking down boundaries and sparking societal reckoning, resulting in more self-reflection, debate, and altered perspectives of sexism, sexual harassment, and sexual assault. Victims face a dilemma when their charges of abuse are deemed untrue, and they are mistreated not only by the abuser but also by the so-called contemporary society, which neither believed nor defended them. The mental predicament of many disadvantaged survivors who may not feel empowered to break their

silence might be understood in this scenario. It seems very feasible among vulnerable populations such as survivors working in low-wage jobs, those with mental illnesses, or youngsters. In contrast, when false claims are accepted, innocent adults might suffer from humiliation and social exclusion. Every report of sexual abuse must be taken seriously and thoroughly investigated. Someone who falsely accuses others shall face the same penalties. It has been shown that both victims and offenders are at an increased risk of having or developing mental disorder.

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CHAPTER 3

HUMAN TRAFFICKING ANALYSIS

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Abstract: The condition of human trafficking in India is discussed in this study. It contends that the focus on trafficking as a problem of illegal migration or prostitution continues to dominate the trafficking discourse, which prioritizes state security above human security and fails to appropriately address the core causes of trafficking and the insecurity of trafficked people. The root causes or vulnerability factors of human trafficking, such as structural inequality, culturally sanctioned practices, poverty or economic insecurity, organ trafficking, bonded labour, and gender violence, all of which are exacerbated by corruption, have gone largely unnoticed in academic and policy circles. This study suggests that more attention should be paid to the fundamental causes and forms of human trafficking, as well as crimes linked to human trafficking, which endangers the human security of those who are trafficked persons in India. As a result, it offers some preventative steps for dealing with the situation.

Keywords: *Trafficking, Human Trafficking, Causes and modes, Preventive measures.*

1. INTRODUCTION

Human trafficking for the purpose of sexual exploitation is becoming a more common occurrence all over the world. Human trafficking is a massive sector that has been classified as the world's fastest expanding criminal activity. This section highlights the international and Indian legal definitions of bonded labour, child labour, and sex trafficking used throughout the study. Trafficking of people for "physical exploitation or any kind of sexual exploitation, enslavement or acts comparable to slavery, servitude, and the forcible removal of organs" is outlawed under the new section 370 of the Indian Penal Code. This area has been used to register cases involving a wide range of kinds of modern-day slavery. The Protection of Children from Sexual Offences Act 2012 forbids a scope of sexual offenses against youngsters younger than 18. Human dealing can incorporate a few distinct parts which can incorporate sex dealing, work dealing, and organ dealing. Human trafficking is illegal exploitation into prostitution. Work dealing is the point at which somebody is dealt into work that is non-sexual. Models can incorporate a man dealt into ranch work, or a lady dealt into a worker.

Individuals can be constrained into this dealing by many methods like actual power being utilized upon them, or bogus guarantees made by dealers. Instances of guarantees may incorporate bogus open positions, or relationships in unfamiliar nations[1]. To demonstrate that human dealing is as yet occurring all over the planet, according to the Walk Free Foundation Worldwide Slavery Index 2014, India is home to an expected 14 million survivors of human dealing, including casualties of sex dealing, fortified work, youngster work, homegrown subjugation and constrained marriage. As per India's 2008 Integrated Plan of Action to Forestall and Combat Human Trafficking, the size of the issue is gigantic "both in [the] number of dealt people and expanding number of areas". Dealers are propelled by high benefits and the generally safe because of feeble law implementation and low degrees of indictment. To handle illegal exploitation, arraignment and discipline of guilty parties should be sought after as well as lawful activity to hold onto the resources and benefits of dealers.

Objectives of this Paper

The major goals of this research paper are to:

1. To investigate the causes and mechanisms of human trafficking in the United States.
2. To investigate human trafficking offences from a legal standpoint.2010-2014.
3. Make recommendations for human-related preventative actions. In India, people are trafficked.

Causes and modes of trafficking in India

There are a few contributing elements for exchange human creatures especially in ladies and youngsters. The elements of dealing with ladies and youngsters can be isolated into two classifications: move around factors. The push factors include: poor financial states of an enormous number of families, neediness combined with successive, practically yearly catastrophic events like floods prompting virtual dejection of certain individuals, need of schooling, expertise and pay openings for ladies (and for their relatives) in country regions, nonattendance of mindfulness regarding the exercises of dealers, strain to gather cash for endowments which prompts sending girls to far off places for work, broken day to day life, aggressive behavior at home against ladies, low status of young lady youngsters, and so on[2]. It shows up from the contextual analyses that outrageous destitution and different reasons for hardship not just push individuals to fall in the mount the dealers, they likewise make for exactly an impetus for dealing. Regularly the whores, who have no choice to come out of the shady climate, bit by bit create close associations with the dealers and continue in their strides.

The drawing factors are: worthwhile business recommendations in large urban areas, pain free income, guarantee of better compensation and an agreeable life by the dealing promotes and specialists, request of little kids for marriage in different districts, interest for low-paid and underage perspiration shop work, developing interest of small children for reception, ascend popular for ladies in the quickly extending sex industry, interest for little kids in spots of military fixation like Kashmir in India as of late[3], interest for youngsters for sexual double-dealing because of the misguided judgment that actual closeness with little youngsters diminishes men's odds of reaching HIV/AIDS, or of the fantasy that sex with a virgin can fix HIV/AIDS and barrenness. The uncontrolled act of female feticide in the northern territories of Haryana and Punjab has likewise fueled interior dealing. Since there is a deficiency of ladies in these states having a low female to male proportion, they have become rich ground for the activity of dealers[4]. Dealers secure young ladies from distant states like Assam and Orissa; stunt their families into accepting they are to be hitched, just to later drive them into prostitution. Internal trafficking has been fueled by the widespread practise of female feticide in the northern states of Haryana and Punjab. Because of the scarcity of women in these states, which have a low female to male ratio, they have become ideal ground for human trafficking.

Traffickers recruit girls from far-flung areas such as Assam and Orissa, deceiving their families into believing they are going to be married, only to force them into prostitution later. As a result of globalisation, India is witnessing significant changes in economic, political, demographic, and labour trends. Rising demand for cheap labour and rapid population increase in the area stimulate migration, both legal and illegal. The supply side is linked to structural inequality, poverty, illiteracy, and a lack of livelihood possibilities, whereas the demand side is driven by the need for low-cost labour at the destination.

People from weaker nations such as Bangladesh and Nepal are frequently exploited and trafficked to India, its neighbouring country. According to an evaluation report by the

Economic and Social Commission for Asia and the Pacific (ESCAP) on sexually exploited children and youth in South Asia, young girls from specific rural regions of Bangladesh, India, and Nepal are trafficked for marriage and subsequently sold into prostitution.

The members' restricted capacity to interact beyond their area of residence is also a key issue for impoverished families in India. Many of them are illiterate, meaning they are unable to read or write. As a result, they rely on others to send letters or make phone calls to their families. Frequently, the law's defenders are unsupportive of the victims. It is sometimes said that police harass victims more than those who commit the crime. All of these constraints not only render the socially and economically disadvantaged prone to human trafficking, but also explain why re-trafficking is so common in our society. Apart from the growing need for low-cost labour in the manufacturing sector, globalisation has aided the rise of the tourist and entertainment sectors throughout the world. As a result, sex-related industries such as sex tourism have seen enormous expansion. At the same time, increased male migration to cities, as well as the stressful working circumstances of BPO workers, have led to an increase in demand for commercial sex in cities. Our observations show that human trafficking is directly linked to child marriage. Child marriage is one of the most common methods used by traffickers to transport young girls from one location to another.

Key aspects of the Definition

The following are some of the most important aspects of the new international legal framework on human trafficking:

Women, men, and children are all victims of human trafficking.

A slew of unethical activities traditionally, human trafficking has been connected with the sexual exploitation of women and girls. The Men, women, boys, and girls can all be trafficked, according to the above international legal definition, and the spectrum of potentially exploitative behaviours associated to trafficking is quite broad. The number of instances is endless. The term is open-ended, and there is nothing new or additional exploitative about it. In the future, purposes may be identified.

Trafficking does not necessitate crossing an international border.

Internal and cross-border trafficking are both included under the term. That is, human trafficking can lawfully occur inside a single nation, even the victim's own.

Migrant smuggling differs from human trafficking.

Migrant smuggling refers to the illicit and aided transportation of people over international borders for financial gain. Migrant smuggling, unlike human trafficking, involves deceit and/or cruel treatment with the goal of profiting from the migration.

It is not necessarily necessary to migrate in order to be a victim of trafficking. Movement is one way that the "activity" portion of the definition of trafficking can be met, according to the definition. Trafficking is defined by terms like "receiving" and "harbouring," which suggest that it encompasses not only the process of moving someone into exploitative conditions, but also the process of keeping them there.

It is impossible to "agree" to be a victim of human trafficking.

Consent is immaterial in a scenario when personal freedom is taken away, according to international human rights legislation. The "means" component of the definition of trafficking reflects this concept. "Once it is shown that deceit, coercion, force, or other unlawful techniques were employed, consent is immaterial and cannot be invoked as a defence," wrote the Protocol's drafters.

What is the relationship between human rights and human trafficking?

Human rights and the battle against human trafficking have long been linked. Human rights legislation has always stated explicitly that exploiting another's legal personality, labour, or humanity is fundamentally wrong and illegal. Human rights law has prohibited discrimination on the basis of race and gender; it has demanded equal or at least certain key rights for non-citizens; it has condemned and outlawed arbitrary detention, forced labour, debt bondage, forced marriage, and sexual exploitation of children and women; and it has promoted freedom of movement and the right to leave and return to one's own country. At different stages of the trafficking cycle, different human rights will be applicable. Some will be particularly relevant to the causes of trafficking (for example, the right to a decent standard of life), while others will be particularly important to the actual process of trafficking (for example, the right to be free of slavery), and yet others to the reaction to trafficking (for example, the right of suspects to a fair trial). Some rights apply to each of these components in a broad sense.

Human trafficking as a violation of human rights

As previously stated, many of the modern-day trafficking tactics are expressly outlawed by international human rights legislation. Human rights legislation, for example, prohibits debt bondage, which is defined as the pledging of personal services as security for a debt if the value of the services is not used toward the debt's liquidation and their length or nature is not restricted and defined. Many trafficked people who enter into a debt with their exploiters (for example, placement or transportation fees) end up in a debt bondage position, where the debt is utilised to control and exploit them.

As previously established, international human rights laws clearly prohibits many of the modern-day trafficking practises. Debt bondage, defined as the pledging of personal services as security for a debt if the value of the services is not employed toward the debt's liquidation and their length or nature is not controlled and specified, is prohibited under human rights legislation. Many trafficked victims who get into a debt with their exploiters (for example, placement or transportation fees) find themselves in a debt bondage situation, in which the debt is used to control and exploit them.

Many modern-day trafficking practises are expressly prohibited by international human rights rules, as previously stated. Human rights legislation prohibits debt bondage, which is defined as the pledging of personal services as security for a debt if the value of the services is not used toward the debt's liquidation and the length or type of the services is not controlled and stated. Many trafficking victims who go into debt with their exploiters (for example, placement or transportation fees) end up in debt bondage, where the debt is used to control and exploit them.

Human Rights of those who have been trafficked

The United Nations Charter and the Universal Declaration of Human Rights both state that rights are universal, meaning that they apply to everyone, regardless of race, gender, ethnic origin, or other distinction. People who have been trafficked are entitled to the full spectrum of human rights. Even though they are not in their home country, international law makes it clear that trafficked people cannot be treated unfairly merely because they are not citizens. In other words, international human rights legislation applies to everyone inside a State's territory or authority, with only a few restricted exclusions that must be fairly justified, regardless of nationality or citizenship or how they came to be within the area.

Certain groups are entitled to enhanced or special protection under international human rights law. This might be due to prejudice in the past or because their members share certain

vulnerabilities. Women, children, migrants and migrant workers, refugees and asylum seekers, internally displaced people, and people with disabilities are all categories that are significant in the context of human trafficking. Members of a group may be targeted for human trafficking on a regular basis. For example, children may be trafficked for reasons specific to their age, such as sexual exploitation, different types of forced labour, and begging. People with impairments are also vulnerable to exploitation and begging.

Women and girls are trafficked into gender-specific exploitation circumstances such as exploitative prostitution and sex tourism, as well as forced labour in the domestic and service sectors. They also face gender-specific types of trafficking abuse and repercussions, including as rape, forced marriage, unwanted or forced pregnancy, forced termination of pregnancy, and sexually transmitted illnesses, such as HIV/AIDS.

People having a place with explicit gatherings who are likely to dealing might be in a situation to guarantee unique or extra freedoms. For instance, global common freedoms law forces significant and extra obligations on States with regards to distinguishing kid casualties of dealing just as to guaranteeing their quick and longer-term security and prosperity. The center rule is gotten from the commitments contained in the Convention on the Rights of the Child: the wellbeing of the youngster are to be consistently central. All in all, States can't focus on different contemplations, like those connected with migration control or public request, over the wellbeing of the youngster casualty of dealing. What's more, as a result of the appropriateness of the Convention to all kids under the locale or control of a State, non-resident kid survivors of dealing are qualified for similar insurance as nationals on the whole matters, including those connected with the insurance of their protection and physical and moral respectability. Different settlements might additionally determine these privileges.

For instance, the Trafficking Protocol requires specific exceptional measures with respect to kid casualties, as does the Convention on Action against Dealing with Human Beings. The basic guideline is taken from the requirements set forth in the Convention on the Rights of the Child: the child's best interests must always come first. To put it another way, states cannot put other objectives, such as immigration control or public order, ahead of the best interests of child trafficking victims. Furthermore, because the Convention applies to all children under the authority or control of a State, non-citizen children who are victims of trafficking are entitled to the same protection as citizens in all aspects, including privacy and physical and moral integrity.

The Value of a Human-Rights-Based Approach to Human Trafficking

While there is an obvious relationship between human rights and human trafficking, this does not mean that human rights will always be at the forefront of solutions to trafficking. Cross-border trafficking, for example, can be tackled as an immigration issue, with human rights addressed only as an afterthought. States may also approach human trafficking solely as a criminal or public-order issue.

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Individuals from various categories who are victims of human trafficking may be able to assert distinct or extra rights. International human rights legislation, for example, places significant and extra obligations on States in terms of identifying juvenile victims of trafficking and guaranteeing their immediate and long-term safety and well-being.

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Significance of Human rights-based approach to trafficking.

While there is an obvious relationship between human rights and human trafficking, this does not mean that human rights will always be at the forefront of solutions to trafficking. Cross-border trafficking, for example, can be tackled as an immigration issue, with human rights addressed only as an afterthought. States might also approach human trafficking solely as a criminal or public-order issue. Over the last ten years there is an international consensus which has developed around the necessity for a right based method to trafficking. Many important human rights mechanisms, including special processes and treaty organizations, have urged for such an approach, including the General Assembly and the Human Rights Council.

To answer the question for understanding the practicality for taking a human based approach in reference to trafficking, A concept of human based approach for dealing with a phenomenon

A human rights-based strategy is a conceptual framework for dealing with an issue like human trafficking that is normatively grounded in international human rights standards and operationally focused on promoting and preserving human rights. An examination of the manner in which human rights breaches occur throughout the trafficking cycle, as well as States' duties under international human rights law, is required for such an approach. It aims to uncover and address the discriminatory practises and unequal power distribution that underpin human trafficking, allowing traffickers to operate with impunity and denying victims justice.

Every aspect of the national, regional, and international response to human trafficking is grounded in the rights and duties established by international human rights legislation under a human rights-based approach. Lessons obtained from creating and implementing a human rights-based strategy in other sectors, such as development, give valuable insight into the method's primary elements and how it may be applied to human trafficking. The following are some of the important takeaways from these encounters:

- While formulating the programmes and policies the foremost objective should be of protecting and promoting the rights.
- A human rights-based approach distinguishes rights holders (for example, trafficked people, people at danger of being trafficked, those charged or convicted of trafficking-related crimes), their entitlements, and the duty bearers (typically States) and their duties. This strategy aims to improve the ability of rights holders to protect their rights and responsibility bearers to fulfil their responsibilities.
- All components of the response, at all phases, should be guided by core principles and norms drawn from international human rights legislation (such as equality and non-discrimination, universality of all rights, and the rule of law).

The above mentioned sections clearly shows the recent developments at different levels national and international levels which have helped to have clarity of what a rights based approach to trafficking meant in practice (Table 1) [5].

Table 1: Crime head-wise incidence of various crimes under human trafficking during 2010 – 2014.

Sr. No.	Crime Head	Years					% variation in 2014 over 2013
		2010	2011	2012	2013	2014	
1	Procuration of minor girls(Sec. 366-A IPC)	679	862	809	1224	2020	65
2	Importation of girls from foreign country (Sec.366B IPC)	36	80	59	31	13	-58.1
3	Selling of minors for prostitution (Sec. 372 IPC)#	130	113	108	100	82	-18
4	Buying of minor for prostitution (Sec. 373 IPC)#	78	27	15	6	14	133.3
5	Immoral Trafficking (Prevention) Act 1956	2499	2435	2563	2579	2617	1.5
6	Human Trafficking (Sec. 370 & 370 A IPC) *	-	-	-	-	720	-
	Total cases of human trafficking	3422	3517	3554	3940	5466	38.7

Analysis of the occurrence of different offenses under the heading of human trafficking, broken down by criminal type. According to Table 1, In 2014, a total of 5,466 cases of offences under specific criminal headings (as indicated above) linked to human trafficking were registered in the nation, up from 3,940 in 2013. Human trafficking-related crime surged by 59.7 percent in 2014 compared to 2010. Cases under the heading Procurement of underage females surged by 65.0 percent in 2014 compared to the previous year (1,224 cases). West Bengal recorded 852 incidents with an identical number of victims, followed by Assam (303 cases & 303 victims). There were 2,025 victims for a total of 2,020 incidents. During 2014, West Bengal had the most instances of procuration of young girls (852 cases), followed by Assam (303 cases), Bihar (280 cases), and Haryana (277 cases). Importation of foreign-born females falls under the heading Importation of foreign-born girls[6].

A total of 13 cases were reported in 2014, compared to 31 cases in 2013, representing a 58.1 percent decrease from the previous year. During 2014, the most instances were recorded in Bihar (5 cases), followed by West Bengal (4 cases), Jharkhand (2 cases), and Assam and Maharashtra (1 case each). Then, Minors being sold for prostitution in 2014, 82 incidents of juveniles being sold for prostitution were recorded in the nation, compared to 100 cases in 2013, suggesting an 18.0 percent decline over 2013. In 2014, West Bengal recorded 67 such instances, accounting for 81.7 percent of all reported cases. Purchasing children for prostitution Instances under this heading grew by 133.3 percent in 2014 as compared to the previous year (6 cases). In 2014, data was gathered under the heading of purchase of minors for prostitution, while prior years it was known as buying of girls for prostitution. This crime was recorded in a total of seven incidents in Maharashtra, followed by four cases in Jharkhand. The Immoral Traffic (Prevention) Act of 1956 was enacted to combat illegal trafficking. When compared to the previous year, the number of cases filed under this Act increased by 1.5 percent in 2014. (2,579 cases). Tamil Nadu has the most instances (509),

followed by Karnataka (392). The most instances were recorded under Section 5 of the Immoral Traffic (P) Act (766 cases), followed by Section 7 of the IT (P) Act (129 cases), Section 8 of the IT (P) Act (113 cases), and Section 6 of the IT (P) Act (90 cases).

Out of 113 instances recorded under Section 8 of the IT (P) Act (related to seducing or soliciting for the purposes of prostitution), Kerala had the most (55 cases), followed by Karnataka (21 cases), and Tamil Nadu (19 cases), accounting for 81.4 percent of all such cases.

What are states' obligations in regard to trafficking?

Obligation and rights are interchangeable terms. Obligations arising from international law are usually placed on states. While the Fact Sheet focuses on this element explicitly, it's crucial to remember that individuals and private entities, such as businesses, might be subject to legal duties as well.

Obligation Sources

Treaties are the principal source of international duties for states in the fight against human trafficking. By becoming a party to a treaty, states agree to commit themselves in international law and to guarantee that their own national legislation, policies, or practises comply with the treaty's criteria and standards.

These responsibilities can be enforced in international courts and tribunals with proper jurisdiction, such as the International Court of Justice, the International Criminal Court, or the European Court of Human Rights, and they may also be enforced in domestic courts, depending on local law[7]. Other recognized sources of international law, such as custom, general principles, and international tribunal rulings, might be useful in identifying what is needed of States in their reaction to human trafficking. Slavery is widely regarded as a violation of customary international law that is obligatory on all states, regardless of whether they have ratified one or more treaties that expressly ban slavery. A general legal concept is one that is shared by all major legal systems and hence forms part of international law[8]. A common rule of law that applies to human trafficking is that someone should not be held accountable for a crime they were forced to commit. *Rantsev v. Cyprus and Russia*, determined by the European Court of Human Rights in 2009, is an example of an international tribunal's decision that has contributed to develop the international legal framework surrounding trafficking.

Finally, it's critical to evaluate the numerous non-legal instruments used to combat human trafficking. The United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR) have issued guidelines on child trafficking and trafficking and asylum, respectively; resolutions adopted by the General Assembly and the Human Rights Council; findings and reports of international human mechanisms such as treaty bodies and special procedures; and a report by the United Nations High Commissioner for Refugees (UNHCR) on trafficking and asylum[9].

These many forms of "soft law" do not impose responsibilities on states or grant rights to people or groups. It is consequently critical for international law's integrity that their legal significance be not exaggerated. Soft law instruments, on the other hand, can contribute to the development of customary international law in relation to a specific aspect of trafficking by, for example, assisting in the identification or confirmation of a particular legal trend or even contributing to the identification or confirmation of a particular legal trend[10].

CONCLUSION

Human trafficking jeopardises the dignity and security of those who are trafficked, as well as severely violating their human rights. When it comes to practical execution, India's constitutions provide equal rights for men and women, but they are sometimes simply rhetoric. To combat trafficking and so defend the human rights of vulnerable individuals, governments must demonstrate strong political will in carrying out their anti-trafficking responsibilities. As a result, every crime that may be employed for profit one day becomes a major social scourge, as in the instance of people trafficking. The problem can still be overcome if significant actions are taken purposefully and policies are developed and rigidly executed.

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CHAPTER 4

AN EXCLUSIVE LAW ON HATE CRIME NECESSARY?

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ABSTRACT: India is diverse in terms of culture, ethnicity, civilization, and religion. Differences and conflicts are seen to be unavoidable parts of any lively community remaining together under one roof, but accepting these differences is what decides their harmonious coexistence as a harmonised society. However, in recent years, this subcontinent has seen an increase in hate crimes, particularly against minorities. Hate crimes are crimes motivated by intolerance or prejudice and perpetrated against the person or property of members (real or imagined) of specific social groups. The victim's real or perceived social identity might be based on immutable characteristics like colour, sex, ethnicity, sexual orientation, or handicap, or non-immutable characteristics like religion, language, or nationality. Hate crimes are an outlier in the world of criminal law since they use 'motive' as a determining element in determining the perpetrator's guilt. Various international players have banded together to develop legal frameworks and regulations to effectively combat such crimes. Under the provisions of the IPC and CrPC, India's under-empowered citizens are protected from discrimination and other prejudiced inflictions, but the complexity of the problem, legislators' lackadaisical approach, and a majoritarian mindset have been the primary impediments to effectively combating hate crimes.

Keywords: *Hate Crime, Prejudice, Law, OCSE, Discrimination.*

1. INTRODUCTION

Hate crimes are perpetrated with an evident prejudice based on caste, creed, religion, sexual orientation, or ethnicity, not out of personal hatred against the victim, but out of subjective antipathy towards the social group to which the victim belongs. Hate crimes are criminal actions that occur all over the world and constitute a severe threat to victims and societies. Harassment and violence against an individual or a social group disrupt social cohesion while instilling a sense of inferiority in the victim. A hate crime is defined as an illegal prejudice-motivated act committed against a person, institution, or property by a perpetrator(s) who targets a victim(s) because of their social status association. Hate crime is sometimes known as ethnic intimidation or prejudice crime [1]. "Hate crimes are criminal acts done with a prejudice motivation," according to the Organization for Security and Cooperation in Europe (OSCE).

However, the phrase 'hate crime' is a misnomer since laypeople generally apply it more loosely than legislation do. In actuality, the phrase refers to criminal action driven by prejudice rather than hatred, though there is significant overlap between the two. A hate crime does not necessitate the perpetrator's hatred for the victim. Instead, it just needs that the offence be done with biased thoughts about a person or a group as a reason. Because hate crimes are motivated by the social identity that the targeted person or group represents, the offender may have no sympathies for a specific victim. Hate crime is a term used to distinguish criminal behaviour driven [2] by biases from criminal behaviour motivated by envy, desire, politics, and other factors. Hate crime, unlike burglary or assault, focuses on the perpetrator's opinions, values, and character [3].

Aspect in History

To put a date on it, the idea of hate crime first originated in the United States in the late 1970s, but similar crimes had already occurred before then, with the Roman persecution of Christians and the Nazi extermination of Jews serving as instances. Hate crimes were formerly perpetrated against members of disadvantaged groups as a result of prejudices against them, making them far more devastating, both physically and mentally, than other types of crime. Lynchings of Afro-Americans in South America, many assaults on the LGBT community, and xenophobic attitudes to particular minority ethnic groups such as Muslims, Jews, and others are some of the most well-known examples of hate crimes. In 2003, the OSCE, or Organization for Security and Cooperation in Europe, adopted the phrase "hate crimes" for the first time, with member states acknowledging it and promising to pass legislation to prevent such crimes.

Hate crime has existed in India since ancient civilizations, particularly when the varna system of casteism gained popularity among the majority population, subjugating the working and impoverished. Since the foundations of the great Indian civilizations were built on religion, there have been numerous occurrences involving prejudiced crimes. Apart from religion-based crimes, there was also racial and gender-based violence, making it difficult to pinpoint a specific event that marked the beginning of hate crimes in India. According to research by the National Crimes Record Bureau, India has the highest rate of hate crimes based on caste and religious bias, followed by gender bias, which is increasing by the month and year. Recent atrocities such as mob lynching and hate speeches have not only affected the victims, but have also alienated the whole victim community. As of April 2, 2019, Hate Crime Watch had counted 282 such assaults, resulting in 100 fatalities and 704 injuries, with Muslims being the victims in 57% of occurrences, Christians in 15%, and Hindus, who make up 80% of the population, in 13%. This information reveals the depths of religious intolerance in the world's greatest democracy[4].

Factors That Contribute

Hate crime perpetration is thought to be influenced by a number of causes. Surprisingly, the most obvious one-prejudice-may only play a little role among these variables. The majority of hate crime perpetrators appear bored and hence searching for fun and excitement, maybe with the purpose to impress their colleagues, according to an interesting research[5]. Other researches have proven that the thrill seeking demeanour may be a primary reason why persons conduct these actions, as McDevitt, Levin, and Bennett (2002) referred to them as "thrill seeking" hate crimes (Byers & Crider, 2002[6] ; Franklin, 2000[7]).

Another reason people commit hate crimes is to demonstrate or maintain their masculinity. Masculinity is typically associated with bravado and even violence in some cultures. Young guys, in particular, may feel uneasy and feel compelled to demonstrate that they are "real men." Furthermore, these young males may strive to reinforce traditional social boundaries and power systems, according to others (Franklin, 2004[8]). And one feasible approach to achieve all of these aims appears to be to frighten or assault individuals who are thought to have crossed those borders, particularly those who are members of religious, ethnic, racial, or sexual minorities. This argument also supports the hypothesis as to why hate crimes against gay men are as common, particularly considering the perception of homosexual men as weak. (Weinstein and colleagues, 2012[9]). Of course, when the victim of a hate crime is a male and the offender is a woman, the question of showing masculinity does not apply. Although there have been a few studies on women who belong to organised hate organisations, there has been abysmally insufficient study on female hate crime perpetrators.

In addition to the need to exhibit masculinity, the fear of losing control can be a powerful motivator for hate crimes. When conventional hierarchies appear to be under jeopardy, some individuals may overreact. As a result, we've seen an upsurge in hate crime not just in response to recent terrorist activities (like as the assault on Muslims in Pulwama in 2019), but also during periods of increased immigration (against Latinos in the United States) or other population shifts. This alleged power battle might have ramifications not just on a national level, but also on a local level. McDevitt and colleagues (2002) describe "defensive" hate crimes as acts committed in response to an alleged incursion into one's personal space, such as when certain members of minority groups are believed to pose a threat to majority-owned enterprises.

Culture and the social environment are unquestionably major elements in the spread of hate crime. Government officials, lobbying media, religious leaders, popular culture of all types, and other sources all send forth signals on how certain individuals "should" be seen. It should come as no surprise that when prejudice against LGBT people is minimised or ignored, and when that discrimination is glorified by politicians or other leaders, some would see LGBT people as inferior, infectious, and individuals who must be kept in their "proper" position. Similarly, while most individuals can listen to anti-immigrant speech without resorting to violence, for certain people, that discourse may serve as a catalyst for hate crimes.

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Hate crime perpetrators appear to be easy to categorise as deviants, outliers, or just radicals. However, evidence indicates that the majority of these offenders come from the mainstream. They frequently represent the public consciousness of residents, with the key distinction being that they impart such thoughts through violence and property destruction (Perry, 2001)[10]. Furthermore, hate crime offences may be more widespread throughout the world than we think. In a poll of community college students in northern California performed by Franklin (2000), it was discovered that roughly 10% of respondents claimed to having been involved in threats or physical violence against members of the LGBT community. Male respondents had greater rates than female respondents. While people's beliefs do tend to evolve with time, prejudices like anti-homosexual sentiment remain ubiquitous and prominent over the world (Gerstenfeld et al., 2015[11]). It's hardly surprising, however, that hate crime frequently mirrors societal attitudes. The continued trend of rising hate crime

events in many North American, Latin American, and Asian countries at the same time that far-right political parties gained support in elections there is a more obvious reflection.

Hate crime is also said to be caused by economic hardships, according to a popular theory. People would search for convenient targets to blame for such an otherwise social or governmental policy failure, according to scapegoat theory. Evidence of similar incidents may be seen in the United States and other nations, where immigrants are frequently targeted when economic conditions deteriorate (Craig, 2002; Walters, 2011). However, there is no experimental evidence to support the claim that hate crime perpetrators are poorer or less privileged than those who do not commit hate crimes (Gerstenfeld, 2013)[12].

Redressal

When compared to other types of crime, hate crimes have a broader impact on victims. Its victims include both the perpetrator's direct targets and individuals who are similar to them. The victim's whole community feels victimised, defenceless, afraid, alienated, and unprotected by the law whenever a bias-motivated crime is perpetrated. As a result, these crimes have a propensity to harm families, communities, and, in some cases, the whole country.

Given the nature of these crimes, the OSCE and other international organisations for civil rights urge that they be treated differently from other criminal acts or crimes for the following reasons: (a) Hate crimes are on the rise: Because offenders act as though they are acting on behalf of their community, they believe their actions are morally justifiable. If his community does not reject, penalise, or denounce the same conduct, he and other prospective offenders will be encouraged to engage in similar behaviour, and the frequency of hate crimes will eventually rise. (b) Hate crimes tend to escalate: Offenders who begin with lesser offences are more likely to commit more serious violent actions if they are not apprehended.

As a result, even minor offences motivated by prejudice or bias are hazardous and require swift retaliation. (c) Hate crimes tend to spiral: Victims and their communities are more inclined to react against their perpetrators (or perpetrators' communities) if they feel insecure or underprotected by state authorities. This can escalate into a succession of violent acts, resulting in a vicious cycle of violence that leads to catastrophic societal disintegration. Countries with a history of ethnic strife have been particularly affected by this tendency.

It is important to note that hate crimes are frequently underreported or misreported at the outset, resulting in a poor preliminary inquiry by authorities. This is most likely owing to the existence of witnesses to the crime who have the same prejudice as the perpetrators. As a result, it is even more critical to report such heinous crimes as soon as possible, regardless of their form or scope.

2. DISCUSSION

International and Regional Framework

Hate crime is defined by global principles of equal civil rights, tolerance, and democratic ideals, which are enshrined in a variety of international treaties and protocols, as well as regional norms. Despite the fact that most of them are limited to first-world countries, international commitments to address hate crimes include:

I. United Nations Organization

The United Nations human rights framework requires nations to ensure equal rights and equal treatment under the law, preventing discrimination. The Universal Declaration of Human Rights was the first international instrument to affirm that "everyone is entitled to all the

rights and freedoms set out in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," and advocated for the concept of "recognition of persons."

The International Covenant on Civil and Political Rights (ICCPR) builds on these principles by requiring nations to investigate acts of violence against persons and to carry out their responsibilities without prejudice. Articles 6 and 7 require governments to investigate violations of the right to life and cruel treatment by public and private actors, respectively.

"Each State Party to the present Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status," states Article 2. Article 26 delves deeper into equality before the law, equal protection under the law, and protection against discrimination: "All individuals are equal before the law and are entitled to equal protection of the law without discrimination." In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"[13].

The Committee on the Elimination of Racial Discrimination (CERD) is the international standard for combating discrimination, and it is even more specific about state responsibilities to investigate racist violence, requiring states to enact legislation prohibiting acts of violence and incitement to violence motivated by racism, as well as certain forms of racist speech. The CERD Committee, which reviews the treaty's implementation, has stressed the "importance of pursuing racist crimes, particularly small offences committed with racist objectives, because any racially motivated offence affects social cohesiveness and society as a whole[14]."

"The term 'racial discrimination' shall mean any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life," according to Article 1 of the CERD. Under Article 4 (a) of the CERD, all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and the provision of any assistance to racist activities, including the financing thereof, shall be declared an offence punishable by law.

The term "race" has a broad definition: "Race" refers to groups of individuals who are regarded unique because of physical traits such as skin colour. Many individuals may not realise that "race" is a social construct with no scientific foundation. As a result, the term "race" is still widely employed in international and national legal documents. If a national definition of race does not exist, international and regional institutions that give definitions or explanations might be valuable.

OSCE

The OSCE Ministerial Council frequently stated after formally accepting the term "hate crime" that hate crimes not only impact individual human rights to equality and non-discrimination, but also have the potential to escalate to conflict and violence on a larger scale[15]. Every participating State has deliberately pledged to abide by these obligations, as the OSCE requires unanimity for all actions or pledges. While OSCE commitments are not

legally enforceable, they do establish a set of principles that governments must adhere to, making them politically binding. The Ministerial Council Decision on Combating Hate Crime from 2009 remains one of the most comprehensive international pledges on state responsibility to combat hate crime.[16]The Ministerial Council Decision on Combating Hate Crime from 2009 remains one of the most comprehensive international pledges on state responsibility to combat hate crime.

Following this judgement, the Member States agreed to:

- Collect and make available statistics on hate crimes
- Enact particular, customised laws to fight hate crimes, where appropriate
- TAKE the necessary steps to support victims

Create professional training and capacity-building programmes for law enforcement, prosecution, and judicial authorities who deal with hate crimes. Investigate hate crimes as soon as possible, and guarantee that the intentions of individuals guilty of hate crimes are publicly acknowledged and denounced by appropriate authorities and political leaders.

Council of Europe

47 of the 57 OSCE member states have ratified the European Convention on Human Rights of the Council of Europe (ECHR). As a result, the European Court of Human Rights' decisions have a lot of clout throughout the OSCE region.

The Court has reviewed nations' duties under the ECHR in connection to offences motivated by discriminatory motivations on several occasions. Article 14 of the Convention, which incorporates the principle of non-discrimination and can be used only if another, substantive right under the Convention is at stake, has been the subject of all of these decisions. These decisions have established a jurisprudence on the obligation of states to investigate bias-motivated crimes promptly and effectively, whether committed by state actors or private individuals, and to ensure that bias motivation is identified and addressed appropriately by the criminal justice system[17].

Criminal Justice System Response to Hate Crimes

Hate crimes are generally dealt with by governments' criminal justice systems[18]. The courts and law enforcement institutions are critical components of such a reaction. Hate crimes can only be effectively combated if the police, prosecution, and courts work together. In the vast majority of situations, establishing motive in a crime is not required. Hate crime cases require a different strategy from police, prosecutors, and judges than other crimes since motive is a difficult problem with limits to the type of evidence that can be supplied to prove it.

Police: In order to successfully investigate and gather data on hate crimes, police must be able to identify hate crimes, and bias indicators are an important tool. Motive should be addressed while questioning perpetrators; many perpetrators readily acknowledge their reason since they believe their actions are legitimate and supported by the rest of the community. Data collection on hate crimes is an important law enforcement tool. This allows authorities to see where trouble is brewing, which areas may require increased security to avoid future crimes, and which populations deserve further assurance. Data collecting improves intelligence and allows for effective resource allocation.

Prosecutors: Wherever practicable, prosecutors should seek prosecutions under hate crime provisions in criminal codes. If the motive is there, prosecutors should classify the offence as aggravated in every case, regardless of its severity. Even if the law does not contain an aggravated version of the offence, this should result in gathering and presenting proof of motive to the court.

In the absence of admissions, a prosecutor might look at alternative evidence, such as:

1. At the scene of hate crimes, there are frequently verbal insults or bullying graffiti (crucial evidence of motive).
2. There may have been past comparable behaviour by the offender; against this victim or others; if the culprit's music, books, websites or web-postings, or tattoos suggest participation in or sympathy for extremist organisations, this is significant proof of his/her general beliefs.

The police are usually the first responders, and as such, they are in charge of registering the crime, obtaining first statements, and conducting additional investigations. In many countries, the prosecution oversees or leads the investigation, with the police gathering the evidence needed for the trial. As a result, successful prosecution and punishment in hate crime cases is contingent on police officers being properly educated to spot and investigate hate crimes, as well as to collaborate with victims, witnesses, and impacted groups. Courts: If a hate crime is proven, the penalty should be enhanced to reflect the motivation and possible impact of the crime on the community, not just the victim. Judges should mention in open court and in the written decision that the motivation has resulted in a higher sentence to maximise the impact of this.

As a result, efficient management of hate crime cases necessitates tight collaboration among criminal justice authorities, not just on a tactical level, but also on a policy one. Having a standardised definition of hate crimes and protocols in place would promote a seamless flow of case information across the criminal justice system and will make collaboration easier.

3. CONCLUSION

Hate crime is a simple notion to understand as an ideal kind, but it is challenging to implement in a real-world criminal justice system. Although some ideologically motivated murders do occur, the majority of alleged hate crimes are not ideologically motivated. The majority of the crimes are low-level offences perpetrated by non-ideological young males who are alienated, antisocial, impulsive, and usually prejudiced. It's difficult to say if labelling them as racists as well as criminals helps people comprehend their behaviour and our culture. Although the system treats the occurrence of such crimes as a law-and-order issue, it is more broadly a subject of social justice. There is substantial evidence that higher castes utilize and justify different sorts of violence in order to guarantee that lower castes conform to caste-based norms and customs. Individuals who strive to change existing norms or demand their rights are frequently targeted for collective punishment, in which entire communities are punished for the perceived crimes of individuals. Hate crimes, or crimes motivated by a victim's group affiliation, have only lately received legal attention and scientific research. Many concerns remain about the nature and scope of these crimes, the identities of victims and the consequences of victimisation, and the variables that influence criminal behaviour. Furthermore, little study has been done on efficient techniques for preventing and countering hate crime, as well as on effective ways to deal with hate crime perpetrators. Before we can fully comprehend hate crime, much more study is required.

Despite the fact that India's National Crime Records Bureau (NCRB), a government institution that monitors crimes across the nation, collects data on a wide range of crimes, it does not include hate crimes, owing to the lack of particular legislation to address such crimes. This is in contrast to official data gathering in varied democracies such as the United States and the United Kingdom, where the government is obligated to disclose hate crime records on a regular basis.

The need of the hour is to view the issue of hate crime not as a development issue but through the lens of culture and recognize that it is also rooted in the praxis of everyday life. Dismantling these hat escapes therefore, necessitates going beyond legislation to include the strategies of resistance and search for unbiased agency in the praxis of everyday life, media spaces and in popular culture. The bigotry and discrimination that fuels such crime are not at all conducive for our heterogeneous culture. Considering all these factors, there is an urgent need for separate legislation and strict implementation procedures to curb such biased-hate crimes.

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CHAPTER 5

AN OVERVIEW ON FEMINIST CRIMINOLOGY

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Abstract: In this chapter, we argue that in feminist criminology, there is no conventional approach. Rather, feminists use a set of methodological preferences to pursue research questions motivated by gender theory's insights, the need for social change, post-positivist epistemologies' advances, the importance of experience in understanding crime and justice, and a commitment to breaking down the power relations inherent in research through reflexivity. We provide an outline of feminist criminologists' preferred research methods. We concentrate on research that explores violence against women in order to highlight ongoing debates and new issues in feminist methodology. Intersectionality, the victim/agent dichotomy, integrity and analysis, and the 'textual turn' in research are all explored. Two case studies based on our own research on violence against Filipino women and homophobic violence against women help to flesh out these ideas. The difficulty of intersectional work; going beyond the victim/agent dichotomy; the integrity of the research process in the interpretation and analysis of research data; and the consequences of the so-called "textual turn" are the four subjects we've chosen to investigate further. We use case stories based on our own research to show the difficulties of interacting with these concerns.

KEYWORDS: Feminist Criminology, Feminist Methodology, Qualitative Research, Feminist Epistemology, Violence, Victims.

1. INTRODUCTION

In criminology, feminist research approaches are not traditional. Feminist research is best described as coming from methodological and ethical issues connected to theory, ontology (beliefs about the nature of the universe), and epistemology (theories of knowing), as well as political participation, rather than adherence to specific methodologies. From the beginning, feminist research has been preoccupied with methodological difficulties. It has been receptive to new research methodologies and the use of known methods in novel ways.

The creation and authorisation of knowledge, as well as problems such as who can know, what qualifies as knowledge, and whose knowledge counts, are recurrent concerns in feminist criminological methods. While other critical approaches to criminology may share some of these issues, feminist study is often defined by a concern with social connections as structured by reference to sex/gender. These concerns have consequences for method selection, but there is no need to associate a feminist perspective with a specific technique.

The benefits of feminist research methodologies are gradually being recognized by other streams of criminology; for example, feminist approaches have reshaped developments in victimology. Theoretical developments in feminist criminology have begun to pervade mainstream criminology (the concept of intersectionality is a good example), and the benefits of feminist research methodologies are gradually being recognized by other streams of criminology (the concept of intersectionality is a good example) (Walklate, 2007).

Carol Smart (2009) claims that feminist approaches have become a basis for new research and for emphasizing the relevance of theoretically informed research in sociology. Feminist

research, on the other hand, continues to get limited consideration in many criminology methodological manuals. Feminist criminology adheres to an interdisciplinary approach that incorporates a variety of research approaches. Feminist criminology, like any feminist research, is "constantly challenged and constantly reformulated," making it "its own most trenchant critic" (Smart 2009: 296).

We begin with an introduction of feminist criminology, noting some of the methodological characteristics that distinguish a feminist research approach. We've highlighted some of the most important issues and emerging ideas in feminist research on violent victimization.

2. DISCUSSION

The emphasis of mainstream criminology has been on developing an etiological, explanatory approach to crime, tracking crime trends, and monitoring police, judicial, and prison activities in order to improve the efficiency and efficacy of criminal justice (Gelsthorpe, 2002). This has mostly been accomplished in criminology via empirical research and the creation of theoretical frameworks based on that research. In the 1970s and 1980s, feminist criminology sought to address two major issues with the criminological enterprise: the neglect of women in the study of crime; and distorted, stereotyped, and one-dimensional accounts of women's offending, which resulted in problems in the criminal justice system's management of female crime (Gelsthorpe, 2002; Morris, 1987; Smart, 1976; Heidensohn, 1985).

Because women and girls are underrepresented in official crime statistics, it's easy to dismiss them from standard criminological ideas, which are based on empirical study mostly on male subjects and crime trends. Feminist criminology discovered a 'generalizability issue,' as Daly (forthcoming) points out: so-called general explanations of crime were really beliefs about male offenders that were unsuitable and insufficient for explaining criminal behavior (or its absence) among women and girls. Stereotypes about female psychology and behavior, as well as conventional gender-role expectations, led to preconceptions about 'normal' and 'deviant' behavior for women, resulting in distorted portrayals of women's encounters with crime (Gelsthorpe, 2002). Early feminist criminology sought to uncover the impact of stereotypes on criminal justice policy and practice, as well as efforts to explain crime done by and directed towards women. It's also been linked to requests to work outside of the realm of criminology (Cain, 1990).

Based on this criticism, feminist criminology started to look at the lack of gender theory in the overall study of crime. Male offenders have been studied much too frequently without a thorough examination of the link between criminality and masculinity. As a result, an emphasis on criminality as a means of 'performing masculinity' emerged (Messerschmidt, 1993). 'Doing gender' evolved into more sophisticated descriptions of 'situated/structured action' (Miller, 2002) and the concept of 'gendered lives' affecting offending and non-offending behavior as criticisms arose (Collier, 1998). (See Daly, forthcoming).

Since the 1980s, more studies have been conducted on the disparities not just between males and women, but also between women from various backgrounds and cultures. Daly (forthcoming) notes that a recognition of the interconnectedness of gender, class, and race, spearheaded by Black feminist thinking, allows for more diversified and conflicting understandings of female experiences of crime as victims and perpetrators. Some feminist criminologists began to rely on the postmodern tendency in feminist theory to 'deconstruct' the conventional sex/gender difference in order to emphasize the discursively created and performative aspect of gender identity in the 1990s (Daly, forthcoming). This, along with a postmodern skepticism of "great theories" and conclusive, linear, and causal explanations for

human behavior, including crime, led some feminist theorists to conclude that a single feminist criminology is neither theoretically conceivable nor politically acceptable.

The rise of feminist perspective epistemology has been one of the most serious challenges to this concept of knowing (Harding, 1987). This approach, which borrows from Marx and Hegel, prioritizes women's perspectives on the world and was immediately broadened to include the concept of a woman's viewpoint (Harding, 1987) or a Black feminist standpoint (Collins, 1990). Women's experiences are seen as the basis for feminist knowledge in standpoint epistemology. According to certain variants of standpoint epistemology, research that begins from this disadvantaged social position is "scientifically superior" since it is based on and evaluated against a "more full and less misleading sort of social experience" (Harding 1987: 184). Critics contend that this epistemological perspective reduces women's experiences to a universal and fundamental standard incapable of deconstructing the power relations implicit in criminology's truth claims or effectively accounting for inequalities in race, ethnicity, sexuality, and other factors (Cain, 1990; Naffine, 1987).

Feminist postmodernism is a wide phrase that encompasses feminist perspectives informed by postmodern or post structural theory (such as by Derrida or Foucault). It denies the positivist claim that research can create a universal, objective, and definite account of the social world, as well as the viewpoint assumption that experience is the primary source of knowledge generation. Instead, it claims that language, power, and knowledge generate and produce "reality," "subjectivity," and "truth" (such as legal, criminological, scientific or artistic discourses). This may include deconstructing binary oppositions that fundamentally influence human knowledge (mind/body, male/female, masculinity/femininity, black/white, heterosexual/homosexual, agent/victim, and so on). This strong variant of constructionism has been used by a powerful group of feminist theorists to reimagine the sex/gender divide as a matter of corporeality and performativity (Butler, 1990). A lot of feminist crime researchers have picked up on this (Howe, 1994; Mason, 2002; Naffine, 1997; Young, 1996). Carol Smart, for example, established the concept of the "woman of legal discourse," claiming that "woman is a gendered subject position that legal discourse creates" (1992: 34).

It's useful to be able to distinguish between different epistemological viewpoints, but we shouldn't think of them in terms of historical phases or mutual exclusivity. Individual researchers often apply a variety of various methodological techniques inside and across studies, making such categorization impossible to do credit to the depth of this knowledge. It's easier to conceive of feminist criminology research as having a set of core methodological choices, or imperatives, that influence how we design, execute, and analyze research. Feminist research contains few basic parts, instead engaging with the epistemological difficulties outlined above while being independent of them. These choices, in turn, determine how we expect the findings of our study to be used in practice, if at all. While some of these preferences are specific to feminist study (for example, a dedication to gendered analysis), others are shared by similar criminological methods (for example, critical criminology) or borrowed from areas outside of criminology. Feminist research is therefore an issue of method rather than definition: a project is feminist not because of what we do but because of how we do it. These preferences are described and explained further down.

Gender/Feminist Theory

Engagement with feminist theory is one of the fundamental characteristics of feminist criminological study. Although there is no one-size-fits-all approach to feminist theorizing, and studies differ in how much emphasis they place on feminist theory, it is difficult to see how research can be feminist without some commitment to feminist thought.[1] However, just because a project examines sex/gender disparities does not automatically make it

feminist. Feminist theory as an explanation of sex/gender as an organizing principle and power relation in social life informs and sympathizes with the subject matter and research issues of a feminist approach (Daly, forthcoming; Gelsthorpe, 2002: 135). This isn't to say that feminist research solely employs feminist theory; rather, it applies a feminist sensibility to a wide range of ideas from both inside and beyond the field of criminology. Research methodology has been influenced by developments in feminist theory, while research results and political action have also influenced feminist theory.

Over time, feminist theory has evolved into a more nuanced and complex engagement with gender relations, moving away from an emphasis on patriarchy and toward a more differentiated understanding of power and beyond a binary notion of gender, as well as a critical assessment of masculinity (Daly, forthcoming; Gelsthorpe, 2002). Sex/gender is often analysed and interpreted in contemporary feminist initiatives as a power relation that works at numerous levels and places, including individual, structural, and discursive levels, and overlaps with other axes of power (see Intersectionality below).[2] 'Few feminist academics are interested in constructing a grand theory of crime,' Kathy Daly points out (forthcoming: 232), since they acknowledge that criminal behavior is a social construct formed by many, fluctuating, and context-dependent elements.

Researchers have faced obstacles as a result of increasingly complicated notions of sex/gender, particularly those who depend only on quantitative approaches; sex/gender cannot be fully recorded as a characteristic or variable, and researchers must engage with the meanings of social processes and relationships (Daly, forthcoming). Mixed method techniques that combine qualitative and quantitative methods may be able to solve these issues, albeit caution should be used when trying to integrate approaches with differing epistemological underpinnings (Tashakkori and Tedlie, 2008).

Feminist Ideas:

As previously said, feminist theories have been used into criminology in order to provide new and diverse viewpoints. Feminism pushes criminology to reject androcentric thinking and to be "thoughtful and relevant," according to Flavin (2001)[3]. Feminist ideas help us grasp the gender divide in our society.

Feminist Theories and Criminology:

Now that there is conceptual clarity concerning both androcentric criminology and feminist theories, it is critical to build a relationship between the two. This link helps to define the bounds of feminist criminology. According to popular belief, getting rid of androcentricity necessitates a rethinking of criminology's paradigm.

This is where feminist ideologies take on a huge responsibility. To keep up with society's altering paradigm, criminological features must be completely altered, and the female gender must be actively included. The two basic philosophies of feminism, liberal and radical, are woven together to seek out these improvements. Incorporating feminism's radical ideology into criminology encourages women to participate as subjects in the study of criminal sciences.[4]

As previously said, women have been undervalued as a topic from the beginning, and dramatically altering this mindset would help criminology become more inclusive. An evident boundary between the gender roles goes a long way toward setting up female guilt, according to radical feminist theory (female criminality).

The basis and character of female misbehavior are often confined to her domestic background, which is discriminatory based on gender norms and is ignorant of several

socioeconomic factors that have a significant influence. By fundamentally altering this concept, many erentimaculate and illogical parts of female crime may be legitimized.

Incorporating liberal feminist theory into criminology facilitates the participation of specialists and professionals in the field. Women should be included in mainstream criminology, according to liberal feminism. In addition, enacting political and legislative changes to assist women in excelling in their various fields of study may be a step toward gender equality in criminal science.

Victimization of Women

When assessing levels of criminality, understanding the differences between male and female offending, and victimization of women in crime, there are numerous methodologies that may be employed. There is frequently a shadowy figure of unreported crime. Again, the figures suggest that there are more males involved in criminal activities, particularly young males, and that most of the acts are committed by groups rather than individuals, which brings us back to our sub-cultural theories as an explanation for criminality in comparison to crimes against the person.

The gender, class, or ethnicity of the offender is less likely to be known in criminal damage crimes. According to some estimates, only about a third of criminal damage instances have an offender identified by the victim. Although less than a third of offenses were able to identify the gender of the offenders, the majority of them were men, indicating shifting attitudes of females about the sorts of crime being perpetrated.[5]

This may be shown statistically, with almost one in every five guys reporting that they had been the victim of a crime. However, the same guys might have been victims of several crimes, despite the general public's belief that females are more likely to be victims. Females are perceived as victims of crime in a somewhat lower percentage than men, implying that our idea of who is most likely to be a victim of crime or fear of being a victim of crime may be distorted, and this is something we all need to look into and understand more thoroughly.[6]

Thousands of studies, articles, and books on violence against women have been published across different fields. In recent decades, a growing amount of attention has been devoted to female victimization throughout the globe, and to understand the nature of such victimization, we must look back at the previous few years, when we saw an alarming spike in crimes against women.

Married women have also been abused, tortured, and killed in conditions that are shocking to the public's sensibilities. Such fatalities have come to be connected with dowry, and the victims in these cases are often young or newly married women. This disease has a long history and is caused by a variety of social, psychological, and economic causes. There is no meaningful remedy in the Indian judicial system (The Dowry Prohibition Act of 1961) if a woman is kidnapped and kept for ransom.

Case Studies

We want to exemplify the aforementioned methodological principles in the case studies that follow from our own study. We discuss some of the challenges of feminist analytical practice in investigating various forms of violence against women, as well as how we attempted to address some of the obstacles. In Australia, there is a lot of violence towards Filipino women (Chris Cunneen and Julie Stubbs). When Chris Cunneen and I started looking into the high number of killings of Filipino women in Australia, it became evident that the majority of the women had been murdered by a boyfriend or former lover (Cunneen and Stubbs 1997;

2004).[7] Using a national murder database and epidemiological advice, we discovered that Filipino women were almost six times more likely than other women in Australia to be homicide victims. Filipino women, unlike other immigrant groups, had a higher murder rate than Filipino males. The majority of the perpetrators were not Filipino, which was unusual since murder is often intra-racial. The extensive literature on intimate partner murder was useful, but inadequate as a foundation for comprehending these fatalities. In addition, orthodox criminological theory did not seem to be suitable; for example, ideas connected to culture clash provided limited insights into the complex processes that influenced the women's immigration to Australia and made them susceptible once there.

Gender, race/ethnicity, and class were all important aspects in how these women were positioned, therefore an intersectional approach provided a framework that openly addressed them. Women's economic conditions are linked to class, as is the international political economy that underpins migratory patterns. In contrast to other immigrant groups, the Filipino population in Australia is mostly female. Emigration is prevalent in the Philippines, although many Filipino women may only travel to Australia as the husbands or fiancées of Australian males. Part of the reason for this highly gendered and radicalized migratory pattern is immigration policy, which has undervalued women's occupational skill categories and does not give visas for domestic labor.[8] Immigration is promoted by the Filipino government, and remittances given to the Philippines by abroad citizens were the country's greatest foreign currency earner at the time of our study.

Our research was sparked by women from the Filipino community who pushed the Human Rights and Equal Opportunities Commission for the study; the commission solicited responses connected to this topic, which we supplemented with case files and media stories gathered by the community. We conducted further research utilizing media sources and transcripts of instances where prosecutions had happened; we analyzed 27 killings using a case study technique[9]. After this surfaced as a concern from the comments, we conducted internet-based investigation of sites advocating foreign marriages with Filipino or other Asian women. We traveled to the Philippines later in the project for meetings with government and non-government organisations, as well as a visit to a village that provided many immigrants to Australia.

Although intersectionality provided a framework for our study, it did not provide guidance on how to analyze and evaluate the case studies. We benefitted from the contributions of community activists who assisted us in reflecting on our findings and developing themes.

According to a recent article in one of the publications, the following figures on female victimization and crime are[10]:

- Every 54 minutes, one rape occurs.
- Every 26 minutes, there is a molestation.
- Every 43 minutes, a kidnapping or abduction occurs.
- Every 51 minutes, there is one incidence of eve-teasing.
- Every hour and 42 minutes, one dowry death occurs.
- Every 33 minutes, there is a terrible act.
- Every seven minutes, a woman is the victim of a criminal offense.

CONCLUSION

The rise in female imprisonment rates in the twentieth century was also one of the elements that sparked interest in the study of females' effect on crime and criminology. The simple act of creating these ideas is insufficient if they are not put into practice. In order for a society to

be harmonious, no patriarchy should exist; everyone should be granted equal rights and chances, particularly in the professional area.

It is also clear from the facts provided concerning crimes done against women and crimes committed by women that women are victims in both circumstances. Even after serving the required time of punishment, a woman who commits a crime is subject to victim-blaming, and even after serving the required time of punishment, she still faces harsh discrimination by society; however, this discrimination can be seen in both genders, but it is slightly more prevalent in the case of a woman because of her stigmatized gender role. Women, in the profession as a topic, women offenders, and female criminals and crime should be evaluated not from the perspective of a man, but from the perspective of both genders, according to the circumstances, and with an objective attitude, according to feminist criminology.

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CHAPTER 6

CAN A MALE BE A VICTIM OF RAPE?

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ABSTRACT: *The term 'rape' comes from Latin, meaning 'seize.' Rape translates to "forcefully seize. Rape is defined as the rape fantasy of a female without her choice, against her agreement, or with consent acquired by force, terror, or deception. The same phrase might apply to abduction or assault in the contemporary meaning of "sexual violation" during the Medieval English era. Unlike UK, females in India are not held to the same standards as males when it comes to rape. Rape is a criminal offense that needs both mens rea as well as actus rea. Lethal assault, compulsion, misuse of power, or upon an individual who is unable to provide legal permission are all possible methods. Sexual offenses are defined in sections 375 to 376E of the Indian Penal Code. All of these parts portray women as victims and men as perpetrators. The crime of 'rape' is defined under Section 375 of the Indian Penal Code, while rape is punished in Segment 376. Rape is defined as a sexual act that occurs "without her choice" and "against her permission." This implies that only females may be raped, yet the term "rapist" is commonly associated with males. This stereotype obscures the truth that males may be raped as well. It is the government's responsibility to protect individuals from discrimination based on sex, however sec 375 and 376 discriminate against people based on sex as well. In this study work, the writers will examine these two portions.*

KEYWORDS: *Rape, Sec 375, Sec 376, Indian Penal Code.*

1. INTRODUCTION

Rape is a crime perpetrated by males on females generally. It is defined as the sexually abusing women via men preparators, which reveals a patriarchal system that supports rape. Nevertheless, it's been discovered that a considerable proportion of abuse and sexual assault victims are men, however the belief that rape never occur in males kept these rape victims out of the scientific limelight. Male rape is frowned upon in society and has a bad connotation within straight men. Male rape is seen through the lens of manhood and heroism. As a result, the majority of the victims were afraid to disclose the sexual assault they had suffered.

They are concerned that if men speak out about the attack, others would question his gender orientation and call them gay or unmasculine. Many of victims of rape have been driven to conceal and reject their assault as a consequence of this fear, resulted in millions of rape cases being unreported. Male stereotypes in society had a significant part in this. The following are some of the different myths:

In male-dominated societies such as India and Pakistan, Men are regarded as the toughest of all species, so they are rarely permitted to do anything that contradicts their masculinity, even publicly crying. This societal idea that males are the toughest among living creatures implies that men cannot be assaulted or are barely prone to it. Females could only be raped in these cultures, they think. Another cliché about men in general is that they are constantly looking for sex and are readily excited. This instilled in society the belief that the majority of sexual relations between males occurs willingly and could only occur if they are eager to engage in any sexual intercourse. Another popular belief about guys is that they are less traumatized than females. As a result, they are less prone to be harmed by any form of maltreatment. Men

were quiet subject to sexual offenses as a result of these macho clichés. However, the majority of the nation has now accepted that males may be raped and it has made it illegal [1]. The rape victim is invariably a woman, as per section 375 of the IPC. Maybe if the casualty is a male, though? No arrangements are made for males to seek recourse.

2.DISCUSSION

2.1 Indian Laws and Male Rape

In India, forced penetration as the insertion of a foreign material into the vaginal canal without the permission of the woman or girl. Rape is defined as "sexual activity with a female without her will, permission, by threat of force, false representation, or forgery, or at a moment after she is incapacitated or tricked or is of wrongheaded mental wellbeing, but in any case, when she is under eighteen years," according to Section 375 of the Indian Penal Code. When we look at the wording, we can see that it draws two distinct, though subtle, assumptions:

- A rape perpetrator must be a guy.
- A rape victim is almost always a female.

As a result, the entire definition is based on the rape of just females, with no provision for the assault of males. It seems that there is no specific legislation in India whether a guy rapes other men or a girl rapes other guy. At most, they may be sodomized under section 377 IPC, which is based on the 1533 Buggery Act, which defines unnatural intercourse as a "conduct against Almighty." All other rules and provisions, with the exception of this one, are aimed only at women.

This disparity in the handling of men and women rape has an impact on our constitution's mind. Although POCSO exists for the sexual abuse of a boy kid, there's also no similar law for an older man. There is no explanation why a physical attack on a man youngster should be regarded differently than a comparable crime against a grownup guy. Why can't we create the same safeguard for rape of male that we have for rape of female? The main premise is that in India, males are seen as invincible and as males who abuse their position to attack women. Because the definition of rape in our country is limited to the penetration of a penis or item in the vaginal canal, the number of incidents of sex crimes of men has been steadily increasing. For example, a boy in Ghaziabad had been sexually assaulted by five persons and a foreign material was inputted into his colon and nothing was done due to the sheer lack of legal protection. Likewise, there are many instances of sexual assault against males in the military services [2].

The main issue in the lack of legislation protecting men against sexual assault is found in the constitution itself. "The state must not refuse to any individual inside the jurisdiction of India equality under the law or equitable protection of the legislation," says Article 14. Article 15 additionally states that "the state must not bias against any person solely on the basis of faith, ethnicity, class, gender, birthplace, or any combination of these factors." Furthermore, Article 15 stipulates that "nowhere in this clause shall preclude the Government from making any specific provision for females and kids." As a result, it is lawful for the state to use the ladies definition of rape included in Section 375. However, if we follow this reasoning, we may safeguard males as indicated in Article 15 by amending Section 375 of the IPC. The state may enact additional gender-neutral rape legislation, since we must recognize that sexual assault not about gender or sexuality. At the moment, just two statutes recognize that men may be sexually attacked.

It is the POSCO, which addresses both men and women child sex molestation. The second is sexual Harassment of Women at Workplace Act," which acknowledges that men, like women, are prone to sexual assault at work. The lack of rape legislation for men sparked a desire in India for gender-neutral sexual offences [3].

2.2 Modifications to the rape law

In 1860, the Indian Penal Code was enacted. After a rape event in 1972, the second amendment was made in 1983. As a result of this case, custodial rape was recognized by the law and was added in section 375 of the IPC. Cross-examination of a rape victim was forbidden after the Indian Evidence Act was amended in 2002, since it violated the rape victim's privacy and dignity.

The Protection of Minors from Sexual Offences Act (POCSO) was enacted in 2012 to combat the rise in sexual offenses against children. The Criminal Law (Amendment) Act, 2013, was passed in response to the Nirbhaya case in 2012. Stalking, acid assaults, and voyeurism were all became criminal offenses as a result of this amendment.

Following the Asifa case in 2018, Parliament enacted the Criminal Law (Amendment) Bill, 2018. Rape is punishable under Section 376 of the Indian Penal Code. Rape is defined as a sexual act that occurs "against her will" and "without her permission." This implies that only women may be raped, yet the term "rapist" is commonly associated with males. This stereotype obscures the truth that males may be raped as well. It is the state's responsibility to protect individuals from discrimination based on their gender, however laws like section 375 and 376 of the Indian Penal Code of 1860 discriminate against people based on their gender as well.

2.3 Rape Victims Are Men

There is a widespread assumption that only women get raped. This is not true. This misunderstanding conceals the truth that males are raped as well. Men are subjected to a variety of kinds of sexual violence, including: receptive anal intercourse; forced masturbation of the offender; receptive oral sex; and forced masturbation of the victim. Sexual violence against males is either not recorded or is reported in a low number of occurrences. Because males are hesitant to disclose acts of sexual assault to the authorities, the number of rape charges filed by women is significantly higher than in the case of men. This is likely due to the immense shame most guys feel when they are a victim of sexual assault. Acts of sexual assault against males may be more common in specific settings, such as prisons and the military services. Men, like women, have the same physical and psychological reactions to sexual assault, including: fear, despair, suicide thoughts, rage, and sexual and relationship issues [4].

Rape Trauma Syndrome affects males in the same manner that it affects women. Men, on the other hand, are especially worried about: remarks about their manhood; comments about their sexuality; and the fact that they were powerless to stop the rape. These truths about masculinity and sexuality may have sprung from the belief that only gay men are raped and that heterosexual men would never rape another straight man. Rapists in many nations face a variety of penalties, including: India: life imprisonment with the possibility of death France: 15 years to life.

China: death penalty or castration, Saudi Arabia: beheading within days, North Korea: firing squad execution.

Afghanistan: shot in the head or hung to death, Egypt: hanged to death, Israel: 16 years to life United States: life in prison, Russia: 3 to 20 years, Norway: 4 to 15 years. These are the

penalties meted out to those who rape women in different parts of the globe. However, there are few regulations protecting male rape victims. Females are also perpetrators of sexual violence in crisis situations. According to popular belief, the general Prof. Anne-Marie De Brouwer spoke at a conference about Faustin-Kayihura, a Rwandan male victim of sexual assault who was raped numerous times by a woman during the Rwandan genocide in 1994. Based on the magnitude of the transgression committed against Faustine, the creation of the male genital organ as a weapon of war, used by men who are normally greater, stronger, and powerful to conquer females and their communities, has been weakened, according to Faustin's testimonial proof. Men's sexual aggression and rape target the male genital organs, disempowering the male victim; this was Faustin's experience, which left him humiliated and stigmatized for years [5].

On March 21, 2016, the International Criminal Court recorded the first male rape conviction in the history of international criminal law. Jean-Pierre Bemba Gombo was found guilty of rape as a war crime and a crime against humanity by three judges, including Judge Joyce Aluoch. In the sight of the victim's relatives and neighbors, Mr Bemba was held liable for the rape of a man by three armed soldiers who forcedfully entered his anus with their penises and ejaculated into him. The victim was shunned by the rest of the community. This had an impact on his health and self-esteem since he couldn't walk and thought of himself as a "dead man." These atrocities were perpetrated by forces under Mr. Bemba's effective command and control in the Central African Republic. Mr Bemba was convicted under command responsibility for his inactions as a Commander who failed to exercise control over his men, even though he did not conduct the acts personally. Despite the fact that Mr Bemba was cleared of the general war crimes and crimes against humanity charges on appeal, the Trial Chambers' rationale on sexual assault against males is highly jurisprudential. One can only hope that this will help guide future judgements involving comparable circumstances.

Rape has recently been defined in Nigeria to include males as potential victims. However, according to the legal concept of crime, only women may be "raped" before this statute. The legislation against violence against individuals, which includes a new definition of gender-based rape, is the first in Nigeria to acknowledge that males may be raped as well. Unfortunately, without its jurisdictional constraints, this essential revolutionary statute would have had a wider influence. The VAPP legislation only applies in Abuja, which is home to a tiny fraction of the country's population. He asked all Nigerian states to reform the VAPP legislation in order to protect and deliver justice to countless raped men.

2.4 Rape Laws' Gender Neutrality

In March 2000, India's 172nd law commission proposed that rape laws be changed gender-neutral to protect male victims as well. The basic idea is the assumption that rape will be desexualized and the shame associated with it will go away. The government, on the other hand, did not take any action to adopt the recommendations. Later same year, adv. Sanjiv Kumar filed a PIL in the Delhi High Court challenging the legality of the Indian Penal Code's rape provisions (IPC). "Gender neutrality is a basic acceptance of reality - males occasionally fall victim to the same or at least very comparable activities as women," he said in his petition. Male rape is much too common to be considered an outlier or a rare occurrence. We are depriving a lot more men of justice than is widely imagined by not having gender-neutral rape legislation [6]."

On the same grounds, KTS Tulsi, a distinguished lawyer and Rajya Sabha member, introduced a gender-neutral bill ("Criminal Law Amendment Bill, 2019") in parliament in July 2019 to make India's rape laws gender-neutral. According to him:

"There must be a balance in the law." The equilibrium has been upset. Gender should not be a factor in any sexual offenses. These crimes may be committed by men, women, and other genders, as well as victims. Men, women, and others must be safeguarded."

The bill's main goal is to propose modifications to the Indian Penal Code (IPC), the Criminal Procedure Code, and the Indian Evidence Act to replace gender-specific terminology like "any male" and "any woman" in sections 354A, 354B, 354C, 354D, 375, and 376 of the IPC with gender-neutral terms like "any person." All genders, including women, men, and transgender people, would be protected. It also mentions the addition of section 375A to the IPC, which defines sexual assault as "intentionally touching the genitals, anus, or breast of the person, or making the person touch the vagina, penis, anus, or breast of that person or any other person, without the other person's consent, except where such touching is carried out for proper hygienic or medical purposes." This section clarifies that sexual assault includes not just improper contact of female body parts, but also inappropriate touching of male body parts. In addition, this measure proposes the addition of section 8A to section 354 of the IPC, which defines modesty.

The demand for the inclusion of all of these parts is only for the purpose of broadening the scope of sexually violative activities and bringing them within the jurisdiction of the law of the nation [7].

2.5 Gender-neutral Sexual Offenses: Resistance

Under the proposal of the Justice Verma Committee, the government approved a criminal amendment act in 2013 that changed the word "rape" from "sexual assault" to encompass both genders, however the amendments were subsequently overturned owing to criticism and pushback from feminists and women's groups. These organizations consider calls for gender-neutral legislation as an assault on feminism, and argue that rape is a patriarchal crime.

Male rape was not recognized as a crime in the United Kingdom until 1994; before then, rape could only be committed by a man against a woman. Buggery was a felony in which a man had intercourse with another man without his permission, and the maximum punishment was ten years in jail, compared to life in prison for rape. The Sexual Offences Act of 2003 changed the gender of the rape victim (no longer distinguishing between 'rape' and 'male rape'), but kept the necessity of penile penetration for a charge of rape, which means that a woman cannot rape a man or another woman.

The way rape cases are handled by the criminal justice system is also influenced by myths and gender stereotypes. They often underlay the attitudes of cops and judges, and the low prosecution and conviction rates that ensue have a negative impact on public trust in the judicial system.

2.6 Different countries have different laws regarding male rape.

In the United Kingdom, the "Criminal Justice and Public Order Act, 1994" originally changed rape legislation by removing buggery from the statute and adding the words "non-consensual anal as well as vaginal penile penetration." For the first time in the UK judicial system, an attempt was made to identify male rape via this act. Later, the "Sexual Offences Act, 2003 (England and Wales)" expanded the definition to include non-consensual penetration via the mouth, as well as eliminating the imprecise clause of indecent assault. Penile penetration is still required for rape to be defined. Since a result, the UK's rape laws are still not gender-neutral, as women cannot be prosecuted for raping males according to the existing definition [8].

The "Sexual Offences (Scotland) Act, 2009" made significant changes to Scotland's rape laws, defining it as "the intentional or reckless penetration of the penis (to any extent) into the vagina, anus, or mouth of another person, without that person's consent or any reasonable belief that consent was obtained."

The gender-specific phrase "women" was changed with "person" in this definition to include male victims in the definition's scope. Similarly, rape laws in Northern Ireland have been altered to recognize male rape. The word "non-consensual intercourse by a man" was formerly included in the definition of rape, but it was subsequently replaced with "non-consensual intercourse by a person" in the "Criminal Justice (Northern Ireland) Order, 2003" to ensure justice to male rape victims and make the legislation gender-neutral. This term was further expanded by the "Sexual Offences (Northern Ireland) Order, 2008," which included oral rape. Civil law nations like the United States and Canada, like similar Common Law countries, have worked to make their rape laws more gender-neutral, so that males are included as well. According to the (United States Department of Justice, 2012), rape is defined as "the penetration, no matter how small, of the vaginal or anus with any body part or object, or oral penetration by another person's sex organ, without the victim's permission."

Rape encompasses both genders of victims and perpetrators, and is not restricted to women raped by males. Furthermore, US law now recognizes that rape with an object may be just as dangerous and upsetting as non-consensual penile penetration. Unlike other nations, the United States was the first to equate object penetration with penile penetration and consider it rape, although other countries regard object penetration to be distinct from penile penetration and have separate statutes for each. The Canadian government has gone even farther in making rape legislation more gender-neutral. The Canadian legislature approved "Bill C-127" in 1983, which removed the crime of rape and established three levels of sexual assault. In line with US law, Canadian law acknowledges that penetration by object constitutes rape, and that penile penetration cannot be the only basis for rape.

Despite the improvements in rape and sexual offenses in these nations, certain countries, such as India and Pakistan, continue to see rape as a gendered crime.

2.7 Gender Bias in Indian Society: Men and Women

Rape is defined as an illegal sexual intercourse between a man and a woman without her permission or against her will under any of the following situations listed in section 375 of the Indian Penal Code:

Against her will, Without her consent, With the consent obtained by putting her or any other person she is interested in fear of death or harm, With consent but under the mistaken belief that the man was her husband, With consent obtained by unsoundness of mind, influence of intoxication, or any stupefying or unwholesome object, Women under the age of eighteen, with or without her consent, in the case of *Roop Singh v. State of Himachal Pradesh*, the appellant, who was the petitioner's neighbor, broke into the petitioner's residence at 2 a.m. and had forceful sexual intercourse with her. The Supreme Court debated what constitutes a woman's consent to sexual intercourse. The court decided that a woman cannot be said to have consented to sexual intercourse until she voluntarily participates in a sexual act after completely exercising her option in favor of assent. There might be occasions when males take the place of women in any of the seven cases listed in Section 375 of the Indian Penal Code of 1860. For example, a person may have sexual intercourse with a man against his will, or because his permission was acquired out of fear of harming him or his loved ones, or consent was obtained by mistake, or if the guy is under the age of eighteen, or if he was unable to articulate his consent.

Rape is punishable under section 376 of the Indian Penal Code, which is defined under section 375. Section 376 (1) states that rape for the scenarios listed in section 376 (2) is punishable by a minimum of 10 years in prison, with the possibility of life imprisonment. The rape perpetrated by a police officer, a public worker, an armed force member, the management or staff of a prison, remand home, the management or staff of a hospital are the scenarios described in Section 376 (2). A person's family, guardian, or instructor during communal or sectarian violence, on a pregnant woman, on a woman who is unable to give consent, being in a position of control and dominance over the woman, being in a position of control and dominance over a woman suffering from mental or physical disability, causing grievous harm, maiming, disfiguring, or endangering the woman's life, repeatedly on the same woman

Sections 376-A through 376-E provide for penalties for rape in certain instances. It is made up of the following elements:

Rape resulting in the victim's death or in a prolonged vegetative condition (sec 376-A) - minimum twenty years to life in prison, Rape on a woman under the age of twelve (sec 376-AB) - minimum twenty years to life in prison, or fine or both rape by a husband on his wife during the separation time (sec 376- B) - minimum two to seven years in jail, with a fine

- Sexual intercourse by a person in authority (sec 376- C) has a minimum sentence of five to ten years in jail, as well as a fine.
- Gang Rape (sec 376-D) – each person will be sentenced to a minimum of twenty years in jail and a maximum of life in prison, as well as a fine.
- Gang rape on a lady under the age of sixteen (sec 376 – DA) - life in prison plus a fine
- Gang rape on a lady under the age of twelve (sec 376 – DB) – life imprisonment, fine, or death
- Repeat offenders (sec 376 – E) are sentenced to life in prison or death.

The Criminal Law (Update) Act of 2018 is the most recent amendment to the Indian Penal Code. The following sections of the Indian Penal Code were amended as a result of this amendment:

- It stipulates that rape of a girl under the age of 12 years has a minimum penalty of 20 years in prison, with the possibility of life in prison or death. The perpetrators of a gang rape of a girl under the age of 12 shall be sentenced to life in prison or death.
- Subsection (1) of S. 376 was amended to increase the sentence of imprisonment for the accused from 7 to 10 years.
- Section 376 of the amendment adds a provision for the fine to be paid to the victim [9].
- Section 439 of the Criminal Procedure Code was amended to make it mandatory for courts to give notice to the Public Prosecutor in cases where the accused is granted bail under Sections 376(3), 376 AB, 376DA, and 376 DB of the Indian Penal Code[10].

3. CONCLUSION

The final purpose of this study article was to realize that guys might potentially be a target rape. It would be to be recognized that this document purpose was not to prove evidence that women may be another rapist but to realize that regardless of the sexes of the suspect possibility of males being a rape victim is also existent. Many PILs have been filed in the Indian Courts for demanding to make Section 375 of the IPC gender- neutral. Advocate Rishi Malhotra has recently lodged a PIL in the Supreme Court and last year Mr. Sanjiv Kumar

also filed a P.I.L. in Delhi High Court for making section 375 genders neutral. But these P.I.L.s were denied by the court, since the court claimed that it was not the concern of judiciary but it is the matter of legislative to make amendment in I.P.C. So, the Parliament must take this problem seriously and needs to begin to adopt a bill on making Section 375 of IPC gender-neutral. This topic is more under focus since Homosexuality has been decriminalized in India. Becoming a rape victim, is itself contrary to the provisions of the basic right of life and liberty, but also further refused the right to at least receive a redress is entirely opposing the Indian Constitution. The rules of legislation are designed to defend the folks right and for their protection, but when the consequences of Section 375 of the IPC are evaluated in reference to gender impartiality, it breaches a man's basic right. Every individual has the right to continue living with absolute freedom also with decency and none has the ability to reject this.

We have watched throughout the years, criminal laws in India have been updated by politicians to satisfy the necessities for society. Over the years, the amendment becomes a vital instrument to fulfill the demand of the hour. We can see the revisions within the scope of sexual assaults against women following the start of the Nirbhaya Case have helped immensely towards the protection of women. It acknowledged different actions which weren't crimes previously, therefore offering opportunity to every woman victim to attain justice however because the statute restricts itself to just women. The necessity for Gender Neutral Rape legislation becomes the need for the hour. Hence putting this everything into perspective, the Criminal Law (Amendment) Bill, 2019 aspires to achieve such progress, when it asks for a gender-neutral part that punishes any type of sexual assault.

In India, criminal offences have indeed been regularly updated throughout the years to match the necessity of the hour. The new rules in the realm of sexual assaults towards females after the Nirbhaya event continues have made a major contribution to women's rights. It accepted diverse offenses that were not past offences, therefore allowing each victim scope for entry to the courts. Even after the Apex Court ordered Section 377 to be banned, numerous crucial concerns remained unresolved. The Top Court while allowing consensual homosexual sex but did not detect the loophole contained in Section 375 IPC which considers female as victim and male as the offender. Thus, there is a legal gap in this section whether both victim and perpetrator are male or female. Even the Supreme Court does not consider requests which demand for gender-neutral rape laws by declaring that legislators would look into the relevant matter. Because to non-availability of gender-neutral regulations, most of the crimes are unreported or the criminal obtains minor penalty. Even majority of the feminist organizations are opposing the proposal for gender-neutral legislation. Hence, the Criminal Law (Amendment) Bill, 2019, taking everything into point of view, attempts to produce such development when it asks for a gender-neutral section penalizing any form of sexual assault.

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CHAPTER 7

VIOLATION OF RIGHTS OF SENIOR CITIZENS

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ABSTRACT: Old age is a necessary period of existence of a human being which a person cannot oppose save premature death. The youth and ageing are natural dependant situations of life when children rely on parents and vice-versa. The notion of nuclear family disturbed this regular cycle resulting in misbalance of the natural lives of older people by opposing thousand years old habit of India where parents are revered as a devout form of God. Nowadays, the parents are getting onerous for their kid anytime they lost their ability to work and make. Millions of elderly people experience human rights breaches annually, spanning from racism and social and political marginalization, to abuses in nursing institutions, neglecting in humanitarian contexts, and denial and rationing of health treatment. Most of these atrocities go unrecorded and the offenders unpunished. Available legal, societal, ethical and governmental standards are investigated in this study to find out the probable methods by which old people's human rights are violated and are obliged to experience anguish and misery. The article also represents the existing laws, policies and recommendations for the safeguarding the liberties of old age Indian citizen.

KEYWORDS: *Old Age Person, Human Rights, Protection, Abuse, Directive Principles of State Policy, Ageing, Senior Citizens.*

1. INTRODUCTION

The elderly is seen as vulnerable because biological, psychological and social ageing. They are human resource, gifted with knowledge, deep insights and varied experiences. The senior citizens are deprived of basic medical care, the expenses to maintain their livelihood, adequate financial support, and they face discrimination, mistreatment, lack of security and are isolated and abandoned too. They have no institutional care or medical system around them and have to depend on community care/ family care to support them in India. The estimated population growth rate of elderly increased to 10 crores as per 2011 census reports i.e., 8.6 per cent of the total population. This created a lot of social, economic and political problems. When it comes to ageing population, the government has to allocate more money on making them stable and secure.

The cumulative implications of industrialization, urbanization and globalization have imparted changes of irreversible nature into the structure of families in India. This has resulted in psychological distress and isolation of aged persons. Indian traditional society with its concept of joint family system was a strong pillar in ensuring the security and wellbeing of the elderly. But modernization and globalization paved way for the birth of nuclear families [1].

Indian constitution outlines defending the privileges of the people of India, that include older persons too. In Part IV of DPSP, regulations are Article 41 that instructs the states to set efficacious provisions to ensure Working rights and welfare benefits under certain cases that contains ageing and Article 46 that instructs the state to safeguard the financial interests of the underprivileged. The DPSP are vital in the government of the nation, even if they're unenforceable in the Courtroom. It is our job to look after our elderly. Intergenerational equality is a procedural fairness idea. A generation that ignores its elderly and the elderly

commits crimes and will share the same fate in their later years. Ageing is a normal process that happens to everyone at some point in their lives. It brings with it a slew of difficulties in the lives of the aged, many of which are brought on by mutations in their bodies, minds, and mental processes. The term "aging" refers to a decrease in the functional capability of the human body's organs, which happens mostly as a result of physiological changes. Senior folks represent a valuable pool of human resources endowed with a wide range of knowledge, diverse experiences, and profound insights. Although they may have technically retired, the vast majority of them are physically and psychologically capable of adding to current societal well-being. As a result, given the right circumstances, individuals may make a big contribution to their country's socioeconomic progress [2].

The following are some of the issues that the elderly face:

- (i) Economic issues, which include issues such as job loss, income uncertainty, and economic insecurity.
- (ii) Physical and emotional issues, such as health and medical issues, dietary insufficiency, and the lack of sufficient housing, are all examples of physical and physiological issues.
- (iii) Psychosocial difficulties, which include issues such as psychological and social disfunction, and also elder abuse and other issues [3].

2. DISCUSSION

2.1 Elderly Rights in Indian Law

Constitutional provisions to protect the rights of senior citizens: In order to protect the interest of the most valuable assets of the country our Constitutional framers have inserted certain provisions under Part IV of the Constitution. i.e. Directive Principles of State Policy.

The judiciary reads the rights of the elderly as a facet of Article 21 of the Constitution. Article 41 of the Constitution provides that, "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want." It places obligation upon the State to provide job opportunities and other help to the elderly so that they can earn and live a respectful and independent life.

Article 38(1) enjoins the State to strive to promote welfare of the people by securing and protecting as effective as it may a social order in which justice social, economic and political shall inform all institutions of the national life. In particular the State shall strive to minimize the inequalities in status, facilities and opportunities.

Article 39(e) requires the State to secure that the health and strength of workers, men and women and children of tender age are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their area of strength. To achieve these goals, State provides pensions as monetary benefit to former employees so that they can live meaningful life with dignity.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007: This act seeks to make it a legal obligation for children and heirs to provide sufficient maintenance to senior citizens, and proposes to make provisions for state governments to establish old age homes in every district.

The Act places an obligation on children and relatives to maintain a senior citizen to the extent that they can live a normal life. The definition of senior citizen includes both Indian

citizens aged over 60 years, and all parents irrespective of age. This obligation applies to all Indian citizens, including those residing abroad.

A senior citizen who is unable to maintain himself based on his own earnings or property shall have the right to apply to a maintenance tribunal for a monthly allowance from their child or relative. If he is incapable of filing the application on his own, he may authorise any other person or registered voluntary association to apply on his behalf. The maintenance tribunal may also, on its own, initiate the process for maintenance [4].

The Act also directs the state government to ensure that government hospitals and those funded by the government provide beds for all senior citizens as far as possible.

These provisions are found to be ornamental only as very few hospitals have geriatric care and medicine experts in India.

SECTION 125 OF CRPC: Order for maintenance of wives, children and parents.

(1) If an individual has reasonable means and do not maintain.

(d) his parents, unable to maintain himself or herself, On such evidence of such abandonment or complete unwillingness, a Magistrate of the first class may order such individual to perform a monthly stipend for the upkeep of his partner or such baby, mom or dad, at such monthly price not surpassing five hundred inr in that one, as such Magistrate deems fit, and to stump up the same to such individual as the Magistrate may from periodically direct: Given, however, that the Magistrate could order the dad of a minor daughter referred to in clause (b) to maintain her until she is major.

2.2 CASE LAWS

Santosh Surendra Patil V. Surendra Narasgopnda Patil . The litigating parties in the case were parents and their sons. The respondent was the son of the Petitioners and was appealing against an order of vacation of the residential premises owned and constructed by the Petitioners. The court went on to discuss the need for the enactment of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The moral duty to take care of one's parents was crystallised as a legal responsibility under this Act. The State also takes it upon itself the guardianship of Senior Citizens and old infirm parents. The eviction order was upheld by the court as such an order is permissible under Sec. 23 of the Act of 2007.

Non-Payment of Retirement Benefits to Widow of an Employee of Social Welfare Department, Government of Uttar Pradesh

The petitioner stated that her husband who was working with the District Welfare Officer, Etah died on 21 December 2001, and that his retirement dues had not been paid to her despite repeated requests to the concerned authorities. The Commission called for a report from the Department of Social Welfare and was told that GPF link insurance could not be given to the employee because the Accountant General had not sent the balance amount of GPF payment orders. Pursuant to the D.O. letter it was stated that the complainant was paid Rs.30,000 towards GPF Link Insurance and the balance of GPF amounting to Rs.31,050. The Chief Secretary, Uttar Pradesh informed the Commission that an amount of Rs 28,462 as interest on delayed payment of insurance was paid and the errant public servant has been punished by way of recovery of the interest on delayed payment along with appropriate disciplinary action. Orders for recovery of interest on delayed payment from negligent officers/officials had been issued as well as orders for initiation of action against three Clerks.

YogeshSadhvani v. Commissioner of Police

This case brought forth a complete failure of the execution of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Court directed the State Government to file affidavit mentioning therein the steps taken:

- i. To establish tribunal under Sec. 7.
- ii. Designate a maintenance officer under Sec. 18.
- iii. For establishment of old age homes under Sec 19.
- iv. To give medical support to the senior citizen as under Sec. 20.
- v. for publicity, awareness, etc. for welfare of senior citizen under Sec. 21

Prithvi Natvar Sanghvi v. Natvar Keshavlal Sanghvi and ANR

Elderly parents can take back a share in their property given to a son as a gift if he fails to look after them or harasses them, the Bombay high court has ruled. Citing the special law for maintenance of senior citizens, Justices Ranjit More and Anuja Prabhudesai upheld a tribunal's order that had cancelled a gift deed given by an elderly Andheri resident by which he had granted 50% share in his flat to his son [5].

2.3 Maintenance and Welfare of Parents and Senior Citizens Act, 2007

This act was enacted to provide for the sustenance and wellbeing of families and elderly people. The Act intends to provide older persons with support in order to avoid them from becoming destitute. It also aims to safeguard older folks' lives and possessions. Every district would be home to an Old Age Home, according to the plan. The term "maintenance" refers to the fundamental essentials of existence. This Act is applicable to all Indian nationals who have reached the age of 60. A few of the Law's most essential sections are described below [6].

- A childless older person may seek support from any relative who owns or would inherit his property.
- The state government is required to establish a tribunal to handle issues involving maintenance.
- The state government will set the maximum maintenance allowance, which should not exceed \$10,000 per month.
- If a person fails to pay maintenance in accordance with the tribunal's order, he or she may be imprisoned.
- The tribunal's order may be appealed to the appellate tribunal within 60 days after its issuance.
- A summary hearing may be held by the tribunal.
- To reduce the expense of the procedures, the litigants are unable to hire a legal practitioner.
- The Act mandates that each district create at least one old-age home with a capacity of 150 senior persons.
- A senior individual may also seek to the tribunal to have the transfer of his property by will or gift revoked.
- The Act outlines the consequences of a person who is obligated to care for parents or older persons abandoning them.

2.4 Un Provisions for Protection of Rights of Senior Citizens

Independence

1. Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.
2. Older persons should have the opportunity to work or to have access to other income-generating opportunities.
3. Older persons should be able to participate in determining when and at what pace withdrawal from the labour force takes place.
4. Older persons should have access to appropriate educational and training programmes.
5. Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities.
6. Older persons should be able to reside at home for as long as possible.

Participation

7. Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations.
8. Older persons should be able to seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities.
9. Older persons should be able to form movements or associations of older persons.

Care

10. Older persons should benefit from family and community care and protection in accordance with each society's system of cultural values.
11. Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.
12. Older persons should have access to social and legal services to enhance their autonomy, protection and care.
13. Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.
14. Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

Self-fulfilment

15. Older persons should be able to pursue opportunities for the full development of their potential.
16. Older persons should have access to the educational, cultural, spiritual and recreational resources of society.

Dignity

17. Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.

18. Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution [7].

2.5 Violation of Rights of Senior Citizens

Despite many provisions, rights of senior citizens are abused.

- Generally, elderly women are seen to have no time for leisure or recreation and have lesser possibilities than man to lead retired life.
- Elderly suffers lack of emotional care, support and elder abuse more in urban areas than rural areas
- Along with the social, medical and psychological issues there exist many economic issues.

Economic Problems:

- Economic dependency high among females. In case of disadvantaged section, the dependency level is even higher.
- Economic necessity forces the elderly people to work and earn the money. (This shows the lack of social security to support the old aged people). Even the government policies and norms are not efficient enough to assure the security.
- NSSO 2007-2008 report reveals the incidence of loan taken to meet the medical expenditure of the elderly.

Health Issues

- The elderly people mainly suffers from the chronic diseases like cardio vascular illness, cancer, arthritis, hyper tension, diabetics, kidney problems Loss of vision, memory loss etc.
- Elderly with good health are viewed with respect. Elderly with poor health are considered to be a liability and burden. Sometimes they are abused.
- Emergence of nuclear family leads to marginalisation of the elderly. Social isolation, loneliness and desertion from society will lead to adverse effects on mental health.
- Psychological disorders – dementia, depression, delirium are the diseases common among elderly. Senile Dementia, Psychosis with Cerebral Arteriosclerosis

Family challenges

- The generation gap among the older and younger generation a matter of concern. Conflict of views often led to the division of family.
- Less inter-generational interactions.
- Cases of property grabbing resulting in abandoning the elderly [8].

Legal challenges

- The incongruence of the prevalent laws and its implementation.
- Less awareness in rural areas.
- Difficulty in translating their awareness into actual assistance Schemes to provide concessions in medical expenses are not adequate
- Health service not equally affordable to every senior citizen

- Elderly are lawfully guaranteed medical concessions but where these lacks is when the issue involved is requires consultation with expert for specific problems such as neurosurgery or oncologist
- Lack of effective programs to ensure availability of medicines
- Most of the District hospitals lack specialized facilities for elder people. Separate O P, Geriatric Ward are not available in every hospital
- Majority of the elderly population faces mental stress
- Employment opportunities are scarce due to decreased productivity
- Social pension and other similar benefits are not frequently available to the elders
- Properties of senior citizen are often sold or transferred which leaves them with no option for living
- Lack of legal awareness among the elderly
- Inmates of the old age homes faces difficulty in availing health care services
- Staff of the old age homes- issues related to the inadequacy in number and skill
- Social life, productivity and interaction is low during old age
- Clogging of property cases in Maintenance Tribunals

There is delay in disposing cases as good number of them relate to property. Property cases require site inspection, village officers' report or that of the tahsildar, and hence more time is needed to settle out these disputes. During an interview with Divya S. Iyer, Sub-Collector, Trivandrum, she said 'around 40% of the cases received by the tribunal revolve around property disputes. Some 10% of cases are intended to hurt others. And only 50% of them are genuine ones.

2.6 Additional Schemes for older persons

Underneath the Nationwide Old-age Pension Plan Central Govt is to give a pension of Rs two hundred to senior people who belong to the Below Poverty Line family. Further Rs 200 is supplied by the State Legislature. The railway ministry grants a discount of 30 percent and 50 percent in train ticket to men and women senior citizen accordingly over the age of sixty. The Air Transport Ministry grants a discount up to 50 percent for men senior citizen over 65 yrs old and woman elderly persons above 63 yrs old via the Nation Carriers and Indian Airlines. A general populace gate has been established by department of pension schemes and senior citizen complaints that seeks at giving all the information update on the status, process, papers needed, as to the assessment for pension. Complaints may also be submitted using the site [9],[10].

3. CONCLUSION

To sum up, the aged issue must be tackled immediately and with extreme caution. It is essential to alter the Constitution to include a unique provision for the protection of elderly people on the perimeter of basic rights. With the breakdown of the joint family structure, the dislocation of familiar relationships, and the lack of respect for the elderly, the contemporary household should not be considered a safe haven for them. As a result, it should be the Government's constitutional obligation to enact legislation for the wellbeing and further protection of older citizens, including nursing care.

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CHAPTER 8

RAPE WITHIN FAMILIES

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ABSTRACT: “A Family can develop only with a loving woman at its centre”. In today’s modern world, we as a society has failed to nest a safe and healthy environment for women and children to live. One of the most-cruel acts is the act of raping someone as it not only disturbs a person physically but also mentally. It destroys a person mentally and changes their perspective towards life. Even then, it is the most prevalent act of cruelty in the world. The most disappointing factor is that it is almost impossible to provide correct statistics as this crime is most under-reported as well. However, it must be brought to the notice that 90% of the rape cases go unreported as people do not come out and report the crime out of shame. To fight this crime, which has become a pandemic of monstrosity, movements, marches, and protests are conducted from time to time. “A safe society is when it’s rape free”.

KEYWORDS: *Constitution of India, Marital Rape, Rape, Woman.*

1. INTRODUCTION

Unfortunately, India stands fourth when it comes to rape being the fourth most common crime against women in India. It has been derived from the Annual report of the National Crime Records Bureau (NCRB) of 2019, that approximately 32,000 rape cases were reported all over the country. When calculated on an average basis, approximately 88 cases of rapes are reported on a daily which is slightly lower than 91 cases as per the report of 2018.

The most horrifying fact out of everything is that out of these 32,000 reported cases, 30,165 rapes were committed by perpetrators known to the victim which means in 94.2% cases the victim was familiar to the accused. In around 44% of the total rape cases registered in Delhi, the accused were from either a family member or a family friend. 13% of the accused were relatives and 12% were neighbors as per the reports of Delhi Police. The data was generated when the team of Police was required to present the statistics on the evil crime and the relationship between the victims and the accused at the Ministry of Home Affairs to look deeper into the matter making a presentation on the heinous crime and the relationship between rape victims and accused. As per the collected data, the 26% accused were somehow the acquaintance of the victim, 3% of them were either employer or colleagues and just 2% unknown or stranger to the victim.

2. DISCUSSION

2.1 Marital Rape

Disappointing factor is that even after the Criminal Amendment of 2013, the concept of marital rape has not been criminalized. Marital rape stands for the sexual intercourse that takes place after a wedding, however without the consent of the partner. Why do we have it in India that women are expected to provide sex as relief from the issues that men face on the inside, as well as the outside of their relationships, be it at workplace, families or friends?

Marital rape is the act of establishing a sexual intercourse with one's spouse without the gaining the consent of the spouse. The essential element to determine the marital rape is the lack of consent on the end of the spouse and it does not necessarily involve physical violence [1]. However, engaging in a sexual intercourse without the spouse's consent is now widely

classified as rape by many sections of the world, repudiated by international conventions, and increasingly criminalized.

2.2 Provisions for Marital Rape in Indian Laws

To an utter disappointment, the marital rape has not been criminalized in India and no provisions exist for the prosecution of it either. However, certain commissions have been demanding to criminalize marital rape, though unnatural sex can be adjusted under the ambit of domestic violence. Cases have been reported where the accused have been directed to marry the victim implying that a marriage is enough to provide the consent for rape.

Cases where Marriage gave the right to rape

The incident took place on 10 June 2021 in the Ipraich area in the Gorakhpur district of Uttar Pradesh, where the Panchayat ordered the accused to marry the minor victim of rape, whereas the accused himself was 50 years old and even already had a family. The family of the victim agreed for the wedding, but the family of the accused refused to it stating that if the victim gets married to the accused, she and her children will be entitled to have a share in his property.

In another incident that took place in a Manona village of Agra, where the Panchayat compelled the rape victim to marry her alleged rapist or else, her family will suffer a social boycott. The victim's brother told the media that upon refusal, they were threatened by the village panchayat and he further stated that if the girl does not agree to marry the accused, it will only bring shame to her family [2].

In another case that occurred in Shahkhurd village in Shahjahanpur district of Uttar Pradesh, the village panchayat declared the marriage to the accused of a rape as an apt justice to the victim. How does marrying one's own culprit deliver the justice? Why does it we have in India that marriage means a consent to have sexual intercourse? As per the current provisions of law in our country, a spouse is presumed to deliver perpetual consent to have sex with her husband she has entered into a marital bliss with him. India is one of the 36 countries that do not have the provisions for marital rape. Currently, the apex court and the high court of almost every state is flooded with the writs challenging the prevailing laws and supports the criminalization of Marital law. Recently, through a landmark judgement, Independent Thought v. Union of India, (2013) 382 SCC (2017), the Supreme Court of India has criminalized the unconsensual sexual intercourse between a husband and a wife who is a minor.

This judgement has unleashed a number of writs in both Supreme Court and High Court with the hope of criminalizing exception 2 of the Section 375 of the Indian Penal Code.

2.3 Lifetime Scars as a result of Marital Rape

All classic post-traumatic stress signs can be observed in women who have been subjected to marital rape. These include:

- a. Clinical depression
- b. Fear & Anxiety
- c. Low confidence
- d. Low self esteem
- e. Deep self-hatred

These sort implications can be observed in women suffering from rape by her own husband. Exemption to Marital Rape in India

Section 375 IPC provides if a husband has sexual intercourse with his wife who is below fifteen years of age, would be rape. If the wife is separated from her spouse under a decree of judicial separation and her husband has sexual intercourse with her without her consent, it would amount to rape. Only two types of marital rapes are recognized in India [2].

Firstly, in case the wife is under 18 years of age and Secondly, if the wife is dwelling one after the other from the husband underneath the judicial decree or any custom or utilization. According to the government of India, marital rape is not applicable in India, as marriage is considered 'sacred.' The State Home Affairs Minister, Haribhai Parathibhai Chaudhary, stated the marital rape could not be a part of offence and added that there is no initial report to make it a criminalized act, "Although, Marital rape being regarded as an offence internationally, but is not applicable in the Indian context due to numerous factors, including level of education, illiteracy, poverty, myriad social customs and values, religious beliefs, mind-set of the society to treat the marriage as a sacrament, etc."

The Supreme Court, regarding the flow, denied to entertain a plea of women to hold marital rape as a crime, observing on the plea that it was of a personal in nature and not of public impact.

Psyche of the Husbands sexually abusing the Institution of Marriage

a. *Men who have Inferiority Complex*

According to psychology, husbands who force their lust over their wives might be suffering from certain inferiority complexes where they assume their wife to be in a dominant position.

For instance:

- 1) The husband may find himself less attractive than her wife.
- 2) She is more educated than her husband.
- 3) She might be the bread earner of the family.
- 4) Wife belongs to a rich family background.
- 5) She may be a renowned personality in society, etc.

Such psychology may result in overpowering the wife in bed by the husband either she consents the intercourse or not, and such brutality may even burn between the marital relations for the rest of life [3].

b. *Family Ambience*

It is well said that where a man has grown up, adopts such ambience. In an environment where he has seen his father enact the same behavior of dominating and harassing his mother, the chances of him emulating his father will be greater. Such sort of up-bringing encourages the male dominance in the minds of husband and hence treats themselves to another God for their wife.

c. *Husbands with Low Self-Esteem and Self-Hatred*

Men who incorporate out marital rapes commonly have a completely low vanity. A person who is self-confident may not try to force himself on his wife.

d. *Wife being the sole Bread-Earner for the Family*

A survey held in 2002 observed and confirmed that the shortcomings of marital rape are extra amongst not employed men. Being not employed can also dent his manhood that can

precipitate into violence in the bedroom. And this reason may turn out the beast inside them and in result ends up destroying the ethical value of holding a marriage.

e. Hyper masculinity

Societies that celebrate toxic masculinity or even men who are short tempered have opportunities of making normal marital rapes.

f. Wife is the Employer

In another case, where wife is the employer and husband an employee under her in the same office may also hurt the esteem of the husband. The other co-employers taking advantage of the situations tease husband more and more, which ultimately instincts the manhood of husband to at least sexually overpower his wife [4].

2.4 Lack of provisions for Marital Rape

Article 14 of the Constitution of India promotes equality among all. It ensures that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. So, when the Constitution, which is the supreme land of the law promotes equality for all, then why does the Indian criminal law discriminate against female victims who have been raped by their own spouses?

When the Indian Penal Code was in the 1860s by Lord Macauley, at the moment a married woman was merely seen as a chattel of her husband, and she was not given the status of an independent legal entity. As a result of which, when the Act was implement to regulate the crimes in India, a married woman did not possess any many rights as a man did or unlike today, when she has been allotted the status of a legal entity, she has her own rights, her own views. However, back then, she did not even have the right to file a complaint against a person under her own identity.

Exception 2, which essentially exempts husbands' activities against their wives from being regarded acts of "rape," is heavily influenced by and derived from the already existent doctrine of blending the woman's identity with that of her husband.

The roots of depriving a woman from giving her the status of a legal identity can be traced back to the patriarchal society during the British colonial rule in the Victorian era. Our Country was under the British rule during the 18th century, that is while the formation of the Act. All the Indian laws that were implemented were formulated under the influence of laws and Victorian norms [5].

Hence, the exception to Marital rape as per the IPC's definition of rape under Section 375 was drafted concerning the Victorian patriarchal norms that failed to treat the men and women as equal. The women were not allowed to own a property and was only known after her husband as their identities were merged as husband and wife under the "Doctrine of Coverture."

Over the passage of time, things have drastically changed. Indian legal system classifies husband and wife as two different legal entities and they are given their equal set of rights. The jurisprudence set in the modern era is explicitly concerned with the protection of women. The concern is precisely evident considering the formation and enactment of plethora of statutes and legislations that intent to protect women from violence and harassment to which they have been subjected to over centuries. Various acts namely "The Protection of Women from Domestic Violence Act", Dowry Prohibition Act and "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act have been implemented to protect us against the evil of the society.

2.5 Constitution of India viz-a-viz Martial Exemption to Rape

The Constitution of a country is the text that reflects the soul of the nation. The Indian Constitution organizes and controls strength, guarantees human rights, balances the competing claims of social and men or women pastimes, mirrors the cultures and research of the country and operates as a vehicle for national development and concord. As in line with the Indian charter, each law that is surpassed within the country ought to be in conformation with the requirements and thoughts enshrined in the Constitution of India. Any regulation that fails to satisfy this well-known is considered ultra vires and is liable to be struck down through manner of the use of the Courts and declared against the constitution.

In *Bodhisattwa Gautam v. Subhra Chakraborty*, The SUPREME COURT said that; “rape is an offence adverse basic human rights and a violation of the sufferer, mostly lovable of fundamental rights, particularly, the Article 21 of the Indian constitution enshrines protection of life but the judgment passed by the courts which deny to recognize the marital rape as an offence [6].

A discrimination is found in the existing laws regarding the rights of a married women as that of unmarried women by drawing a line of distinction between ‘rape’ and ‘marital rape’. Rape is basically done by a stranger and hence holds criminal liability in the eyes of law and a violation of fundamental rights. But basically, it is the difference between living with the frightening memory of having been raped, which is breath-taking enough, and actually living with the rapist. The consequence of which is intense.

Marital rape is against the basic principle of fundamental right which is enshrined respectively under Article 14 and 21 of the Constitution. As per the respective Articles of the Constitution marital rape infringes the basic right of a women unless it is not added under the category of crime. Furthermore, crime of marital rape is forced in the four walls of a room and is labelled as a private matter, but it makes State duty bound to hammer these walls for the safety of women. If the State still remains silent, in that case a woman is sufferer and victim of this crime and most important thing that she is denied her basic fundamental right without any proper remedy when she is coitus by her husband without concord.

The exception clause to Section 375 which violates the basic rights enshrined in our Constitution, discriminates with a woman almost about safety from rape. This section makes the act as crime and ensures the protection of female adverse the forceful coitus without concord. Thereby the section offers protection to wife in opposition to criminal assaults on the physical autonomy and depicts the State’s interest in prosecuting folks that violate this bodily autonomy.

Therefore, it is right to say that Section 375 of the IPC seeks to shield the women’s right of desire as self-reliant person additionally able to self-expression and additionally regards rape as a crime of violence which disregards all such rights granted to the person. However, satirically, Section 375 of the IPC makes a class in phrases of an exemption that does not regard a forceful sexual sex inside a marriage as rape [7].

Section 375 IPC does not recognize a women’s right of preference and simply successfully takes away her right of physical autonomy and equal status. Thus, the sort is not sensible, and it is against the right given by the Article 14. Removing the protection of Section 375 of the IPC from the sufferers of the crime of rape entirely on the basis of their marital reputation is inappropriate for the functions of law and hence against the take a look at of class beneath Article 14.

Right to life and liberty

Article 21 of the Indian Constitution enshrines in it the right to life and personal liberty. The marital exemption to rape violates the:

- Privilege to privacy
- Privilege to bodily self-determination
- Privilege to good health

Right to Live with Human Dignity

The right to live human dignity it is an inherent right and it is recognized by the society with its existence and various judgements passed by the Hon'ble SUPREME COURT in rape cases that human dignity is violated¹²⁷ and it is not an offence under the IPC but it is an offence against the entire society. Any laws which give the permission to the husband to coitus with his wife without her consent is violation of the basic fundamental right provided under Article 21 of the Constitution.

Right to Sexual Privacy

The privacy right of an individual is not expressly mentioned in the Constitution but the expanding the word liberty of Article 21 of the Indian Constitution by the SC which includes privacy and it is noted that any forceful intercourse by the husband upon his wife without her consent is violation of right to privacy [8].

Right to Bodily Self-Determination

The Constitution doesn't expressly of physical self-determination but after development under Article 21 now include the term self-determination and under the framework of right to life and liberty and it is right for both husband and wife that is why the consent for coitus is very essential part of individual and desires so the deprivation of bodily self-determination under the marital rape it is against the free will or consent as well as the against the Constitution. The marital exemption doctrine violates the proper to right fitness of a sufferer as it unavoidably causes serious mental illness.

2.6 Does Marriage is Equal to Consent: The Issue of Marital Privileges?

The issue of marital rape and talking about it has always been a taboo by law and society. Though after being degraded, it has sprung into acknowledgement of societies and communities. Many countries have started criminalizing the offence of marital rape and now has not been left as privilege in marital relations anymore. However, India still remains the one of the countries not recognizing marital rape.

Marital Rape or Spousal Rape is a form of sexual abuse and domestic violence, and is non-consensual sex perpetrated by the victim's spouse. A prominent case in American jurisprudence is that of *Oregon v. Rideout*. This was the first very case in the history of US where husband was tried for wife rape while residing under one roof. But the accused was acquitted as no evidence beyond doubt of non-consensual sex was proved. Later, a pamphlet on Clearinghouse on Marital and Date Rape was issued in the light of above case in 1983 and subsequently the world's first conference on Marital Rape was conducted. Around 50 states since then changed their legislature to some degree [9].

Under Indian Legislative system only civil remedies are being provided by the Judiciary under Protection of Women from Domestic Violence Act, 2005. Marital Rape isn't considered as a crime and no criminal liability is imposed on the perpetrator. The exception to this is non-consensual sex during a period of judicial separation.

The most conspicuous conflict arises in this exception to Section 375 of the IPC, 1860.141 The Section lays down the conditions under which it's testified that a person has committed rape, mentioned below:

- a. Adverse her will
- b. Without her consent
- c. Consent under threat or coercion
- d. Consent under intoxication
- e. Unable to communicate her will

But these same conditions do not testify if it's committed by a man with his wife not being under 18years (second exception). A presumption that marriage is equal to consent is drawn.

2.7 Role of Judiciary Regarding Marital Rape

A wife sexually abused within the relationship of marriage is a phenomenon which undermines dignity of a wife as human in the society. The neglected influence on condition of women under marriage is debatable on political and legal landscape regarding their protection. Law as a tool has to ensure social restructuring and to build a civilized society must address the issue of marital rape in all earnest and sincerity. Neglect of such abuse will have against effect on the progress of society as a whole. Legal instruments are required to address the issues and challenges of marital rape in the sacred institution of marriage by considering women as entitled to protection in their own right and not merely subject to guardian-ship of husband.

2.8 Legal Initiatives

The laws did now not from a concept or idea of an offence adverse the individual will, one that damages the freedom of women; as an alternative, it considers rape as a tool for defensive a person's asset from the sexual aggressive of different male. Thus, the act of rape inner marriage modified into no longer identified as an offence as women modified into taken into consideration the belongings of the husband, and a men couldn't be appeared as though it's violation his very own assets.

Marital rape is mainly complex reason behind it the complicated, non-public nature of marital relationships makes it difficult for the sufferer to even see herself as a sufferer, not to mention reporting the offending act to the authorities, which is why Marital Rape is one of the quite below-mentioned violent crimes. Even the females who do consider themselves victims are disinclined to technique the authorities due to the fact they may be financially structured upon their husbands.

Condemnation of Indian Legislature on Marital Rape

“A single act of physical violence may also amount to cruelty.”

Constitutional & Criminal Law

The Scope of Article 21 of the Constitution of India expands the right to live with human dignity, in spite of the dignity protected by the law of the land, the marital rape which violates the dignity of women does not come under the purview of Article21. So, the Exception 2 of the Section 375 still exists and seeming to be violative of Article 21 of the Constitution.

Article 14 of the Constitution enshrines the Fundamental Right to every person that no one shall be denied of his right to equality before the law and the protection of law within the

territory of India by the State. But the exception clause of Section 375(2)(a) of the IPC, 1860 discriminates the wife from protection from marital rape. As it seems to be in contravention of Article 14 of the Constitution, which is the basic Fundamental right of human being and it is also protected by the international conventions (ICCPR, 1976).

2.9 Non- Criminalization of Marital Rape

Marital rape isn't criminalized in India barring two exceptional cases. The exceptions to the concession granted are - one being the wife under the age of fifteen years and other is a wife separately one after the other from her husband beneath decree of court. It exists in India de facto but not de jure. The Law Commission in its 172nd report though expanded the Scope of the offence of rape by taking within its stride various sexual acts but, while giving matrimonial concession, its Scope was limited to sexual intercourse only. The word "sexual act" was purposefully omitted.

Since the import the two terms "sexual intercourse" and "sexual acts" is different, therefore, the Law Commission wished to give concession to the husband for his acts of sexual intercourse alone. This was the upright position of law but the Amendment Act of 2013 without paying attention to the long-term consequences of the amendment, widened the Scope of matrimonial concession to sexual acts as well in addition to the acts of sexual intercourse. This exemption granted to the husbands, therefore, places them in the position of high handedness over their wives and is clear denial of the right guaranteed under Article 14 and 21 of the Constitution to the women.

It worthwhile to mention over here that matrimonial concession is justified to an extent but giving such unbridled license to the husband is absolutely unjustified. Exception 2, to the extent it condones Sexual acts as well is barbarous, vulgar and physically undesirable [10].

3. CONCLUSION

Marital rape is a stab on women's dignity and violation of her right to privacy, thus defeating the whole purpose of the fundamentals right guaranteed under Article 21 and 14 of the Constitution. The exception legally differentiates and withdraws the protection from a married women completely on the basis of her marital status which derogatory to the honor of the female. Thus, the sort therefore, made is senseless, unintelligible and violates Article 14 of the Indian Constitution.

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CHAPTER 9

STUDY ON THE DOWRY DEATH

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ABSTRACT: “An impotent beggar believes in begging for money and a potent beggar believes in begging for dowry”. A Belief that imparting education to your daughter is sufficient for her to battle the set boundaries by a male dominant society is nothing but a misconception. One as a parent must encourage their daughter not only to be educated but also sturdy enough to overcome the evils of patriarchal society to which thousands of women succumb to. We must encourage our daughters to realize that to us a society her life and honor is way more precious than the tags imposed on them by the people who possess sick mentality, the people who believe that it's the woman who should keep adjusting to maintain a smooth flow in the house. Emotional and morale support from the family can turn tables for an abused daughter in law.

KEYWORDS: *Dowry Death, Marriage, Dowry Prohibition Act, 1961, Stridhan.*

1. INTRODUCTION

Marriage is a union of two souls into one, on the one hand, where it is one of the most beautiful experiences of a woman's life, on the second hand, it turns out to be fatal for a few. Marriages are steeped deep in morals, customs and traditions that have been prevailing in the country since a long time. These deep-rooted culture and traditions are passed on to generations to keep it alive. However, there is one custom that stubbornly resists alternate and that is dowry in India. The dowry culture has been rooted deep since the ancient times and it is believed that dowry is an amount that is utilized to keep a girl financially stable after her marriage. During the British Era, the exercise of dowry was made mandatory.

Concerning the social context of Indian culture, the exchange of valuable securities termed as Dowry is a powerful vice that has carved out a niche for itself in various societies. With the widespread adoption of the dowry system, which was formerly used as a matrimonial ritual, it has now devolved into a heinous social practice.

A once-harmonious gift exchange between the bride's and groom's families has now mercilessly taken a form of monetary extortion from the relatives and the family of the bride, making her look like a financial burden which is highly objectifying. This evil phenomenon has stuck in the society and tarnishing the pious foundation on which the bride and bridegroom's family has been established. The most common endeavor of the mankind is an inherent instinct for companionship. It was considered as an auspicious custom that also served as a support to establish and arrange newly required household amenities [1].

2. DISCUSSION

2.1 History of Dowry in India

In many communities, gifts and valuables were given to the bride by her parents and relatives at the time of wedding while she had to leave her parental home and become part of her husband's family. It was considered as an auspicious custom that also served as a support to establish and arrange newly required household amenities. In those times, women were

neither employed nor had any personal source of income. Hence the economic value of brides was considered to be lower in comparison to her bridegroom.

Therefore, the custom of dowry also originated as a compensation for this lower economic value of bride to her bridegroom and in-laws who were supposed to bear all her financial expenses after marriage. Dowry was also looked upon as a compensation paid by the father of the bride to his son-in-law for the maintenance of his daughter as well as to the parents of groom for the expense they had borne while in educating and upbringing their son. Moreover, the daughters were not given any share in the parental property therefore dowry was impliedly a kind of share in their father's wealth given to them at the time of their marriage [2].

Over the most recent couple of decades, women in India have confronted the offences related to domestic violence, wife battering, cruelty, dowry and dowry death in a more intense form than the past. From time-to-time piecemeal changes have been brought about in the legislative framework in order to deal with issues and offences related to dowry. Numerous laws have been enacted and implemented to curb these dowry related crimes against women as well as to raise the status of women.

In spite of such legislative efforts, the women are still being oppressed in the society because of the continuance of the evil of dowry which is somehow directly or indirectly responsible for most of other kinds of violence against women. The dowry prohibition laws aim to keep a check over the custom of giving and demanding dowry in connection to the marriage since this custom has acquired an ugly form of a tool of oppression and harassment of the bride and her parents.

In many cases, the failure of bride's parents to meet dowry demands result in occurrence of some severe crimes against the brides like cruelty, dowry death, abetment to suicide etc. The non-fulfilment of dowry demands result in coercion, harassment, infliction of mental and physical torture to women and in extreme cases they may be strangled, poisoned or burnt alive.

2.2 Prevailing Issue of Dowry System In India Since Decades

Dowry in India refers to the assets and the gifts that the family of the bride or her own circle of relatives offers to the family of the bridegroom, including especially him, his parents, grandparents and siblings out of love and care for their daughter and the family she is supposed to be a part of after the wedding rituals.

Dowry stemmed from India's skewed inheritance legal guidelines and Hindu succession Act that had to be amended to prevent the ordinary disinheritance of daughters. Dowry is largely viewed as a fee in exchange of relieving a girl's parents from the burden of having a daughter. Dowry is given to the bridegroom's family in conjunction with the pleasure and consists of coins, ornaments, electrical, furniture, bedding, crockery and different family gadgets that the newlyweds could use to setup their home [3].

2.3 Acts and Legislations Introduced by the Government to Curb Dowry System in India

Dowry system in India is perceived to be an economic burden on a girl's family. It has been largely witnessed in middle class and poor section of the society, the father of a girl generally begins to collect her dowry since her birth, so that the girl does not get humiliated in front of her in laws. In a few cases, the dowry system leads to crime against women ranging emotional abuse to unnatural deaths. Demand of dowry has been prohibited under the Dowry Prohibition Act, 1961 and ultimately via way of means of Section 304-B and 498-A of the IPC.

With the passage of time, efforts have been made by the Government to curb this menace of the society. These efforts have come out as acts and legislations such as the Dowry Prohibition Act, 1961, Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure

2.3.1. Dowry Prohibition Act, 1961

Section 2 of the Dowry Prohibition Act provides that if there is any exchange of property or a valuable security from one side to another is found or the givers and takers have agreed for a future agreement directly or indirectly in connection of marriage amounts to dowry.

There are generally three types of the traditional presents that can be given to a bride in a Hindu marriage:

- (i) Property or valuable articles that are given with an intention that those would be exclusively and personally used by the bride like her personal ornaments, clothes etc.
- (ii) Articles or property of dowry which may be for common utilization or use by her and the other members living in her matrimonial home.
- (iii) Articles or property exclusively given as gifts to her husband or the in-laws and other members of her husband's family. There is no control of the bride on such items and valuable property, once it is gifted.

Consequently, the third type of gifts, property or valuable articles given exclusively to the husband or his relatives after delivery would pass into their ownership and obviously seize to be the property of the bride. The first category of gifts are generally considered as 'Stridhan', however the second and third category may fall under the ambit of dowry if the other essentials of Section 2 are fulfilled.

Difference between Dowry and 'Stridhan'

The word 'Stridhan' literally means property of a woman. This concept has originated from Hindu Smritis', the traces of its origin are also found in Dayabhaga and Mitakshara school of Hindu law. Centuries ago, gifts given to the bride at the nuptial fire, at the bridal procession, gifts given as a token of love by in-laws as well as gifts given by her own parents and relatives were considered to be her Stridhan'.

For determining the issue that whether a particular kind of property acquired by a woman is covered under the ambit of Stridhan or not the source of acquiring that property has to be scrutinized. However, the gifts made to the bridegroom or his relatives by the parents or relatives of bride during and after marriage are not considered as stridhan.

Stridhan is quite often misunderstood or misinterpreted as dowry even though the judiciary has time to time made a clear-cut distinction between the two. Dowry signifies the presents given to the married couple or the bridegroom as well his relatives in connection to the marriage by the bride's side however Stridhan is the property or valuables exclusively given to the bride or meant for the bride only [4].

Dowry is a property or valuable security given or agreed by the bride's side to the bridegroom or his family members before, during or after marriage, by pressurizing or demanding while Stridhan is a voluntary gift by the parents or family of the bride which is exclusively given to the bride as a venturing stone to building up her own assets and strengthening her household. When a newly-wed bride gives her ornaments and other valuable gifts to her husband's family to keep care of it, and the family intentionally misappropriates her assets. Then the groom and his family would be liable under the criminal breach of trust.

Therefore, Stridhan and dowry are not synonyms as stridhan is permitted but dowry is clearly prohibited under the law.

- Section 3 of the Dowry Prohibition Act, 1961 establishes the punishment to be imposed on any party engaged in either giving or taking dowry. The act provided that if any person is found to be indulged in either accepting or offering dowry shall be subjected to an imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry.
- Provided, that the gifts given at the time of the wedding to the groom's family must be entered in a list that is in accordance with the rules under this act.
- Section 4 of the act specifies the provisions under which a person demanding for dowry is subjected to be put behind the bars for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees
- The particular section also puts a ban on the advertisement of offering dowry in exchange of getting their son or daughter married.
- Section 4 A puts a ban on any kind of advertisement on giving or taking of dowry. It penalizes any offering any share in the property or any cash or both or any other interest as consideration in connection to the marriage by any person in the marriage of his son/ daughter or any other relative; by publishing or giving or circulating any advertisement in a newspaper, periodical, journal, or through any means of media. The minimum imprisonment for this offence is six months.
- Section 7 of the Act laid down the provisions that who all may initiate the proceedings against the taker or giver of dowry. The initiative can be taken by:
 - a) Police
 - b) The aggrieved person himself or herself
 - c) Parents and relatives of the or
 - d) any recognised welfare institution or organisation
- Section 8 of the Dowry Prohibition Act, 1961 attempts to make the act stringent by adding offences under the purview of non-bailable and cognizable. In addition to that, Section 8-A provides the burden of proof lies on person who denies the offence.
- As per Section 6 of the Dowry Prohibition Act, 1961, if the articles and ornaments of the brides are taken into possession by the family of the husband then it must be given back to the bride or her heir within period of three months, failing which, the husband and his family could be subjected to imprisonment from six months to two years and fine from five to ten thousand rupees [5].

The aggrieved person shall not be dragged for the prosecution on the basis of the statement made by him or her. Section 7(3) of D.P.A. bars cognizance of complaint against the person aggrieved. It is not necessary that only the victim girl/bride be considered as aggrieved person. Even father of the victim girl, who was compelled to give dowry can be considered as an aggrieved person.

The Act has not defined the meaning of the expression to take cognizance nor is defined in Cr PC. However, the term cognizance indicates the point when the judicial notice of an offence is taken by the Magistrate. The legality of cognizance can be determined at the point of time when the cognizance of an offence is actually taken by the court. Any of these five situations must be fulfilled as a pre-requisite to take cognizance under this provision:

- If a complaint has been made by a person aggrieved by this offence,
- If a complaint has been made by the parent of aggrieved person,
- If a complaint has been made by the relative of aggrieved person,
- If a complaint has been made by any welfare institution or organization,
- The court can take cognizance at its own knowledge.

Section 8 states that every offence prescribed under the Act shall be cognizable for certain purposes, and will be non-bailable as well as non-compoundable in nature. It is to be noted that the offences prescribed under the Act are cognizable for the purposes specified under Section 8(1)(a)(b) and this concept—cognizable is substituted by the Amendment Act of 1984.

The offences under the Act are non-bailable and if the criteria of granting bail are fulfilled and the court is satisfied upon the same, only then the bail can be granted. By making these non-bailable, the Legislature has tried to give biting teeth to the provision to curb the evil of dowry [6].

2.3.2. Indian Penal Code, 1860 and Its Provisions against Dowry

The Indian Penal Code deals with all kinds of crimes against an individual or a society as a whole. Dowry death is an evil that has engulfed the society for quite a long time, hence to tackle this monster which has claimed thousands of lives in India, a criminal amendment was introduced in the Year 1983 and 1986 and new sections were inserted in the penal code.

Dowry Death-Section 304-B Indian Penal Code- It talks about death of any woman that is caused by burns or bodily injury under unnatural circumstances within seven years of her marriage. Moreover, it also comes out that the woman was subjected to cruelty and harassment at the hands of her husband and his family in lust of dowry, then all the accused will be punished under Section 304 B of IPC with a term of seven years to life imprisonment.

The logic behind the determination of 7 years of the imprisonment is correlated to the seven rounds taken by bride and bridegroom of the sacred nuptial fire for completion of marriage.

In *State of Punjab v. Iqbal Singh*, the Apex Court asserted that till 7th year of marriage, a couple tends to face turbulence, if it lasts more than 7 years, less misfortune is expected to happen.

Indian Penal Code does not define what does the term Dowry mean, however, in the light of Section 304 B, it is explained that dowry shall have the same meaning as defined in section 2(1) of the Dowry Prohibition Act, 1961.

When does a death of a woman amount to Dowry Death?

- a. When the reason of the death of a woman is burns or bodily injury or otherwise than under normal circumstances.
- b. Death of the victim has occurred within the seven years of her marriage.
- c. The deceased must have been subjected to cruelty or harassment at the hands of her husband or his relatives.
- d. Cruelty or harassment should be in connection with demand of dowry and soon before death.

The offence of Dowry Death and Cruelty is cognizable, non-bailable and triable by a court of Sessions [7]. In case of *Mustafa Shahadal Shaikh v. State of Maharashtra*, the court stated that the phrase “Soon Before Death” used under section 304-B, Indian Penal Code and 113A Evidence Act, means no definite period and depends entirely on the discretion of the court keeping in mind the facts and the circumstances of the case.

However, the Hon'ble court further added that the interval between the cruelty or harassment concerned and death in question should not be much else it would become difficult to determine the reason of the death. It was brought into notice that if the alleged incidents of cruelty are remote in time and do not disturb the mental or physical well-being of the woman concerned, then no consequences would be faced by the accused.

To eradicate the evil of dowry from our society, it is essential for us to take punitive and preventive measures with iron hands. The world can be turned into a peaceful place, if we as an individual and society as a whole cooperate, and become more moral bound. Laws formulated under the supervision of the experts must be strictly enforced and the executives should keep a keen eye on the occurrence of these offences against the women. The apex court of the country always attempt to act strictly in dowry related cases.

In *Rajbir v. State of Haryana*, the Supreme court issued directions to all the high courts of the country and trial courts to must add the offence of Section 302, Indian Penal Code in the cases of Section 304B which is Dowry Death. The intention behind the issued direction was to unleash the probability of capital punishment in the heinous and barbaric crimes in the lust of dowry. Once the order was issued by the Apex Court, a person convicted of dowry death is to be charged under section 302 as well as section 304-B of IPC.

The second addition that was made to tackle the cruelty against the woman in Indian families is, Section 498A, Indian Penal Code, cruelty on woman by Husband or Relatives. In *Vijeta Gajra v. State of NCT Delhi*, the court interpreted the meaning of the term "Relative" and it was decided that a foster sister is not "Relative" and does not fall within the ambit of section 498A, IPC. Hence, a foster sister cannot be punished in accordance with the Section 498A of Indian for causing cruelty against the woman [8].

2.3.3. Judicial Attitude in Dowry-Murder Cases before the Amendments in Criminal Law

As the patriarchal social traditions predominant in the society, the pervasive custom of dowry has affected women of all segments. Although the giving and taking the dowry has become illegal since 1961 but still it continued to be demanded by the parents of bridegroom or bridegroom himself and very often even the brides' parents take it as a matter of social status for their young daughter to be given a handsome dowry.

The last few decades have witnessed an alarming rise in the incidents in which married women are harassed, physically tortured, mentally abused and event driven to suicide. Even their death occurred in certain circumstances which were abnormal and highly suspicious.

In a case *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia & Anr* a newly married bride was found engulfed in the flames merely after few days of her marriage. She was found crying for the help and her screams for help were responded by three of their neighbors. It was evident from the facts that no one from the inmates of the house came to her rescue. The fire was extinguished by neighbours which was engulfing her and she was taken to the hospital immediately where she succumbed to her third-degree burns.

Before her death, she gave her dying declaration in which she had stated that while making tea in the kitchen, her saree suddenly caught fire. When the parents of the deceased were informed about her death, they lodged an FIR alleging her husband and in-laws as culprits for her death due to demand of dowry. The investigation also revealed that she was maltreated in her husband's house for their dissatisfaction on getting insufficient dowry. The trial court framed the charges under Section 302 against her husband, however, the High Court accepted the revision petition of accused and discharged his liability under Sections 302 of I.P.C.

The Supreme Court held that the trial court has rightly considered each material on record and given a reasoned judgment that why Dilip ought to be charged under Sec 302, besides the police charged him under Sect 306 of I.P.C. Whereas, the High Court merely relied on the dying declaration and took a very narrow approach by treating it as a conclusive proof to discharge the liability of the accused.

However, there is no sufficient ground to frame a charge against the in-laws who neither demanded dowry and nor put her on fire. Therefore, the criminal appeal against Dilip is allowed and the Court was directed to proceed expeditiously with the trial. The Court also acknowledged the service rendered by the social welfare organization, 'Stri Atyachar Virodhi Parishad. As this cruelty or harassment leads to the deaths associated with dowry demand but till 1986 there was no such provision like Section 304 B i.e Dowry Death. Thereafter, the issue of bride burning or dowry death has become the major issue of India's embryonic women's movement to struggle against the centuries-old tradition of dowry. The judiciary has gone through a long journey of deciding such cases along with the changing dimensions of law as well as of society [9].

2.3.4. The Meaning of 'Dowry' under Section 304B

The Indian Penal Code has not given any definition of the term dowry in the Act. However, it is mentioned in the Section 304B that the term dowry shall be having the same meaning as is given under Section 2(1) of —Dowry Prohibition Act, 1961. Dowry is defined as any kind of property or valuable security which is given or which either of the party agrees to give directly or indirectly to another. It can be given before the marriage, at the marriage or after the marriage. Mahr' and Dower' are not included in the term dowry. Very often it has been remarked by several courts that the term is not confined to an agreement or demand which has been done before the marriage or at the time of marriage, rather any subsequent demand even after the solemnization of marriage is also covered within the ambit of dowry.

2.3.5. Abetment of Suicide (Section 306)

To combat the increasing menace of the dowry deaths, Criminal Law (Second Amendment) Act, 1983 has provided a presumption. It states that where a suicide is committed by a married woman within seven years of marriage, the court may presume that her husband and in-laws had abetted her to commit suicide by virtue of Section 113A of Indian Evidence Act, 1872. 106

It has been seen often that the victim of offences related to dowry commits suicide due to persistent demands. In such a case, the prosecution has to prove-

- The deceased committed suicide.
- The accused instigated or abetted for committing suicide.
- Direct involvement of the accused in such abetment or instigation.

In a related case, *Brig Lal v. Prem Chand*, the husband used to quarrel with his wife and had been constantly demanding dowry and money from her. On one unfortunate day she retaliated on these consistent demands of dowry and said that death would have been a better option than such a miserable life. The husband answered that he would be relieved if she would have died immediately. On listening to this, the wife set her ablaze. The Apex Court convicted him for instigating his wife to commit suicide.

In another case, *State of Punjab v. Iqbal Singh*, the husband was persistent with his dowry demands. He would beat his wife, cause all sorts of harassments and would permit her a life only under the shadow of his terror. This ultimately resulted in the wife setting herself and her 3 children ablaze. The trial court held that the husband willfully produced an atmosphere

which forced the wife to do what she did and recorded a conviction and sentence under this Section of 7 years of rigorous imprisonment. The Supreme Court upheld the conviction and the sentence [10].

Where a newly wedded wife unable to bear the harassment from her husband to bring money from her parents set her ablaze and the accused husband stood nearby not trying to save her, it was held that the accused was guilty of offence under Section 306. His acquittal was set aside.

In another case, pressure for parting with 'stridhan' was made on the wife. The accused was forcing his wife to transfer the land to his name which she had received as a part of her 'stridhan' from her father. He concealed her letters. These facts drove her to commit suicide. He was convicted under Section 498-A for the offence of cruelty. On the same evidence, he was convicted under Section 306 r/w Section 221, Cr PC.

2.3.6. Code of Criminal Procedure, 1973

Section 174 and 176 of the Criminal Procedure Code, 1973 lays down the provision to deal with the investigation and enquiries concerning the causes of unnatural deaths. The responsibility of the investigation and the inquiry lies with the police and the magistrate respectively.

The Amendment introduced to the act in 1983 makes it compulsory for the police to retrieve post-mortem examination report of the victim, if the death has been caused within seven years of marriage in a matter of suicide or any dubious matter.

The section also empowers executive magistrate to look into the death of a woman who have died under similar circumstances.

2.3.7. Indian Evidence Act, 1872

The Indian Evidence Act plays a major role in punishing the culprits who commit dowry associated offences. Section 113B, an entirely new provisions were inserted in the act concerning the determination of burden of proof in the cases of dowry death. It will help the court in determining the true victim in the case, because there have been instances where false dowry cases have been registered.

Considering the nature of the offences associated with Dowry, it gets really difficult to gain evidence that is essential for the conviction of the accused. These offences are generally committed behind the four walls of the home, hence being committed in complete privacy, collecting witnesses is quite a tough task.

Section 113B of Indian Evidence Act lays down the provision that if soon before the death of a woman, she has been subjected to cruelty or harassment with regard to any demand for dowry death, the person inflicting the cruelty or harassment will be held responsible for the death of the woman.

In State of W.B v. Orilal Jaiswal, it was held by the court that despite the presumptions, the standards of the proof and the defence will stand the same.

3. CONCLUSION

To curb Dowry Deaths, Domestic Violence and Cruelty the legal age of marriage should be raised to 21 years at least, in case of girls. Girl education must be endorsed over the country to increase the literacy level. Awareness programs must be conducted to make women aware of their rights. Harsher punishment must be imposed in cases where offence is determined.

Financial stability plays a major role in curbing down the menace of dowry from the society. Families must see their daughters as an asset rather than a liability.

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CHAPTER 10

HISTORICAL PERSPECTIVE: INSTITUTION OF MARRIAGE AND STATUS OF WOMEN IN FAMILIES

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ABSTRACT: “Dhol, Gauwnaar, Shudra, Pashu aur Nari; Sakal Tadan ka Adhikari’ meaning that drums, uncivilized illiterates, lower castes, animals and women are all fit to be beaten” “To call woman the weaker sex is a libel; it is man’s injustice to woman. If by strength is meant brute strength then indeed is woman less brute than man. If by strength is meant moral power then woman is immeasurably man’s superior. Has she not greater intuition is she not more self-sacrificing, has she not greater powers of endurance has she not greater courage? Without her man could not be. If nonviolence is the law of our being the future is with woman. Who can make a more effective appeal to the heart than a woman?”.

KEYWORDS: *Marriage, Domestic Violence, Rape, Status of Women, Sexual Abuse in Marriage.*

1. INTRODUCTION

Ever since the beginning of a woman’s introduction in the world or even before, a woman could become casualty of certain offences against them. Atrocities against a woman is not something new or something we have not heard of. Unfortunately, it is not a rare phenomenon in our society. In every age, culture, society, region women are subjected to violence and have known to be victims. The most widespread form of violence against women is committed against a woman within the four walls that she refers to as her home. Killing of an unborn baby based on gender, Marital Rape, Incest Rape, Dowry death, Cruelty, Domestic violence and what not. A recent data released by the Government of India shows that ‘In every 15 minutes, a girl is raped. if we come to think of it, there are various reasons why rapes take place.

This study deals with the status of women in India concerning the historical perspective and how the status of a woman has been changed over the period of time. Views of various notable philosophers and jurists have been discussed in this study. It further classified the offences that are now criminalized in India.

Women are always seen to have a low status in society. The saddest part is that even after doing many amendments in Rape Laws, we fail to stop this heinous crime. Even after brutal cases such as Nirbhaya Case, Unnao Gang Rape, Kathua Case, and the list never ends, in which punishment has been given yet such incidents are increasing. Bride when takes marital vows dreams of a life where her husband completes her in every sense. These dreams ravishes completely when a husband inherits a sense of manhood. In order to sow the seeds of manhood, a husband turns away from his marital duties of protecting and taking care of her wife. And worsen the situations gets when this manhood turns out to be a sexual abuse or in other words marital rape for a wife [1].

2. DISCUSSION

2.1 Historical Perspective of how a Woman is seen in their own families

Crime against women is an epidemic that has been prevailing since centuries. The magnitude of crime has been evolved over centuries depending upon the culture, history, however, it causes such crimes cause a great suffering for women who have been subjected to the crimes and it creates an adverse impact on the society in which a crime has been committed. These evil practices are imbedded in concepts of gender and the societal norms that define the roles of men and women in different culture over the period of time.

Infliction of pain has often seen as source of creating a control over a woman, with the intention of proving that men have always been superior to women.

Evil practices committed against women behind the four walls of the home is one of the most prevalent human rights violations. It is rooted deep in gendered social structures rather than individual. Gender discrimination and male chauvinism cuts across ages, socio-economic, educational and geographic boundaries affecting all societies [2].

Atrocities to which a woman is subjected to due to her gender is a major obstacle to ending gender inequality and discrimination globally. The United Nations defines Crime against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering of women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”

History proves that women have seen merely as an object of pleasure and were used for the purpose of fulfilling sexual desire of a woman.

Why is that the girl child is always treated differently than a boy child?

Why is woman seen merely as an instrument of comfort and nothing more?

However, even today, the entire female race asks for nothing but equality. An opportunity where a woman can see herself as an equal to a man [3].

2.2 Views of Renowned Personalities

In Ramcharitramanas, a Hindu sage classified women as an equal of a dhol ‘a musical instrument that generates sound upon being beaten up’. Manu condemned women to bondage.

A famous Greek philosopher stated that when a man goes out to meet a woman, he must carry a whip along with him to keep her under control. The Greeks in their richest culture keep the women in their society confined to the four walls of houses and denied them all the rights.

The Spartans believed in destroying the women who were infertile and could not reproduce, even the richest and the mightiest king did not believe in giving rights to women and treated them as slave but anything.

Renowned philosophers like Aristotle and Rousseau associated qualities like humbleness, modesty and femininity to a woman and these qualities were believed to be seen as a natural trait of a woman. However, to our utter surprise, Plato did concede them an equal status in his Republic but that is a rough example. Socialist like Karl Marx believed that the rights allotted to women have been eliminated from the society over time. Even the advocates of rights, Hobbes and Locke, did not believe in women’s right.

“Equality and freedom, however evaded women as in the chequered history of mankind one finds that different and disparate cultures, however distant they may be in time and space have one thing in common and that is contempt for women. This unequal status of women

being offensive to human dignity and human rights emerged as a fundamental crisis in human development the world over.

The full development of personality of fundamental freedom and equal participation by women in political, social, economic and cultural scenario are concomitants of national development, social and family stability. All forms of discrimination on grounds of gender breed unrest.”

According to the common law, the married women were chattel of their husband and they did not have the right to hold or acquire a property, the status they hold was of a wife to her husband and that's all.

Though the scenario has been changed over time, but still the change that is required to run a smooth and crime free society is not there. We still have a long fight waiting to attain the equal rights for women. In our society, inter caste marriages were a taboo and were banned. Child marriage was a norm and a girl was entirely her husband's property after their marriage.

2.3 Modern day Reality of Women in our society

Various provisions have been enacted to punish the offender committing cruelty against a woman at home. However, in reality these legislation and enactments are not enough to curb the barbarism to which a woman is subjected to in decades. With the intention of compensating for the injustices that women are being subjected to since decades, the legislature has been empowered by the constitution to frame and implement protective laws in favor of women.

It is true that various legislations have been reformed to protect women against crime and it is also believed by many that women of modern days have an access to a privileged position but this elusion is short-lived and vanishes the moment one is confronted with reality.

The bubble bursts when it is realized that the whole bunch of these protective legislation is an extremely modest attempt to battle the deep-rooted evils of horrendous crimes to which women of our society is being subjected to that too on a daily basis. The follies that were committed in the past are still being committed in the present.

The disappointing fact is that no major change in man's brutality towards woman has been observed even after the implementation of protective laws that intends to protect the females from the evil that has been prevailing in our society. The increasing number of crimes against the women families makes it evident that our law has failed in protecting the women of our society. Our education has failed us, and so does have our legal system.

The frustrating question that arises here is that, who is responsible for the increasing number of crimes against women in Indian families? Is it the lack of education, the lower status of a woman, the patriarchal mindset, weakness of laws or our religious beliefs and; die hard customs and traditions? Who should we blame for the offences that are committed against a woman behind the four walls of our homes?

In a recent case, it was reported that a woman had been raped by her brothers-in law that too with the consent of her husband and father-in-law. The reason behind the horrifying incident is that the victim's brother eloped with the accused's sister, hence the panchayat came up with a solution to get the victim married to the accused as a punishment for the man's family who eloped with the sister of the accused [4].

So how do we justify it? Does being married to a person justify marital rape or being raped by anyone from his family? Is there no humanity left in the society? An FIR was filed against

the accused along with his brothers who fled the village with the help of the head of the panchayat.

Such cases imply that we are not only failing as a society but also as a human. Women are subjected to murders in the name of honor killing, to dacoity, robbery and what not. However, here we will discuss the crimes that are committed against a woman behind the four walls of the home, crimes that can be committed in the privacy of a residential place. It includes various crimes such as Marital rape, rape by a family member, dowry death, domestic violence, female feticide. Offences committed against a woman behind the four walls that have been classified in the Indian Penal Code, 1860.

A) Rape (Section-375)

However, no provision of marital rape has been provided under Indian Law.

B) Dowry Death (Section 304B)

C) Subjecting a woman to cruelty by the husband or his relatives (Section 498A) [5].

Special laws that have classified the offences that are committed against a woman behind the four walls

The number of gender specific law is quite low considering the atrocities to which a woman is subjected. Below a number of laws have been mentioned that are gender specific to battle the societal norms based on gender discrimination.

A) The Dowry Prohibition Act, 1961

B) The Protection of Women from Domestic Violence Act, 2005

C) Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994

Marriage under Indian Institution and Prevailing Myths

Indian customs and culture hold a religious and sacramental value and so the institution of marriage. In the words of Mannu, which is contradictory to his own statements that men is incomplete without his 'ardhangini or dharampatni'. Indian faith and belief treat women as Goddess.

At the same time, it is a patriarchal society where men dominate the women, especially in the holy institution of marriage. A man treats his economically dependent wife to be an object of pleasure. Harassment, cruelty, exploitation all goes hand in hand with a sacramental union. Women are a prey of a men's frustration, ego, and recklessness.

The harassment reaches to a stage where husband starts exploiting his wife sexually, manly force is being used adverse the will and consent of wife. But being given a status of Goddess she is obligated to bear with silence all of it. Thus, women empowered nation doesn't even gives a right to women to speak adverse such sludge.

2.4 Concept of Marriage

The alliance of men and women in an enduring bond, under socially specified regulations, as husband and wife, for the procreation of human life, coins the institution of marriage.

Marriage in India

Preamble of the Constitution of India celebrates "Unity in Diversity". India is a multi-cultural and multi-religion nation. The Constitution ensures equal freedom to all religions⁸ and cultures in the view of Secular Democracy. Hence, every religion in India has their own personal laws for marriage.

Every Indian is obligated to marry, which otherwise attaches a social stigma who doesn't marry in their lifetime. This tradition lies in the deep-roots of Indian culture which is widespread in favor of marriage as a basic rule.

Marriage as both sacrament and contract

Under the Hindu Marriage Act, 1955 and after the amendment Act 1976 introduced the provisions of divorce by mutual consent under Section 13-B of the Act. Hindu marriage no more remained indissoluble and eternal (introduction of remarriage of widows) but the nature of holy union is still kept by the concerned Act by mandating the ceremonies of Hindu rituals while solemnizing Hindu marriage.

This modern concept emerged from the revolution of industries and the ideas of equality. The industrialization brought in the notice of society the concept of free volition of individuals must be the basis of all human relations. And this led to the free volition of human and social relations in the institution of marriage as well, which give spouses the right to free entry and exit. Hence consent plays an important role.

Thus, marriage came to be considered as a contractual union withholding the essence of a holy union as well.

The Muslim Marriage

In the words of Prophet Mohammad that: - a married life is endorsed more than an unmarried life. Islam discourages celibacy among Muslims and thus it's obligatory for almost all the Muslims to perform Nikah [6].

2.5 Ancient India on Sexual Abuse in Marriage

Marriage was considered to be a union of souls since ancient times but was a myth in reality. Though marital or sexual abuse was most habitual loathsome form of masochism in society of India, it remained hidden at the back of the curtains of sacramental marriage.

Marriage is one of the universal social institution to regulate the sex life of a men. Since time immemorial, marriages are considered as a noble event in India. It has been considered as a relation of a men and women in general and sexual relationship in particular.

In the primitive time, marriage wasn't a concept known to men. Sexual relationship remains unregulated and hence only maternity was known. Civilization dawned on them with the evolution of the concept of 'ownership'. Naturally, in the realm of family relations, some sort of sex regulation came to establish. Thus, the men's desire to know the paternity of children laid down the seeds of institution of marriage or in specific ownership of a men over women.

The ownership or manhood could be traced since the very beginning of institution of marriage. Initially it began with group marriages. At various stages and places various forms of marriage was observed. The intercourse took place within the tribe only, where women belonged to every man of the tribe equally and going outside the tribe was prohibited [7].

2.6 How the Women have evolved over time?

In order to uplift the honor and respect for women all over the world, gender-based equality has been proclaimed as a fundamental right by the United Nations' Charter of 1945.

According to Manu, a woman is never self-dependent, because during all the phases of her life she is looked after by the three important men in her life that is her father who look after her in childhood, her husband who looks after her in her formative years, and her sons who hold and look after her in her old age. Male domination is the key factor impacting the life of a woman all over the world. Such domination has its own merits and demerits.

The birth of a son was always considered as an essential to the family, since until 2005, it was only sons who could provide salvation to the soul of the dead, eventually saving from the pain of hell. In accordance to the Hindu religion, a girl was not allowed to perform parting rituals and was therefore treated as inferior to the son.

Even the land of the great queen Elizabeth, England, which boasts of an ancient democratic tradition, gave its woman a right to vote only in the year 1928. Similar to the provisions of the Hindu religion, other religions such as Islam and Christianity also believe in male supremacy, thus keeping women on a lower pedestal. It is extremely disheartening to know that a 30-year old law graduate from Orissa, succumbed to head injuries as the birth of a girl child made hi fall into such a shock that he accidentally hit his head. The victim, Akshaya, was already a father of a girl child and was expecting a male child. Male domination has been an age-old practice. One of the biggest reasons behind the inferiority in woman is the biological superiority of men over women which have made her a feeling less person.

Woman has been seen as nothing but an appendage to man. She is expected to take orders and lead a mundane life within the four walls of her house. The male dominating society has turned her into an object of gratifying his physical desires.

Unfortunately, in most of the cases involving crime against woman, her own family members or known people are responsible. Gender based discrimination is the biggest curse to the Indian society.

This issue is global with varying degrees and very old. As human development has gained importance in the global development debate, gender equality is emerging as a major challenge which needs to be addressed sternly.

2.7 Indian History associated to Injustice towards Women

It is often considered that in India from the ancient times women have been ill treated by man, however, it is not correct. In the Northern part of India, especially Uttar Pradesh, which is called the most criminal and immoral area now-a-days, even now while travelling in a public transport, youngsters will stand-up and leave the seat for women.

But, if we are making the reserved seats in the buses for women, in that case, the mentality of the youngster is changed and the same refrains them from being courteous towards woman. In not leaving the seat for a woman, he has not done injustice towards women, however, he feels that he has not violated any rule.

So, clarity of the law, sometimes make the society to do that immorality, which he was not doing when there was no rule. It is not essential that any act or omission is wrong only when it is specifically declared by the Law as illegal. There are certain traits and social practices which govern the social behavior, and the aforesaid expectation arises out of the same practice.

Finally, the Indian Penal Code of 1860 underwent significant changes for the second time in over 30 years with the passage of the Criminal Amendment Act 2013 [8].

Key issues of the Act are:

- To bring into existence, punishable offence for those police officers who fail to register First Information Report (FIR).
- To address penalties for other abhorrent forms of crime (stalking, touching, sexually colored remarks, voyeurism, human trafficking and acid attacks, awarding a minimum 10-year jail term to the perpetrators and rational fine to meet the medical costs of the sufferer).

- Seek clarity as to how the perpetrators of the offences like touching, stalking, and sexually colored remarks would be accused and subsequently prove the assailant as guilty.

Ending capitalism and building socialism can't stop male domination.

Societal Causes that make Women Feel to be The Inferior Race

The social causes of crime against women include causes like Inferior status of women due to social conditioning, Patriarchal structure of society, unpleasant family atmosphere, Broken homes, Living environment, too much intrusion in the life of children by the parents, Addiction to Alcoholism and Drugs, Immorality, Cruelty, Sickness and modern permissive atmosphere etc. Excessive punishment to a child that led him to anti - social activity. In the eyes of the Indian society, man occupies a superior status and the woman is merely his accessory. A woman is never considered as an individual in her own right, she is, first the daughter, next the wife and last the mother of a man. Without man, her existence is treated as a myth. To maintain their dominance, Men are consciously taught to be aggressive and tough while women are conditioned to be obedient and quiet [9].

3. CONCLUSION

Ever since the origin of humanity, we have been witnessing Gender based discrimination. Women from every generation has been given a secondary status when it comes to man. A woman was not given her own identity and was treated as the property of the family to which she belongs and because of some reason, a woman is treated as the honour of their family. Hence, no disgrace is ever accepted against her, even if she is violated by her own family members. In this research, we have discussed the crimes in which the perpetrators of crime against women were their own family members. Despite the women participating and excelling in almost each and every field of life, they are still expected to stay confined within the four walls of their homes. The contribution of a woman in the society or nation building is limited to a certain extent due to this.

“Day in and Day out, a woman works at home, however despite of that, no respect is shown”.

Male chauvinism is so deep rooted in our society as if they have the power to rule the world and they are entitled to receive all sorts of pleasure of the world and at the same time, a woman is expected to remain isolated, uneducated, irrelevant and unrewarded. Despite playing several roles and contributing massively in the upliftment of the society and nation building, she is ignored and disrespected. Even the women of modern era, who are highly educated and capable enough of sustaining themselves face the wrath of the man due to the patriarchal mind set. In one form or another, women are always given a backseat in our male dominating culture.

Swami Vivekanand, one of the Pioneer, who fought for women empowerment has quoted that: “Soul has no sex; it is neither male nor female. It is only in the body that sex exists, and the man who desires to reach the spirit cannot at the same time hold sex distinctions. There is no chance for the welfare of the world unless the condition of women is improved. Women have suffered for eons, and that has given her infinite patience and infinite perseverance.”

Another chronic cause for atrocities against women has been the undue sanctity attached to the institution of marriage, considering the marriage as indissoluble sacred union, which has acted as a barrier for the Legislature to bring reforms in the domestic institution. Domestic life had been considered by our society as a part of private life wherein State actions were not appreciated by our society.

However, the time has changed today after the coming into force of our visionary Constitution which guarantees equal protection of rights for man and woman. Further, our Constitutional jurisprudence clearly dictates that the fundamental rights of citizens are no longer merely negative obligations of the State. As it stands today, the State is under Constitutional mandate to protect the fundamental rights of its citizens by taking positive steps for guaranteeing the enjoyment of fundamental rights by its citizens. Considering this responsibility, much work has been done by our legislature in the field of domestic violence by criminalizing domestic violence, dowry as also by introducing deeming fiction of law in laws relating to violence against women namely, laying initial presumption in favour of woman. So much so, it is high time for our Legislature to take positive steps to protect women from being beaten, tortured, humiliated and raped with impunity by their husbands, behind the veil of matrimonial bond. The theory suggesting the State to practice the policy of not interfering in private spheres, do not hold good in today's contemporary regime of "welfare states" and "human rights' protection" [10].

Suggestions

Keeping in view the personal interactions and the research conducted by the researcher. It is suggested that we as a society must come forward and begin acknowledging the atrocities committed against women behind the four walls of home. We should not let it go and say that 'Its okay, such things happen in a marriage or a home'.

We must realise that there is smoke only where there is fire. One act of evil motive, can psychologically affect a person to commit offence of a greater magnitude, if not punished for the first time itself.

To curb this: Kids must be taught difference between a good touch and a bad touch at an early age. Instead of treating sex as a taboo, society must educate kids about the sex, so they can be aware of the crimes that happened against them.

Stringent laws and harsher punishments are required to eradicate this evil from the society. The executives should take such cases more seriously. Fast track courts and speedy trials should be implemented to punish the offender. Corruption should be eradicated to prevent the influential people from exploiting women and children.

Nevertheless, the past is over and it is the future that beckons to us now. That future is not one of ease or resting but of incessant striving so that we might fulfil the pledges we have so often taken and the one we shall take today.

The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us but as long as there are tears and suffering, so long our works will not be over."

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CHAPTER 11

INDIVIDUALS WHO REMARRY AFTER DIVORCE HAVE HIGHER MARITAL SATISFACTION

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ABSTRACT: Every person who joins married life hopes to find happiness in their home with the same person from beginning to finish, once for all time. Because of a variety of variables, married life has its own set of issues, and family life cannot be compared to one another. However, not all couples were successful in resolving issues in their marriage, and some married couples concluded their marital difficulties with divorce owing to a variety of factors. Some people have great expectations that their former marriage's disappointment would be remedied if they remarry with someone they believe is better than their prior spouse after the divorce. The purpose of this research is to measure the degree of marital happiness in those who remarry after being disappointed by the prior marriage's failure. Given the rising prevalence of divorce throughout the world, the results of this research are likely to be a useful form of psychoeducation for the community. The knowledge contributions of earlier research in the domain of marriage and family life are reviewed in this study. The goal was to assess the breadth of knowledge contributions in this field and to identify potential research directions with the happiness of marriage and family life the examination was carried out in chronological order based on empirical and analytical examinations of marriage and family life patterns.

KEYWORDS: *Marital Satisfaction, Remarrying, Marriage patterns, Family life satisfaction, Marital Quality, Cohabitation*

1. INTRODUCTION

Every family has issues and disagreements, and even if it started as a little issue, it is not unheard of for it to grow into a major issue that disrupts the balance and puts family life in jeopardy. Divorce is typically the result of disagreements and quarrels between couples [1]. In the context of social relationships, Schoenbron discovered that individuals who were married, especially in early adulthood, tended to be physically and psychologically healthier than those who were never married, families without marriage, widowers, separated, or divorced [2] in an interview survey of 127,545 adults in the United States. Everyone wants their marriage to last a lifetime, yet many relationships that have been meticulously built must eventually end in divorce [3].

Indonesia has the highest divorce rate in the Asia Pacific, according to statistics. In 2010, 285,184 couples divorced out of a total of two million marriages, with divorce accounting for 70% of all divorces. According to data from the Supreme Court's Religious Courts Affairs Agency, Indonesia's divorce rate continues to rise dramatically, increasing over 70% between 2005 and 2010. According to Wahyu Widiana, Director General of Badilag MA, the divorce rate has been increasing by over 10% per year since 2005 [4].

Remarried couples are common in East Asian civilizations, such as China, where they account for roughly 23% of all marriages [5]. In 20 more over 20% of weddings registered in Singapore were under charter women's law (i.e. civil marriage), while about 29% of marriages registered under Muslim law were remarriages [6] (Singapore Statistics Department, 2018). While just a few figures are recorded in other regions of Southeast Asia and South Asia, experts have found that marriage and reconciliation are widespread.

Even though the rate of divorce and remarriage in Asia has decreased, events such as remarriage, conflict, and stepfamilies continue to be rare in Asia. Remarriage is a vital tradition in certain nations, such as South Asia and Southeast Asia, and it is also thought necessary for men and women to escape the consequences of association to be seen as a completed family unit [7]. Remarriage is a dynamic network of interactions with extended family members that represent familial and societal choices, rather than a personal decision. Sharon Quah's thesis on marriage takes an intersectional approach to transnational marriage as part of an investigation into the stories of those who have remarried in Singapore. Instead of being motivated by love, romance, and intimacy, as is the case with most contemporary marriages, transnational remarriage is mostly motivated by pragmatism.

In the United States, almost half of all marriages end in divorce or permanent separation [8]. Furthermore, a significant majority of marriages do not end in divorce, but the partnership is tainted by ongoing parental conflict. The findings revealed that both parents' separation and marital relationship disagreements [9] increased children's risk of difficulties such as behavioral, emotional, social, and academic impairments.

Over the last four decades, the divorce rate has soared by 600 percent. In North America, around 40–50 percent of all first marriages end in divorce, with the United States having the highest divorce rate in the Western world. The vast majority of divorced people remarry, and many of those who do have children from past marriages [10].

Even if remarriage is unstable like the initial marriage, stepfamilies can increase the quality of a functional family from a single-parent household. Remarried couples have a divorce rate that is around 10% greater than their first marriage. The first marriage has a similar degree of quality to remarriage, but remarriage is more likely to end in divorce. For settling marital problems and keeping a low first divorce threshold, remarriage sees divorce as the optimal conflict resolution. Similarly, most divorcees believe they can cope with their prior love partners' separation and place little moral value on sentiments of opposition to divorce [11].

According to research, the increased conflict in second marriages is the explanation for the higher divorce rate (about 10 percent higher for subsequent marriages than for first marriages). Many research on how marriage works have shown variations in conflict resolution, such as defensiveness, protective behavior, and the adoption of more open and destructive communication patterns.

Characteristics of Early vs. Late Remarriages Selectivity

One possible challenge for studies exploring remarriage to get leverage on life-course variation in marital quality is the likelihood that people who remarry relatively early in life may have different background characteristics than those who remarry relatively later in life. Although little research has been done on this topic, I would expect those who remarry relatively younger versus older to have different experiences with their first marriage in terms of duration, age at first marriage, how the first marriage ended (divorce versus widowhood), the time between first and second marriages, and attitudes toward marriage and family. These potentially confusing aspects must be taken into account when analyzing life cycle variability in the drivers of remarriage quality.

Interaction between spouses

Riley (1994) looked at intertwined lives in China, including parents, marriage. The In-depth fertility survey, phase II, and data gathered by the author between 1986 and 1987 were used in this research to look at how parents' roles in marriage choices have changed in China. The results indicated that the number of planned marriages, in which parents have complete control, has declined, but that in most marriages, parents continue to have a say in the choices

made. Both parents and children embrace parental engagement in all areas of their children's life. As a result, it was shown that Guanxi explains why strong kin relationships persist. Furthermore, in China, individuals depend significantly on interpersonal relationships (Guanxi) to get limited products and services, and children often rely on their parents' Guanxi for assistance in accomplishing school or professional objectives. "Marriage choices are therefore made in a situation that favors continuous parental involvement in the lives of adult children," Riley concluded (Riley, 1994).

Gotman and Notarius (2000) examine the progress achieved in monitoring marital interaction over the 1990s decade. As a result, they've concentrated on topics such as power, marital interaction as a proximal driver of individual well-being and suffering, and the study of interrelationships between interactional behavior, perception, and psychology.

Cohabitation vs. Marriage

The association between cohabitation and divorce was studied by Axinn and Thoraton (1992). They create hypotheses that premarital cohabitation selects for people who are likely to divorce, as well as hypotheses that premarital cohabitation develops attitudes and values that raise the likelihood of divorce. They examined data from a seven-wave study of women and their children that lasted 23 years. This graph displays data from 867 families in its entirety. The findings support theories that cohabitation attracts men and women who are less devoted to marriage and more open to divorce. The findings back with the theory that cohabiting increases young people's acceptance of divorce.

Partner Choice in Marriages and Cohabitations was investigated by Schoen and Weinik (1993). The link between cohabitation and marriage may be elucidated by patterns in partner selection. If cohabitations are "informal marriages," cohabitation partner selection should mimic marriage partner selection.

However, if cohabitation is a separate relationship with a "looser tie," partner selection in cohabitations should place a greater focus on short-term and attained attributes (such as education) and less attention on long-term and assigned features (such as religion) (such as age, religion, and race). This research uses data from the United States National Survey of Families and Households (NSFH) from 1987 to 1988. The (NSFH) is a random sample of 13,017 people aged 19 and over from around the country. Cohabiting couples are more homogenous in terms of education, less homogenous in terms of age and religion, and have less educational hypergamy than married couples, according to the findings. They also emphasize the necessity for greater study into how relationship traits determine whether a cohabitation ends in marriage or not.

Happiness in marriage

Marriage satisfaction, according to Iqbal [12], is the subjective experience of a husband and wife partner toward their conduct and interactions in marriage to fulfill the spiritual, physical, psychological, economic, sexual, social, and other demands of life throughout the marriage. To achieve marital pleasure, both the husband and wife must make a joint effort to offer mutual satisfaction, both in terms of meeting lives demands, sexual, love, affection, attention, and so on.

Open communication, open expression of feelings, mutual trust, absence of partner dominance, satisfying sexual relationships, social life, place of residence, sufficient income, children, religious beliefs, and relationship with in-laws /in-laws/in-law factors that influence marriage satisfaction, according to Latifah [13].

Remarriage (paragraph 3.2)

In his study, E. Mavis Hetherington discovered six common paths that men and women take following divorce. Some of the six pathways focused on groups of persons who remarried following their divorce. The searchers are one of these groups (seekers).

Remarried individuals tend to marry early in life, with half of them remarrying within three years after their divorce. According to Sweeney, couples who file for divorce remarry more rapidly than couples who do not, particularly in the early years following the divorce, and among women who older women think that by remarrying, they would be able to have stronger marital ties than they had before. The truth about the advantages of remarriage for adults is yet unknown. Couples who remarry confront a more precarious position than those who married for the first time, and they are more likely to divorce, especially in the first few years following remarriage. People who remarry have worse mental health (e.g., greater rates of depression) than adults who married for the first time, but remarriage will improve their financial situation, particularly for women. In comparison to earlier marriages, researchers discovered evidence that remarried people's marital relationships tended to be more equitable and defined by the presence of collaborative choices. Remarried wives also reported having a higher impact on financial issues in their new family than in their prior marriage, according to Waite[14].

Why is it so hard for people who remarry to keep their new marriages together? One explanation is that many individuals remarry for financial reasons rather than for love, to alleviate loneliness, and have children. They also bring unfavorable habits from prior relationships into their new family, which contributed to the breakdown of that previous marriage. Remarried couples are significantly more stressed when it comes to parenting children than parents who have never divorced. They also take bad tendencies into new families that have previously led to failure in earlier relationships.

The increased tension between spouses in second marital partnerships is the cause for the higher divorce rate in second marriages, according to research (about 10 percent higher in remarriage than in first marriage). Many studies on the function of marriage reveal differences in conflict resolution, including defensive behaviors, protective acts, and the employment of more revealing and destructive communication patterns.

It is expected that nearly half of the population would live together, with around 25% of married men and women divorcing and remarrying [15].The Relationship Evaluation Survey provided the data. Individuals who married for the first time have a better-quality marriage than those who remarry. This variance in marriage quality is sometimes ascribed to differences in how remarriage handles marital conflict, as well as the problematic nature of first marriages.Couples who remarry, for example, are shown to have fewer seldom vacation, conflict communication skills, and problem-solving abilities than couples who married for the first time

Stressors collect more than the problems that develop and can be managed by the married couple because they are not adept at managing difficulties and resolving disagreements, therefore less efficient conflict management generates more stress. For married couples that remarry, ineffective stress response patterns are assumed to be the cause of decreased marital satisfaction and relationship stability than for first married couples.

Those remarried couples that have a high degree of marital unhappiness and friction in parent-child interactions are the ones who are most likely to divorce. A deterioration in the quality of the marriage is one of the primary processes that predict divorce. In the two years following marriage, stepfamily relationships indicate a major change in marital quality, and a

drop in marital quality is the mechanism through which bad stepfamily relationship problems lead to divorce, which has been on the rise for the last twenty years.

Other research findings give a wide range of information. Remarrying seems to be just as fulfilling as the initial marriage. Skinner et al. discovered that the first and second marriage partners had similar levels of pleasure, communication, fairness, and disagreement. There was no difference in recent marital satisfaction, according to Amato. Remarried couples, on the other hand, had a poorer feeling of marital stability than married couples who had been married for the first time. Even though over half of first marriages end in divorce, more than 60 percent of second marriages end in divorce.

Researchers spoke with 180 men and women in the United States who had recently divorced. The conclusion taken from this study is that remarriage would not threaten their well-being, since the study's results show no significant difference in well-being between those who divorced and those who divorced and then remarried. The study's conclusions, however, are restricted due to sample size limitations. Only 35% of those who remarried at the time of the second data collection ended on remarrying, according to the study, which focused on interviews with a limited number of individuals with a deliberately gathered number of respondents.

The first married group improved by +0.237 points in marital life satisfaction, while the remarried group improved by +0.459 points, surpassing the prior group by +0.222 points. Both changes ($P = 0.000$) and the disparity between them ($P = 0.008$) were statistically significant. Higher and longer-lasting contentment reported by remarried people does not make remarriage an adequate remedy to the stigma, since the gap between the norms and the stigmatized stays substantially unaltered. In other words, stigma is only removed from individuals, not society as a whole.

The contagious nature of social stigma often creates its own set of problems. "The propensity of stigmatized persons to disseminate stigma to their intimate connections gives a reason why such interactions tend to be avoided or terminated if any," Goffman claims [16]. Although the extent to which intergenerational social stigma has an influence is not discussed in this paper, families, especially children from divorced families, may still be socially ostracized.

Methods and Variables

The dependent variables for marital happiness will be based on marital quality domains that are measured in all three waves of the NSFH.

Because previous research suggests that measuring perceived global marital happiness has benefits and that both positive and negative dimensions of marital quality are distinct and should be measured separately, global marital happiness, as well as both positive and negative domains of marital quality, will be evaluated (Bradbury, Fincham, & Beach, 2000). Responses to a single question, "Taking everything into account, how would you define your marriage?" are used to calculate global marital satisfaction.

On a seven-point scale, responses range from "extremely upset" to "very joyful." I'll look at how the findings change depending on how this variable is built, such as keeping it on a seven-point scale or making it a dichotomous variable ("extremely happy" vs. the other replies).

Fairness as perceived:

The next domain evaluates perceived fairness in the marriage across various domains, including home responsibilities, paid labor, spending money, and childcare. "Very/somewhat unjust to the respondent the," "fair to both," and "somewhat/very unfair to respondent's

spouse" are among the responses. I'll look at these elements singly as well as averaged across the four fairness domains. Some of these factors may be more or less important in predicting marital quality over time (for example, childcare may be more important for younger remarried couples). Furthermore, an earlier study has shown that it is uncommon for women and husbands to express their dissatisfaction with the distribution of domestic duties (Gager & Sanchez, 2003). As a result, I may build this variable in terms of the husband and wife's perceptions of how unfair or fair the distribution of domestic work is to the woman.

Marital strife:

A third category will measure marital conflict by asking participants how much they argue about home duties, money, spending time together, in-laws, and children. The frequency of responses ranges from "once a month" to "nearly every day."

Instability in marriage:

The last marital quality metric will evaluate perceived instability, based on respondents' assessments of whether or not their marriage was in danger in the previous year.

Gender, cohabitation experiences (with the husband or others), past children (Bramlett & Mosher, 2002; Skinner et al., 2002; Teachman, 2008; White & Booth, 1995), and children born during the remarriage will all be included in the study. Race/ethnicity, education, income, wealth, respondent's health, spouse's health, and caregiving obligations are all control factors that have strong theoretical implications or have been proved to be key predictors of marital quality in previous studies. However, whereas these characteristics (race and education) are strongly predictive of marital quality in first marriages, evidence shows that they are less predictive of marital stability in second marriages (Teachman, 2008). Finally, it's worth noting that the background characteristics of individuals who remarry later in life vs those who remarry earlier in life may vary, which might affect the quality of such partnerships. As a result, it may be necessary to accord for unit several factors that might influence some of these selection discrepancies. Although little research has been done on this topic, I would expect those who remarry relatively younger versus older to have different experiences with their first marriage in terms of duration, age at first marriage, how the first marriage ended (divorce versus widowhood), the time between first and second marriages, and attitudes toward marriage and family.

This chapter will study how marital quality in second marriages fluctuates over the life course using traditional linear and logistic regression approaches relevant to the design of each dependent variable, as well as ordered logit models for measures Likert kurt scaling. To begin, bivariate models will be used to regress each of the marital quality categories on age. Model 2 will include the other independent variables in the models to see whether there is still a link between age and marital quality once the other covariates are included. Finally, by including interaction variables in the model, Model 3 will see whether past cohabitation, children, and perhaps dissolution status mitigate the relationship between age and marital quality. Because previous research reveals that the predictors of perceived marital quality varied by sex (Bradbury et al, 2000), models will be provided separately by sex to compare results.

2. DISCUSSION

Characteristics and Law of Marriage

Emotional bond, sexual monogamy, legal commitment, clan legitimacy, and public ceremony are the five qualities of marriage, according to Knox (1988). An emotional Partnership is a relationship pursued by two or more individuals who care about each other, like being

together, and want to spend the rest of their lives together. In an otherwise competitive and sometimes impersonal environment, they want a lover, a friend, someone they can trust and communicate with. Emotional commitment is often assumed to indicate that both partners will be sexually faithful to one another.

Only people of the opposing sex (one female, one male) who are of legal age (typically 18 years or older) and of marital status (neither partner may be married to someone else) may form a marriage. The marriage license confirms that the couple was married in the presence of two witnesses by a legally authorized state representative. The marriage license establishes the legitimacy of any child born to the couple and makes the parents legally accountable for the kid's upbringing. A newspaper notice and a public ceremony at a church are often used to proclaim a couple's legal bonding. Informing parents, siblings, and friends about wedding preparations may assist to confirm the partners' commitment as well as marshal the social and financial support needed to launch the pair into married orbit.

Marriage traditions and rituals vary as much as marriage laws, according to Compton's encyclopedia. It differs depending on the culture. Every civilization, past or present, has had its own defion of marriage, and many have enacted laws to reflect those beliefs. Until the Reformation, the Catholic Church's canon law was the sole law regulating Christian marriage in Western Europe, and canon law continue to have significant power in several Roman Catholic constitutions. Marriage has always been seen by the church as a lifelong and holy relationship that could only be dissolved by the death of one of the spouses. Marriage was therefore converted from a civil contract that could be canceled under Roman law to a sacrament and unseen mystic reunion of souls and bodies under this understanding of marriage, in which husbands and wives are created of "one flesh" by the act of God. The force and mutual assent of both partners were considered fulfilled by consent and then consummation under canon law. In circumstances when the partners had close different relatives, Canon law declared the marriage invalid and void. The majority of Western nations' marriage laws are based on Roman Catholic Canon law, which has been substantially influenced by contemporary life's changing cultural and socioeconomic situations. Marriage is now seen as a civil transaction, and only monogamous relationships are permitted. In general, a person's legal competence to marry is the same over the globe, although it is limited by factors such as blood connection and mental infirmity. The prevalent Islamic law in Muslim nations in the Middle East, Asia, and North Africa considered marriage as a contract for the "legalization of intercourse and the generation of offspring." Polygamy has been authorized under Islamic law in the past, but it seems to be on the decline in almost all Muslim nations in recent years.

Many African countries still allow polygamous marriages, although there is an increasing trend toward monogamy. Many African developing countries vary from Western countries in that they do not have unified marriage legislation. The regulation of marital relationships is based on either religion or local customary rules. Ghanaian marriage is both socially and legally binding. It is socially bonded since it includes persons other than the couple, such as the man's and woman's families. It is legally enforceable since it is recognized as a legal contract. As a result, there exist laws that govern how and by whom it may be negotiated. Brew and Ekuban (1991) go on to say that under customary law, the obligations and rights deriving from a union are established by the ethnic groups' norms and practices. Polygyny is permitted under customary law, and polygyny is encouraged by Islamic law. A male, on the other hand, may not marry more than four women at once. Marriage is monogamous under ordinance law.

3. CONCLUSION

According to the conclusions of the study, more individuals would consider remarriage than their first marriage, and remarriage would be better than their previous marriage. The research on whether remarriage is better than earlier marriages is few. The association between pride and marital satisfaction was greater in the second marriage, according to the results of the research, but numerous other studies found no difference or better pleasure in the first marriage. It was discovered that there was no statistically significant difference in the mean of the two groups when it came to what constituted marital satisfaction in marriage. This contradicts the findings of Rollins and Feldman (1970), who discovered that marriage had distinct connotations for spouses in their investigations. As a result, the saying "what is good for the goose is good for the gander" should be taken into account by couples.

When asked whether older couples had a greater understanding of what defines marital pleasure than their younger counterparts, the common answer was that the mean of the two groups does not vary statistically significantly. This goes against Maas and Kuyper's claim that elder marriages are more fulfilling than younger ones.

Because some of the respondents who had communication issues suffered greatly by breaking their relationships, the research demonstrated that communication is very vital in marriage. The research revealed that closeness in a relationship is really significant, especially in terms of how we spend our time. A lot of the squabbles that occur in marriages are caused by a lack of time spent together during free time. Couples that enjoyed themselves together during their free time were shown to be happier in their relationships. According to the findings of the survey, things are changing in terms of marital roles. Male partners are increasingly assisting with household activities such as cooking, pounding, and dishwashing, which were formerly designated for women. Finally, it was discovered from the replies that the couples were loyal to one another, resulting in marital stability and pleasure. Couples were found to be dedicated to their relationships once again since each spouse attempts to fulfill his or her obligations.

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CHAPTER 12

AN IN-DEPTH INVESTIGATION OF DOWRY DEATH ALLEGATIONS IN WEST BENGAL

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ABSTRACT: *Dowry death is regarded as among the most horrific crimes committed against women in all Indian communities. This is one of the major factors in the facilitation of murder and suicide. Where the suicide of a woman is induced by any burn injuries or physical injury or occurs outside of normal circumstances within seven years of her marriage, and it has been indicated that briefly before her murder, the woman was forced to conform to harassment as well as inappropriate behavior by her husband and any relative of her husband and even in correlation with, whatever the demanded dowry, this death shall be known as "dowry death," and other husband or his relative shall be sentenced. The present study aims to describe the different patterns and socio-demographic profiles of dowry death cases. The research presented here also focuses on the processes underlying categorizing burn fatalities among women in India. Brutality (includes torture or intimidation), domestic abuse (such as physical, emotional, or sexual assault), assisting suicides, or dowry death (such as bride burning as well as murder) were the most prevalent dowry crimes. Current study will aid in the development of the strategies to eradicate this major societal issue.*

KEYWORDS: *Bride, Burn, Dowry Death, Marriage, Murder, Suicide.*

1. INTRODUCTION

Dowry, as defined by the “Dowry Prohibition Act”, is a demand for property or a financial product with an indefinable connection to the marriage; in those other phrases, it is a monetary contribution made by the bride's parents or family to the bridegroom as well as his parents and/or guardians in exchange for the bride-to-consent to marry [1]. The dowry arrangement will very certainly put a significant economic burden on the father of the bride.

In certain circumstances, the alimony system encourages violence against women, ranging from mental torture to physical assault and sometimes even murder. Dowry payments have been illegal under Indian law, namely the Dowry Prevention Act of 1961 [2] and, afterward, “Sections 304B and 498A of the Indian Penal Code” [3].

Dowry's death is classified as a type of women's abuse, including rape, vitriol, eve-teasing, starvation, as well as domestic violence. The majority of dowry deaths happened if young women, being unable to handle the harassment and humiliation, attempt suicide themselves or are burned by putting on fire, a practice known as bride burning, and therefore is portrayed as suicide or accident.

Dowry death occurs when a woman ends up dead within 7 years of her marriage due to any burn as well as bodily injury, or otherwise than under normal circumstances, and that it is demonstrated that she had been subjected to sexual harassment as well as sexual assault by her husband and any of his relatives for, or in correlation with, any demand for dowry [4], [5].

The overall number of criminal cases registered in India in 2020 was around 28 thousand. Rape cases were down this year compared to the prior year. Although many rapes go unreported in the country, it is a concern that frequently makes headlines, sometimes

resulting in street demonstrations. Although rape complaints have grown in recent times as shown in Figure 1, it is still connected with humiliation for the survivor rather than the offender.

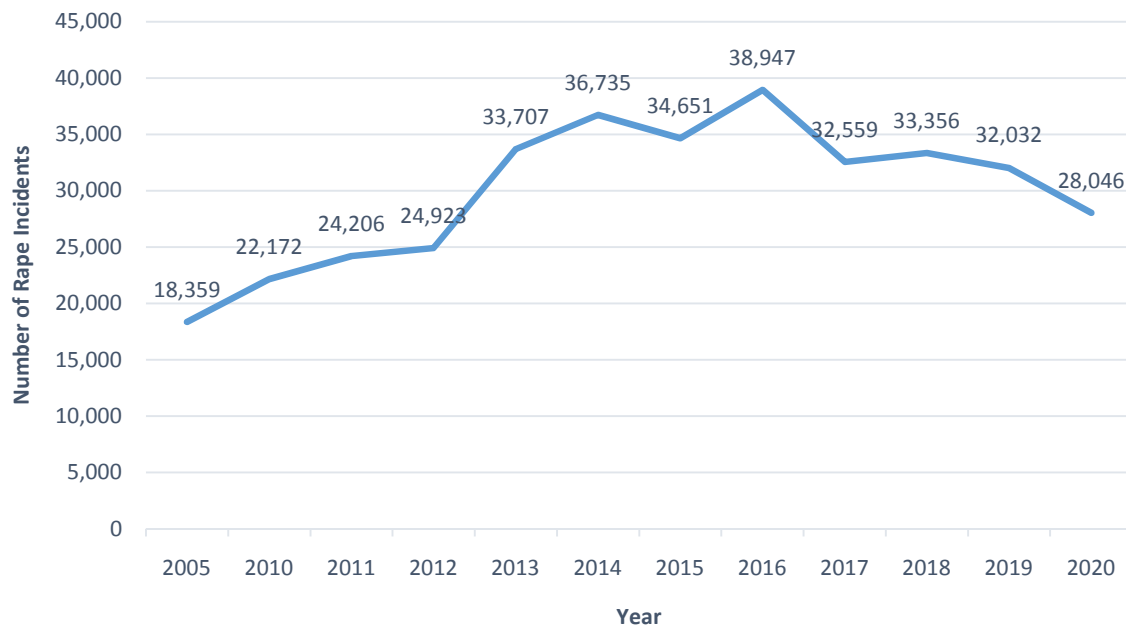


Figure 1: Between 2005 and 2020, the Total Number of Rape Incidences Reported in India.

1.1. In India, burning is a leading cause of mortality for women:

In India, burn accidents are the main cause of mortality among women aged 15–34 years. Public results of experiments have examined the causes, characteristics, or consequences of fire fatalities in women [6]. According to the research literature, the % of burns was attributed to human error, followed by attempted suicides, as well as lastly by murdering attempts [7]. Although some observational studies of burning deaths accept the risk of misinterpretation, assessments are nonetheless undertaken with the assumption that classification could be clear. Furthermore, In India, categorizing a woman's death within 7 years of marriage is complicated. It is quite hard to distinguish between a few forms of deliberate and unintended deaths [8].

1.1. Formal methods for categorizing women killed by the fire:

Figure 2 depicts the official method for categorizing a woman's death after seven years of marriage, as well as the possible classes and related legislation.

If a lady gets burned, she is usually transported to the hospital. The doctors notify the police, and a medical-legal lawsuit is initiated. The officers arrived at the hospital to get any pertinent information. The cops have secured the accident site [9]. A magistrate is summoned and a 'death statement' (DD) is recorded, which offers an authorized victim's account of events around her burns. If the judge has been unable to register the DD, for instance, because the lady does not survive long enough, this might be recorded by somebody else, generally a doctor or a cop. The court conducts an investigation relying on the dowry death, a post-mortem, and family testimony. Then, the police assign the death to one of the groups depicted in Figure 2, based on the results of the magistrate's inquest [10].

In India, the inclusion of dowry killings as a legal offense category shows both an awareness of and an attempt to address violence against women. This is due to the way sexual divides are portrayed in the subcontinent.

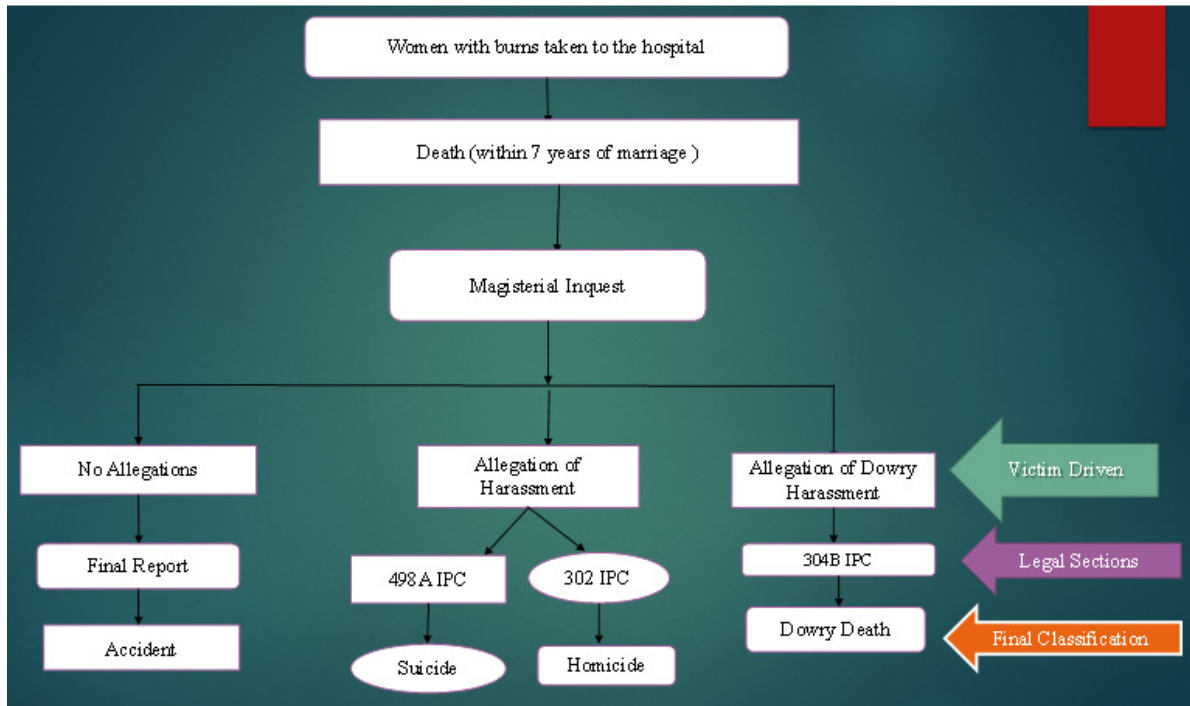


Figure 2: Displays the Official Protocol for Classifying Burn Deaths Among Women.

Furthermore, the focus on the narratives supplied by dead women indicates an attempt to support them as an authoritative source in bringing offenders to justice, something that they would lack otherwise. The woman might be called as a witness against herself. Due to the possibility of her death, she could be seen to have little incentive in misleading the court about the circumstances leading up to her death. As a result, the evidence in her narrative is given special treatment [11].

2. LITERATURE REVIEW

Jyoti Belur et al. conducted research which focused on the methods involved in categorizing women's burn fatalities in India. Their study was focused on the judgment on death due to dowry, a categorization used in the West Bengal though not in other countries. Death falls under the purview of a set of special regulations designed to safeguard vulnerable women from dowry-related harassment and abuse. Authors stated that the official category into which each particular murder is assigned is demonstrated to be the consequence of motivating procedures serving the interests and resources accessible to physicians, sufferers, exploit families, the suspect's spouse or children, then, finally, the police. Authors suggested various strategies and recommendations which may reduce the mistakes in research or unfair treatment of sufferers and accused criminals and ways to reduce the dangers [12].

Mrs. Reshma and Dr. A. Ramegowda conducted a systematic scientific assessment of dowry-related crimes. Their study examines the judicial authority, which is a novel phenomenon in women's freedom. The major goal of their study was to investigate the socio-educational characteristics of dowry victims as well as relate these to the socio-cultural phenomenon of dowry. They also examined the regulations governing dowry and its efficacy. Author's findings show that sections 498-A and 304-B gave dentures to the Dowry Prohibition Act,

of 1961, and Article 51-A of the founding document remains ineffective even though socio-cultural norms connected to dowry practice had also stayed constant, and thus the practice of giving and receiving dowry keeps going. Even ordinarily law-abiding persons are involved in dowry transactions. Authors concluded that adequate societal education and awareness, as well as legal penalties, are required to put an end to this wicked behavior [13].

According to G. Vicente et al. the “Crime Records Bureau”, crimes against women in West Bengal have significantly increased in recent years. They investigated how well the geographical distribution of dowry deaths in Uttar Pradesh districts evolved between 2001 and 2014. The analysis of the geographic range and evolution of dowry death occurrence through time tries to identify specific places with high hazards and to speculate on potential risk factors. They also investigated various geographical prior convictions as well as their implications on final risk estimations. Several hyper parameter priors were also discussed in their study. Authors found that the relative risks appear to be solid in terms of geographical prior and hyper prior selections, as well as the results emphasize numerous areas with significant dowry mortality incidence rates. They concluded that dowry fatalities, the sex ratio, and various types of general crime all have statistically significant relationships [14].

Mohanty Sujan Kumar et al. conducted a study to analyze several features of femicide from victims' profiles to discover a link between both the crime and the victim's socioeconomic level. This research looked at 150 instances of femicide that were presented for a medico-legal examination for more than 5 years. They found that females aged between 13 to 40 have been the most common victims and the suspected culprit in the majority of the homicides was a male family member of the victim. They also found that the bulk of the tools employed was either harsh and blunt or sharp and cutting, with no defense wounded. The death occurred frequently caused by craniocerebral injury. The majority of casualties were uneducated, married, from rural areas with low incomes, or housewives by profession. The results found by their study might assist the government and law enforcement authorities to address some socioeconomic concerns, hence reducing crime against women [15].

Research Questions:

- How does the dowry concept affect society?
- What is the primary motivation for dowry?
- In the instance of dowry death, which legislation is broken?

3. METHODOLOGY

3.1. Design:

The current study is a retrospective look at the incidence of dowry fatalities. The mortality information section or post-mortem reports were used to acquire the many features of the cases. The research eliminates fatalities of women after seven years of being married due to various kinds of incidents or natural causes, homicide or suicide committed by the victim within 7 years unconnected to dowry in West Bengal.

3.2. Sample and Instruments:

This study was conducted at the “Department of Forensic & State Medicine”. Information is compiled through inquiry investigations, Investigating Officers, post-mortem reports, as well as direct interviews with victims' or deceased's families and in-laws from West Bengal. There were 64 suspected dowry death instances among the 1298 cases examined in this research.

3.3. Data Collection:

Data is gathered from investigating officers and post-mortem examinations, and interviews conducted with victims’ and deceased’s relatives and in-laws are used to collect information. The data has been collected Department of Forensic & State Medicine” in which the cases were registered after the death due to dowry. This study included the dowry deaths by age – group, ages at the moment of marriage, and women who died within seven years after their marriages are included below.

3.4. Data Analysis:

The information recorded for this investigation is tabulated and shown in diagrams and charts such as a bar diagram, a pie chart, and so on.

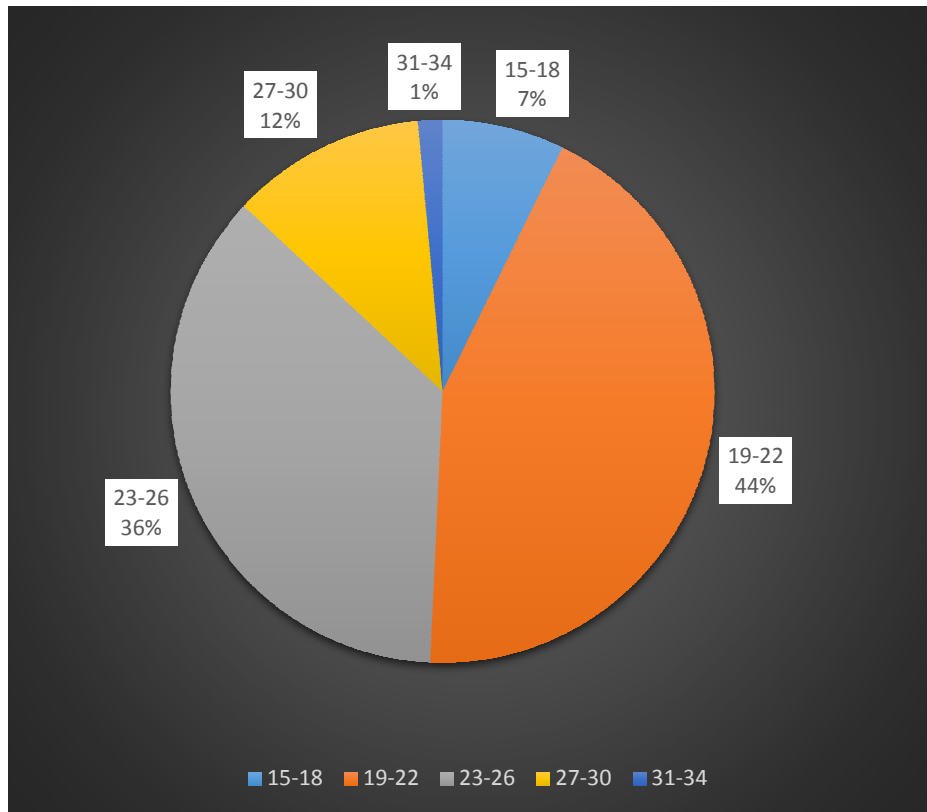


Figure 3: Representing the Age Group of the Victims of Dowry Cases.

The greatest number of instances were in the 19-22 years (44 %), age bracket. Figure 3, preceded by 27 (36 %) in the 23-26 years age group. In order of decreasing frequency, the other age categories are 27-30 years (12 %); 15-18 years (7%); and 31-34 years (1%) incidents.

Table 1: Depicts the Age of Victims at the Moment of Marriage

Age at the Marriage (in years)	Frequency	Percentage (%)
11-14 years	4	6.25%
15-18 years	15	23.40%
19-22 years	35	54.68%
23-26 years	10	15.70%

Table 1 shows that half of the alleged victims 54.68% were between the ages of 19 and 22 during the moment of the wedding and during the time of their marriage. In decreasing order

of frequency, the other age categories are '15-18 years.' Had 15 (23.40 %) cases, '23-26 years' had 10 (15.70 %) cases, also '11-14 years' had 4 (6.25%) cases.

According to the period of marriage shown in Figure 4, 13 (20.31 %) patients had finished two years of marriage, followed closely by 13 (18.75%) cases that had concluded 3 years. From highest to lowest of frequency, the other categories are '4 years' – 11 (17.19%) cases; less than '1 year' – 8 (12.50 %) cases, '5 years' – 6 (9.38 %) cases, '6 years' – 8 (12.50%) cases, and '1 year' – 6 (9.38%) instances.

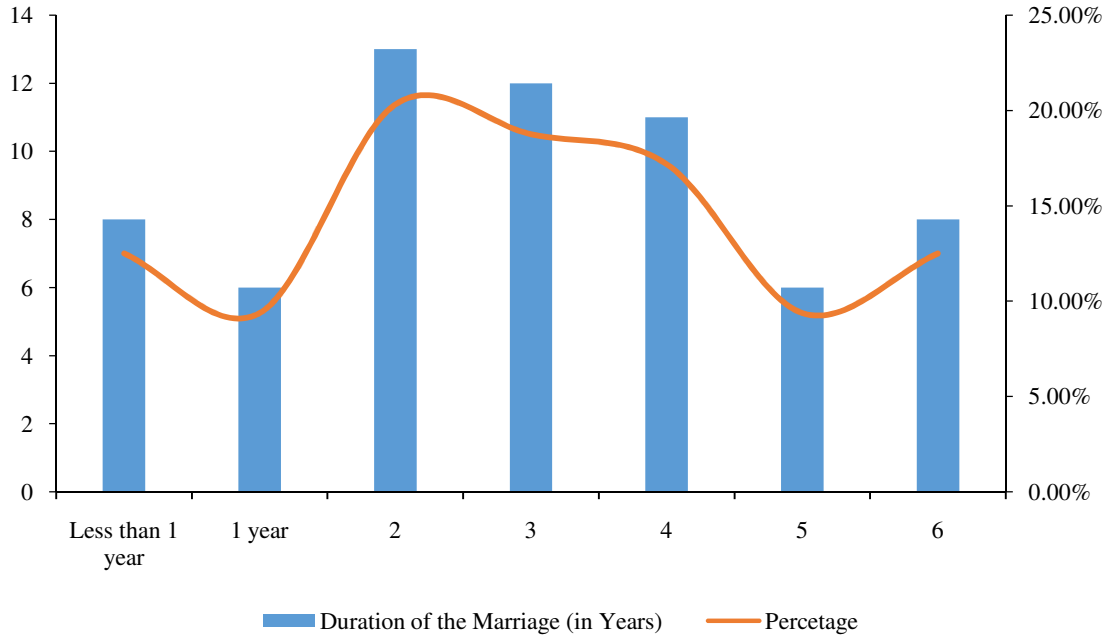


Figure 4: Shows the Incidents Duration of Marriage of the Reported Cases.

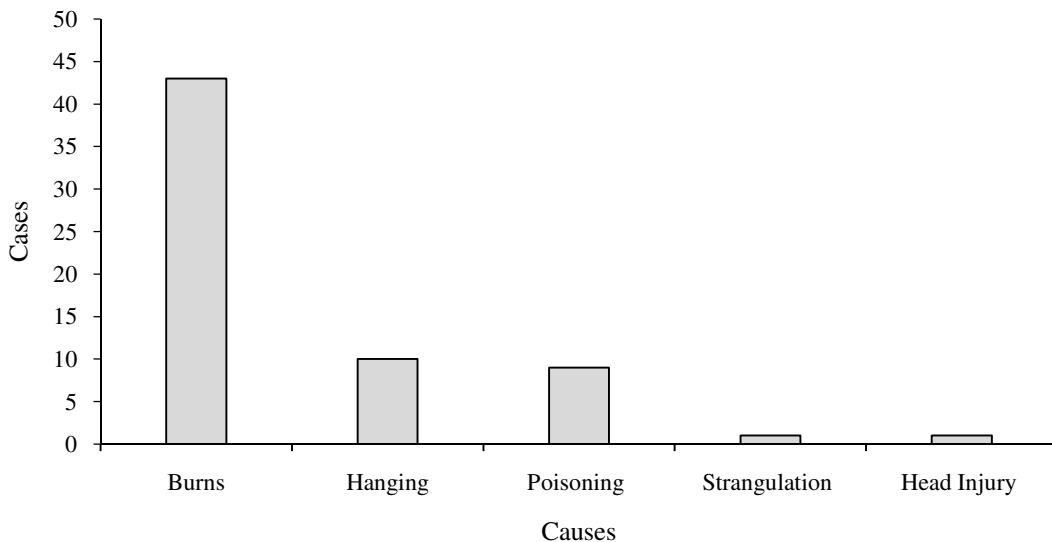


Figure 5: Representing the Number of Cases Associated with Different Causes of Dowry Death.

Burn injuries were the reason for death in 43 cases (67.19%) of the cases shown in Figure 5. The second biggest cause of death was hanging in 10 (15.63%) of the cases, preceded by

trying to poison in 9 (14.06 %). There were 1 (1.56 %) occurrences of strangling and 1 (1.56%) incidence of head injury.

4. RESULTS AND DISCUSSION

The study finds the most common age group was between the ages of 19 and 22. More than a third of the participants (36%) is between the ages of 23 and 26. It was reported that most of the deaths were by the burning and it was also reported that majority of the cases that died by burning were in between the age group of 19-22 years as shown in Figure 6. From this information it can be assumed that people getting married in the age between 19-22 years are the victims of dowry deaths.

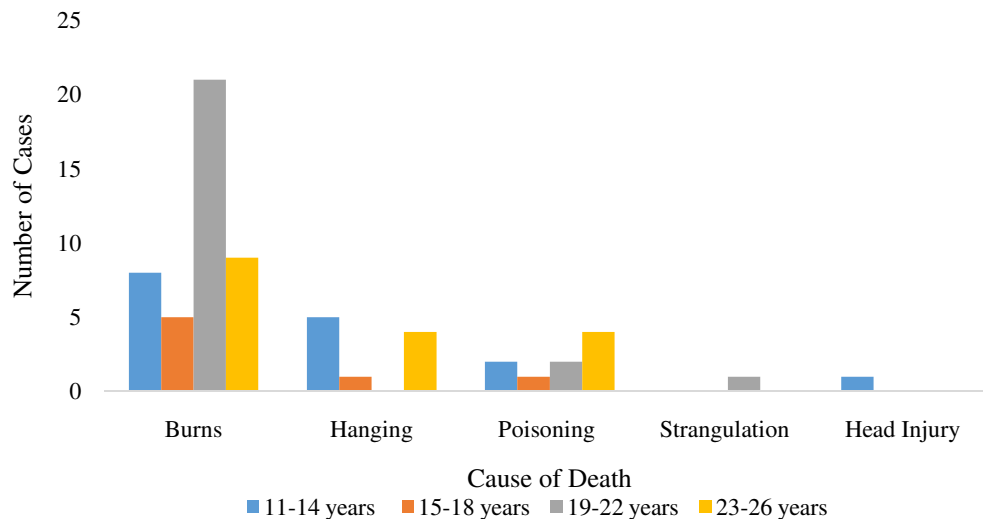


Figure 6: Illustrating the Age of Cases Died Due to Different Causes

Dowry is an issue that is strongly fixed in our Indian culture. To make the situation better, actions must be made at several levels in an attempt to transform the face of society. This study has revealed that the official conclusion of a "dowry death" is the result of complicated social processes, with authorities serving as the final arbitrator. While laws are in place to avoid this sad situation from occurring, they are not fully implemented. Many offenders escape punishment as a result of the delays in the delivery of justice. These matters should be heard in special courts. This would aid in the resolution of cases and restore public trust in the court.

5. CONCLUSION

Law enforcement authorities must conduct more comprehensive investigations into dowry fatalities, particularly at the murder site, and gather as much data as possible. To prevent or regulate crime against women, non-governmental organizations, as well as law enforcement authorities, must collaborate. The media plays a vital role because it can contact a large number of individuals throughout the country. A nationwide initiative using notable persons on various media such as television, print, and the internet must be launched to raise awareness of this horrible act. This might be because police fail to adequately examine the crimes or failed to acquire the necessary information. In the future to minimize the dowry system many solutions exist to reduce social issues and ills, the most important of which is to educate the people. Social awareness may be increased as education spreads. Problems or evils could also be reduced by the government enacting strict anti-evil legislation.

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CHAPTER 13

MAINTENANCE OF WIFE AND CHILDREN UNDER CRPC, 1973

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Abstract: It is a fundamental duty of a man to maintain his wife, children and parents so long as they are not able to maintain themselves. Even Atharva Veda says that a husband should always love and care his wife and give her the required respect. Even at the difficult times, he should not be rude to his wife. Not only that but parents are also supposed to maintain their children, teach them moral responsibilities and also supporting them physically and emotionally. Similarly, it is the duty of a person to take care of his/her parents. Our parents are the most important part of a life as it is not only the duty but also a dharma to maintain our parents when they become old. But not all people are like that. It has been seen that with each passing day people are becoming self-centered. They don't care about their parents, wives, and children. This research paper deals with the duties of a person towards his wife and children. For this, the author took help of the Criminal Procedure Code 1973, or Act of the Parliament of India. This research paper is divided into three parts. First part deals with the introduction followed by the second part which identifies the remedies available to the wives and children of a person when they are neglected by the husband and father as the case may be. The last part is about the conclusion.

Keywords: *Criminal procedure code, self-centered, wife, Children.*

1. INTRODUCTION

In the present legitimately progressed society, each person has the option to partake in their privileges simply on the grounds of being human which is given by law and order. At the very beginning, the right of any person depends on humanity's rising interest for an enlightened society. In spite of the presence of many freedoms and regulations to safeguard them, the fact of the matter is a long way from this reality, there are arrangements however to benefit a similar one needs to experience numerous difficulties as well. Women, kids and old individuals are the most impacted by this. However, ladies, youngsters and older individuals are viewed as most fragile and needing security, these are truth be told during the ones whose rights are being infringed consistently, wherever on the planet and their insurance should be looked for with fundamental significance. The thought of 'support' in India is covered both under Section 125 of the Code of Criminal Procedure, 1973 (Section 125) as well as the individual regulations. This thought further gets its foundations from Article 15(3) supported by Article 39 of the Constitution of India, 1950 (the 'Constitution'). In Indian regulation, the term 'support' incorporates a right to food, dress and sanctuary, being accessible to the spouse, kids and guardians. It is a piece of civil rights and the regular obligation of a man to keep up with his significant other, kids and guardians, when they can't keep up with themselves. The peculiarity of support is to forestall shamelessness and desperation and improve the powerless financial state of ladies and youngsters.

Object Of Section 125

The methods under these section are not rebuffing in nature. The rationale isn't to repel a person for dismissal to keep up those whom he will without a doubt keep up anyway to prevent by maintaining commitment by technique for outline methodology to give a catalyst answer for the people who are in a difficult situation. This is a typical plan as it makes no separation between individuals having a spot with different religions or sections and it has no

relationship with individual laws of the social events. In *Mohd Ahmed Khan v. Shah Bano Begum*, [1] the SC held that that the arrangements of area 125 applies to all. The privileges of a desperate spouses or a minor guaranteeing protection on this part and the medicines outfitted are basically polite right. The zenith court characterized segment 125 of the code of criminal strategy, 1973 as a proportion of civil rights and exceptionally instituted to safeguard ladies and kids falls inside the established compass of article 15(3) and built up by article 39.

Meaning of Wife:

1. Wife means legal wife that means the marriage must be a valid one under the personal law applicable to parties. A wife who is legally married to a person and is abandoned by him can claim maintenance [2].
2. Status of second wife – Second wife is not entitled to get maintenance [3] even if she does not know the existence of the previous marriage of her husband.

When wife is not entitled to maintenance

As indicated by Section 125(4) of CrPC, 1973, a spouse isn't qualified for upkeep or interval support and costs of the procedure when any of three circumstances are valid.

1. When she is living in infidelity,
2. When she won't live with her significant other, without giving adequate explanation
3. When she is living independently with common assent.

In the event that a request has previously been passed for the spouse, such request ought to be dropped on confirmation of her living in infidelity or on the other hand assuming she has wouldn't live with her better half without giving adequate explanation or then again assuming they are living independently by shared assent. 125(5) of CrPC, 1973.

Important conditions for granting maintenance:

Sufficient means to maintain:

According to Section 125(1) of the Code of Criminal Procedure, the person from whom maintenance is claimed must have sufficient means to maintain the person or persons claiming maintenance. If a man is healthy and able-bodied, he must be held to possess the means such as real property or definite employment.

Neglect or refusal to maintain:

The person from whom maintenance is claimed must have neglected or refused to maintain the person or persons entitled to claim maintenance.[4]

Person claiming maintenance must be unable to maintain himself or herself:

The individual requesting maintenance must be unable to support himself. In *Abdulmunaf v. Salima* [5], it was decided that a hale and healthy wife who is fully educated to earn for herself but refuses to work and seeks maintenance from her husband is entitled to maintenance, but that her reluctance to work would disentitle her to the entire amount of support.

1. If a wife seeks support from her husband, she must not be living in adultery.
2. She shall not reject to live with her spouse without good reason.
3. She can't be living apart by mutual agreement.

Interim maintenance:

Order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding as the Magistrate considers

reasonable, during the pendency of the proceeding regarding monthly allowance for the maintenance under Section 125(1) of the Code, and to pay the same to such person as the Magistrate may from time to time. [6]

Maintenance to the widow:

The widow has no claim to the husband's separate property. Neither section 18 (wife's maintenance) nor section 21 (widow's maintenance) allow for a charge for maintenance on the husband's separate property.[7]

Right of Separate residence:

If her husband is guilty of desertion, subjects the women to cruelty, is suffering from leprosy, has another wife living, keeps a concubine in the house where his wife resides, has ceased to be a Hindu, or there is any other reason justifying her to live separately under Section 18(2) of the HAMA, the wife is entitled to live separately without forfeiting her right to maintenance.

The woman had been living alone and had raised all of the children without any support or help from the husband, and because there was a clear case of desertion, the wife was entitled to separate housing and maintenance. A wife's claim for support can be established under paragraph (g) even if the basis is covered in part by one or more clauses of section 18(2), namely sections (a) to (f). She cannot be granted relief just because she fails to rigorously substantiate the specific grounds advocated by her. [8] The Supreme Court concluded in *Komalam Amma v. Kumara Pillai Raghavan Pillai* [9] that maintenance must include a provision for dwelling and hence ordered that the lady be given with a living facility equivalent to that to which she had previously been accustomed. Support for a bereaved daughter-in-law: Section 19 of the HAMA states that a bereaved daughter-in-law has the right to be supported by her father-in-law. [10] In *Raj Kishore Mishra v. Meena Mishra* [11], it was found that if the daughter-in-law may support herself from the inheritance of her parents, the question of the father-in-law does not arise. Section 20 of the Hindu Family Act requires the head of the Hindu Family to support the children, the elderly, and the infirm parents. In this case, not only the father but also the mother is responsible to support them. Section 22 of Hama requires the head of the Hindu Family to support his dependents, as described in Section 21.

Maintenance to Children

However, although an ill-conceived spouse cannot ensure maintenance, the wrongdoing of a child is unimportant while providing assistance to him. That means that a child born of an invalid marriage is eligible for assistance if he or she is a minor incapable of supporting himself or herself [7]. According to Section 125(1) of the CrPC, 1973, anybody with enough means dismisses or refuses to keep up with the accompanying class of individuals.

- Genuine or ill-conceived minor child, married or not, incapable of keeping up with herself.
- His real or ill-conceived child (not a married little girl) who has accomplished more, but is unable to keep up with oneself due to any physical or mental irregularity or damage. Then this class of people can guarantee support and justice of first class in the wake of taking all important confirmations might arrange that individual to keep up with their youngster/kids in the approach to giving month to month stipends.

The term youngster isn't characterized anyplace in the code. Yet, it implies an individual who has not accomplished the age of 18 years as indicated by the Indian Majority Act, 1895 and who is bumbling to go into any agreement or to implement any case under the law.

Even a child who has attained majority can claim maintenance if he is unable to maintain himself or herself due to mental or physical abnormalities or injury. But if paternity is not established, the child is not entitled to maintenance[8]. In *Amarendra Kumar Paul vs Maya Paul* [12], the court ruled that a claim for child support is maintainable as long as the children have not reached the age of majority. Section 125(3) would no longer apply to the children once they reached the age of majority. It is stated that each person with sufficient wealth is obligated to support his children. Any individual in this context includes both men and women. Even if the child is going with her mother because she refuses to remain with her husband under the decision for restitution of conjugal rights, the father is still obligated to support the child [10]. If no date is mentioned in the order for maintenance or interim maintenance & expenses of the proceedings, then the monthly allowance for maintenance or interim maintenance and expenses of the proceeding shall be payable from the date of the order.[11] Subsections of Section 125 of CrPC, 1973 clearly provides that the monthly allowances for the maintenance or interim maintenance payable and expenses of the proceedings shall be payable from the date of order, or if so ordered from the date of the application for maintenance or interim maintenance & expenses of the proceedings as the case maybe.

Failure to comply with the magistrate Order

If a person who is ordered to pay maintenance to his wife, children, or parents fails to do so without just cause, he must pay the maintenance in one of two ways:

- The magistrate may issue a warrant for the levying of the amount due in the manner provided for the levying of fines for each breach of the order, and the magistrate may also sentence that person to imprisonment for the whole or part of each month allowance, or the interim maintenance and expenses of the proceeding, as the case may be.
- But a person cannot escape his liability by agreeing to go to jail. Sentencing a person to jail is a mode of recovering the maintenance. It can't be a substitute of maintenance that means he anyway has to make the payment [13]

Alteration in allowance (Section 127)

The cost of routine or emergency maintenance the magistrate has the authority under Section 127 of the Criminal Procedure Code 1973 to raise or decrease the amount of maintenance and/or interim maintenance owing to a change in the circumstances of the person paying the maintenance or the person receiving the maintenance. However, a person cannot request a waiver of this responsibility by declaring that he has become insolvent. Only if this was previously ordered maintenance under Section 125 of the CrPC, 1973, may an order for change of maintenance be issued. Private settlements between two parties are not orderable under Section 125 of the CrPC, 1973. Therefore a petition to enhance the amount for maintenance which was arrived as a result of a private settlement cannot be made under Section 127 CrPC, 1973 Change in circumstances include [14].

Maintenance of Children under Muslim Law

Under Muslim Laws, it is the responsibility of the father to maintain his sons until they attain puberty and his daughter, till they are married. He is also responsible for the upkeep of his widowed or divorced daughter, or a child who is in the custody of the mother. It is not the duty of the father to provide separate maintenance for a minor child or an unmarried daughter who refuses to live with him on unjustifiable grounds. The father is not responsible to maintain a child who is capable of being maintained out of his or her own property or have economic means to live fulfil their wants. If the father is poor or is not capable to maintain

his children then the mother is bound to maintain the child. And failing her, it is the duty of the parental grandfather to provide them with maintenance.

Procedure to avail maintenance

1. The petition is filed with the Family Court, comprising all of the necessary facts of the case, indicating the conditions under which the wife requests support, and all personal pertinent data.
2. The Family Court then reviews the case and serves notice on the spouse against whom the woman has filed the application.
3. Both parties are summoned to appear in court for the purpose of resolving the current matter.
4. If the Family Court's reconciliation procedure is successful, the case is concluded; if the reconciliation process fails, the Family Court proceeds with the petition on merits.
5. The Family Court requests a response to the petition from the opposing party, outlining the facts with which he or she agrees or disagrees. The courts may also request that both parties produce their income accounts so that the courts can deduce the parties' capacities and liabilities.
6. The court then requests a rebuttal from the petitioner side to the opposite party's reply. This is the stage at which the use of interim maintenance is chosen.
7. The court then frames the matter for decision, and the case is posted for the parties' evidence.
8. Both the petitioner and the respondents are requested to provide their evidence by filing the necessary documents and papers, as well as inviting all witnesses.
9. The final argument is held and the case is decided by the court.
10. The court finally passes the order where it may either dismiss the petition or allow the petition and direct the other party to pay the amount as per the direction of the court.

Provision for Alimony under Section 25 of Hindu Marriage Act Section 25 of Hindu Marriage Act

Permanent alimony is provided for under Section 25 of the Hindu Marriage Act. The fundamental goal of this section is to place both spouses on an equal basis for the purpose of providing permanent maintenance to the spouse who is poor and has no other source of income for maintenance and support. This provision for lifelong alimony and maintenance comes with two caveats. First, this claim to maintenance will be valid as long as the applicant is unmarried and leads a chaste life. Second, this right is the applicant's personal right, and it expires with the applicant's death.

The notion of 'permanent alimony' is not indigenous, and there was no divorce legislation among Hindus in the nation. The main basis for giving perpetual alimony to the wife appears to be that if the link that was formerly thought to be inviolable is to be broken in the larger benefit of society, the same is deemed for public interest. And social welfare necessitates that the wife not be abandoned on the streets, but rather be supplied with support so that she is not forced to live a disreputable lifestyle in order to earn a livelihood.

Legitimate Or Illegitimate Minor Child

Male and female children, regardless of whether they are born inside or outside the legally valid marriage of the father and mother, can be supported.

Son

'Minor' refers to a person who, under the provisions of Section 3 of the Indian Majority Act 1875, is judged not to have attained his majority, that is, to be over the age of 18 years. Under Section 125 of the Cr.P.C, a minor son (legitimate or illegitimate) is entitled to maintenance.

Daughter

If a minor daughter (legitimate or illegitimate) is unmarried, she is entitled to maintenance from her father; if she is married, she is also entitled to maintenance from her father, but the Magistrate must be convinced that her husband lacks essential and adequate resources to support his minor wife.

In the case of *SHAHBUDDIN V. STATE OF UP* [15], a minor daughter who reached the age of majority while the claim for support was pending was found to be entitled to maintenance up to the date of majority.

Mother and Father

Both the mother and father, whether normal or consenting, may ensure support from at least one of their children. Girls are also required to help their mothers and fathers. A stage mother can provide assistance only if she is a widow with no naturally produced daughters or children.

In the case of *PANDURANG BHAURAO PABHADE v. BABURAO DABHADE*, [16] the Bombay High Court ruled that if a father or mother is unable to support himself or herself, he or she can seek maintenance under section 125(1) (d). However, if parents seek maintenance for their children, the children must have adequate means to support their parents while neglecting or refusing to support the father.

Section 126 Procedure: Personal Presence

Section 126(2) of the law specifies the conditions under which evidence can be recorded while the non-applicant is not personally present.

The personal presence (including the recording of evidence) of the court will proceed in the presence of with in sub section (2) of section 126 of the code shows to some extent that the non-applicant is bound to remain present on every hearing of the case (unless his presence is dispensed with) and this may go to show that the proceedings under section 125 of the code are of quasi-judicial nature.

In *ARUN KUMAR V. CHANDAN BAI*, [17] it was decided that if the non-applicant is absent but his counsel is present, evidence might be recorded in his presence. Such evidence recording is perfectly legal.

Jurisdiction

In a procedure under Section 126 of the Code of Criminal Procedure, the Court has jurisdiction to hear the application where the petitioner resides. The issue of the Court's jurisdiction to hear the wife and daughter's petition for support in *KUMUTHAN V. KAMNAPPAZ*

It was determined that because the spouse resided within the jurisdiction of the Trichy court, the Trichy court had jurisdiction to hear the maintenance petition. The Supreme Court stated that the lower court had neglected to take into account the requirements of Cr.P.C. 126. Proceeding under Law 125 against a person in any district is authorized under the aforementioned section.

2. DISCUSSION

Problems Related to Maintenance Laws in India

In India, distinct maintenance regulations apply to various groups. The fundamental issue is how to make recommendations and ideas for standard maintenance regulations across India under a similar roof, and which state or states should serve as role models. Hindus and Muslims make up the majority of the Indian population. Both have both ancient and current maintenance laws. In India, there are several laws governing community upkeep. Maintenance is a social justice metric. Maintenance laws in India are neither comprehensive, significant, nor thorough.

A brief examination of maintenance legislation in various Indian communities reveals certain irregularities, gaps, and lacunae. There are comprehensive provisions in Hindu law, such as in Mahomed, regarding maintenance requirements, both old and new (Shastric and Koranic). Similar provisions for maintenance are included in Chapter IX (Sections 125-128) of the CRPC, which pretends to be a full piece of legislation in and of itself. There should be an endeavour to find a shared role model under a single umbrella. Chapter IX of the CRPC might serve as a model. However, there are several irregularities and gaps in Section 125 of The CRPC that should be addressed. Some anomalies, lacunae in chapter IX of Cr. P.C., 1973 are stated below as: 1) Under the CRPC, a Magistrate has no inherent power like section 151 of Civil Procedure Code or like 482 of the CRPC by which a High Court has got inherent power. Under Sec. 362 of the CRPC, Magistrate cannot alter or review his own order.²⁶ Some distinctive features between Hindu Marriage Act, 1955 and Hindu Adoptions and Maintenance Act are stated below to show some anomalies.

- Under Section 24 of the Hindu Marriage Act of 1955, both male and female spouses may seek maintenance from the other spouse. Only the woman can get support under Section 18 of the 1956 Act.
- Section 24 of the Hindu Marriage Act, 1955 allows for even the costs of proceeding, but Section 18 of the 1956 Act does not.

The order passed under section 24 of the Hindu Marriage Act, 1955 is not appealable though revision lies. But, the decree passed under section 18 of the Hindu Adoptions and Maintenance Act, 1956 is appealable.

3. CONCLUSION

An examination of the maintenance cases under Section 125 of the CrPC reveals that a step child or a step further cannot claim maintenance; only a childless step mother who is a widow or whose spouse is incapable of supporting her is entitled to maintenance from her step children. If the goal of the provision is to assist helpless, destitute parents, spouses, and children, how can helpless stepfathers and stepchildren be excluded from its scope? On what grounds is the clause freely construed for childless stepmothers but tightly construed for childless stepfathers and helpless stepchildren? It is reasonable to believe that natural parents and children have the primary responsibility for maintenance, but it is completely unreasonable to believe that step parents (except childless step mothers) and step children have no right to maintenance from their step children and step parents, respectively, even if they have no one else to care for them. The legislature has come to the aid of step parents with the passage of the Maintenance and Welfare of Parents and Senior Citizens Act of 2007, however the condition of step children remains the same. The Hindu Adoptions and Maintenance Act of 1956, as well as Section 125 of the CrPC, should be clearly changed to state that stepfathers, stepmothers, and stepchildren are entitled to maintenance. To avoid abuse, the measures would plainly provide the courts authority to issue support only in

legitimate instances. However, until the government takes responsibility for enacting effective maintenance rules, it is the role of the courts to step forth and take a stance on their behalf.

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CHAPTER 14

AN ANALYSIS ON THE SERIAL SEXUAL OFFENDERS

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Abstract: The paper studies the concept of using multiple correspondence analysis and hierarchical cluster analysis, this study found hunting process scripts in a sample of 361 serial sex offences perpetrated by serial sex offenders. There were found to be three scripts for the hunting process that account for both behavioral and geographical characteristics of crime. These three scripts each included a unique hunting procedure. Both the outside and the house invasion rape tracks are part of the coercive script. The devious rape track and the rape track with the family infiltrator are both included in the deceptive screenplay. Only the direct-action rape audio is there in the unpersuasive screenplay. These three scripts' theoretical applicability as well as their usefulness in terms of crime prevention tactics and spatial profiling are examined. In light of recent studies on serial sex offenders and environmental criminology, the paradigm is examined. Future research as well as implications for therapeutic therapy, crime prevention, and offender profiling are highlighted.

Keywords: *Offenders, Rape, wrongdoers, wrongdoing, victim.*

1. INTRODUCTION

A model that aligns wrongdoer typical technique of doing things data as the key to discover early child sexual abuse lucrative open doors was proposed by Kaufman et al. (2006) and is based on the model provided by Clarke (1995; 1997). This concept shows considerable promise and provides a unique means of dealing with the issue of coping with and perhaps reducing the frequency of sexual assaults on minors. Crime prevention or risk analysis is used to examine a variety of crime types, including robbery, vandalism, and auto theft [1], internal computer fraud sex offences [2], drug manufacturing and dealing [3], illegal waste activities, identity theft and wildlife poaching . A quality crime script should meet the following 12 characteristics, according to Borrión: correctness, ambiguity, completeness, consistency, context, parsimony, precision, traceability, transparency, uncertainty, and usability.

All of his above criteria should ideally be taken into account when evaluating crime scripts because meeting those helps crime scripts' applications, such as identifying pinch points/interventions, satisfy their needs. A non-parsimonious script complicates the analysis and wastes the analyst's efforts, for instance, while an insufficient script may prevent the identification of efficient and cost-effective pinch points. A script's quality can be influenced by a number of things, such as the scripters' knowledge or expertise, the resources at hand (such as data or time), or the technique to scripting that has been used. The focus of this study is on the latter because it is the one that can be managed by the applied crime scripting method.

1.2 Empirical Studies:

In the latter half of the 1980s, the main studies that openly exposed the practise of sexual predators against children were published [4] ; Understanding the cycle can help identify areas for counteraction training, both for presently exploited children and for children in general. Important details on the techniques sexual offenders against minors used to commit their crimes were revealed by these exams. For instance, before engaging in sexual activity, the perpetrators are known to progressively desensitise the victim to physical contact. Additionally, wrongdoers use pressure and risks of some kind particularly when control fails

[5]. However, these assessments failed to capture the notion of doing business as usual and lacked reliable tools to cover all aspects of the customary course of action (for example accessing the person in question, acquiring the trust of the person in question). Consequently, not all aspects of business as usual could be methodically explored, and it was also unable to identify explicit techniques at various stages of usual methodology. The Modus Operandi Questionnaire's (MOQ) primary benefit is that it offers an interim structure for compiling information on all facets of wrongdoer victim engagement throughout the wrongdoing commission procedure. This paradigm organises behaviours into a temporal continuum that starts with the wrongdoers' approaches to the victims and includes strategies used to gain the trust of the victims, ensure their engagement in sexual activity, and keep them silent after the abuse. With the use of this technology, Kaufman and his colleagues conducted a number of investigations to look into the tactics used by sexual predators on youngsters. Due to this instrument's inherent qualities (such as the excellent internal consistency of the scales), other scientists have also adopted this approach to studying business as usual. Even if these subsequent investigations are of great relevance, the misconduct commission procedure cannot be fully explained by continuing with business as normal. Situational circumstances and casualty characteristics may be linked and have an influence on the standard technique, which may then have an effect on the outcome of the wrongdoing.

Cornish wrongdoers may adapt to individual aspects, such as situational considerations, and they may learn and develop by using new ways when appropriate, according to academics who specialise in rational decision-making, in particular (Lacoste and Tremblay, 2003). This makes it crucial to understand the wrongful commission procedure that connections between conventional methods and other factors are investigated. A few studies used multivariate analyses to examine the relationship between businesses as usual and other attributes. Research on sexual culpability in general has shown that the conventional approaches may vary according to the age, traits, and circumstances of the guilty individual.

1.3 Age of the Victim:

The Research study [6] concentrated on the influence of a few variables, such as the victim's age (0–13 years old), on the propensity to employ a manipulative, coercive, or weak technique to include the victim in sexual movement. They used 226 adult wrongdoers as an example. They found that adults who harm older children physically are more likely to utilise manipulative than deceitful methods. Additionally, Kaufman, Hilliker, and Daleiden found that depending on the juvenile offender's age, different coercive and manipulative strategies were employed. Researchers looked at the correlation between 179 young criminals and the age of the youngest victim (0–3 years, 4–6 years, 7–9 years, 10–12 years, and 13–17 years) and a few configurations of techniques in various business as usual periods. The recurrence of purpose for various arrangements of procedures (giving gifts and showing affection/consideration to win the casualty's trust, showing affection/consideration and taking steps to change the casualty wrongdoer relationship to win the casualty's collaboration, aside from the "using liquor and medications" set of techniques to gain the casualty's participation for which the recurrence of purpose followed a straight increment across all age groups) While the age of the fatality influences the standard approach, research isn't always as conclusive as it is when it comes to the subject's orientation.

1.4 Gender of the Victim:

Focusing on the effects of the casualty's orientation on business as usual, [7] identified in a few sets of methodologies (giving gifts and giving adoration/thoughtfulness to gain the casualty's trust, giving affection/consideration, taking measures to harm the casualty's companion and family and to adjust the casualty guilty party relationship in order to acquire

the casualty's participation, and taking steps to actually hurt the casualty) that could. Therefore, young criminals who don't appear to care about the victim's orientation may instead be repeat offenders who have realised that adopting a particular strategy helps them achieve their goals. However, it is also possible that other characteristics, such as casualty age distribution and casualty degree of blockage, influence the impact of casualty orientation on business as usual, as shown by the findings obtained by Hunter [8].

1.5 Offender-Victim Relationship:

The link between the guilty party and the casualty is another important aspect related to the standard process (interfamilial or extra familial). The Kaufman, Hilliker, and Daleiden research from 1996 concentrated on the connection between this trait and typical juvenile behaviour. They discovered that wrongdoers who essentially chose intra familial casualties tended to adopt these strategies more frequently than those who essentially chose extra familial casualties. These strategies included giving gifts to win the casualty's trust, showing love and consideration and taking action to alter the casualty's relationship with the guilty party in order to win the casualty's cooperation. Kaufman examined the impact of the guilty party casualty with connection on both childish and adult typical methods in a different review. They discovered, in particular, that young adult extra familial wrongdoers used strategies that involved subjecting victims to sensual entertainment less frequently than juvenile intra familial wrongdoers did. Additionally, intra familial wrongdoers tended to use methods that involved giving gifts and making the victim feel helpless (by, for example, educating others about their sexual way of acting) more frequently than extra familial wrongdoers, though the latter group used alcohol and drug methods more frequently overall. This was the predicament for both the young and the adult offenders. These results show that intra familial wrongdoers may profit from their link to a relative since it gives them the chance to command power and, as a consequence, makes the acceptance of specific systems (such the capacity to tell others about their sexual behaviour) plausible.

2. DISCUSSION

The rational decision stance anticipates that thugs will taunt since doing wrong provides the greatest means of achieving the desired results (e.g., cash, material merchandise, fervour, esteem, sexual satisfaction, control of others). As a result, it is essential to see the selection of tactics for carrying out these violations, as well as the independent guidance contained, as instrumental means of acting in order to achieve these goals [9]. The process of making decisions, however straightforward this interaction may occasionally be, exhibits some rationality, but it is constrained by limitations on time, capability, and the availability of crucial information [10]. People evaluate the effort, benefits, and costs associated with chosen game-plans before deciding whether or not to commit a crime. This being the case, an acceptable framework for the full dynamic cycle associated with wrongdoing commission is required. Particular situational circumstances influencing the character and grouping of wrongdoers' actions demand this. Cornish proposed the concept of the wrongdoing script to help with the examination of the entire wrongdoing commission interaction and assist with differentiating the choices and activities of guilty parties at each step of their violations (readiness, target determination, commission of the demonstration, departure, and fallout), as well as the situational factors that should be taken into account during the crime. The idea of content, which Schank and Abelson claim stems from the study of the mind, "is typically considered as akin to a specific sort of composition, known as an occasion mapping, as it coordinates our understanding of how to interpret and build regular social cycles or timetables,"

Scripts are learned informally and provided with assistance and example. When a certain approach to handling a piece of content has been utilised effectively and frequently in the past, it will be put into practise even faster. Assuming enough, unless there are enough inhibitory factors present, a scheduled action will occur after a performed content. Scripts are learned informally and provided with assistance and example. When a certain approach to handling a piece of content has been utilised effectively and frequently in the past, it will be put into practise even faster. Assuming enough, unless there are enough inhibitory factors present, a scheduled action will occur after a performed content. [11] Even the most straightforward wrongdoings consist of a sequence of choices and deeds that are broken down into connected phases and lead to the accomplishment of sub-aims that effectively further the overall wrongdoing's objectives. According to Cornish and Clarke (1987), wrongdoing scripts are intimately tied to the decision-organizing aspects of violations, with the final option projecting needs for the wrongdoer and before posting procedural criteria for wrongdoings (e.g., abilities, assets, exertion, inclinations, values). According to Cornish and Clarke, contents should be viewed as routines of criminal direction and should thus provide solutions to the problems of risk, effort, and benefits related to specific offences and situations. Scripts typically include corresponding songs. The use of tracks, which are seen as variants of more traditional material, allows one to control system contrasts under clear circumstances. In the past, analysts have written scripts for a variety of offences, including check fraud, professional auto theft, the selling of stolen automobiles, tram robbery, roaming, and label-writing In Cornish's distinguishing proof of a single male victim of sexual abuse script with two tracks: stranger-culprit in public locations and staff-culprit in private organisations, the use of wrongdoing script analysis to sexual culpability is detailed. For instance, the following can be found on the trail of an outside criminal in public areas:

- The development of sexual desires, the development of offending tactics, the development of inducements, and the choice of a victim-rich environment.
- Prerequisites: Appropriate responsibilities, a manager's absence, and disorderly environments.
- Instrumental prerequisites include selecting appropriate victims; Instrumental initiation includes making a non-threatening approach, starting an engagement, and preparatory grooming.
- the sexual assault being committed.
- instrumental actualization (isolation from others, relocation to an unsupervised place).
- Following circumstances: effective disengagement.
- Leaving the scene: Disposing of the evidence.

The cycle of wrongful commission may be particularly complex, even for "expressive" or "straightforward" offences like rape, as this study demonstrates. The intricacy of each level is overlooked in this information, which is intriguing but also shows that crucial navigation and activities are not being taken into account. Furthermore, no details about the differentiation of the material are offered. Finally, each track's exploration of certain geographic areas falls short. The ongoing study sought to locate hunting process scripts—and their connected tracks—in a case of repeated sex offences using multivariate factual approaches. Three criteria were used to choose the guilty parties of sequential sex. First and foremost, those responsible for a number of sexual offences must face various challenges and make decisions. The "assortment of his (the serial sex offender's) misdeeds, the extensive nature of his assault career, and the general capability of his crime take into consideration both hypothetical and applied request"[12]. Second, there is not much observational research on this group of sex offenders. Finally, focusing on this group may encourage the development of new

technologies like geographic profiling because repeated infractions involving outsiders are the most challenging to address (e.g., absence of a link between the offender and the victim, data overload, lack of assets).

2.1 The Goal-Driven Crime Scripting Framework

The wrongdoing prearranging structure that is proposed in this segment has been created in view of the wrongdoing prearranging process model introduced in [13]. This model records the exercises engaged with wrongdoing prearranging: figuring out the issue, dissecting the data necessities, choosing the information source, further developing information, removing data, choosing a representation model, coordinating data, and assessing the produced wrongdoing script. This has been checked on and further developed utilizing the current information from objective based approaches in prerequisites designing [14] and business process models [15] to foster a reasonable and usable wrongdoing prearranging structure. The previous motivated this concentrate on the most proficient method to include objectives in the prearranging system and its connected exercises and the last option helped in coordinating the exercises, their orders, and developments.

2.2 Environmental Factors' Contribution

The findings of this study show that ecological factors, like the context (indoor vs. outdoor settings) and familiarity with the crime scene, have a significant impact in the strategies sequential sex offenders employ to seduce their victims. These two factors accounted for more than 25% of the variance that the four-layered configuration explained.

Such findings are consistent with the view of natural criminal science, which holds that the deliberate geographical and temporary dispersion of wrongdoers and victims. Findings also indicate that the choice of targets is greatly influenced by the environment. The acknowledged contents enable us to appreciate the significance of the connection between the social and spatial aspects of criminal behaviour. As we can see from the various contents, some techniques may be triggered by certain locations where the offender and the victim meet.

On the other hand, certain locations may be related to the wrongdoer's behaviour throughout the hunting system. These findings are in line with a few studies that have looked at the relationships between spatial behaviour and severe violations. The majority of child predators, according to the findings of Ouimet and Proulx's investigation, were outraged in or close to their homes. According to all the facts, the offender's house is the best spot to commit an offence since it has a number of advantages over rival locations (e.g., youngsters could have a real sense of reassurance or more able to take part in sexual contact). The scientists did observe, however, that the distance travelled by the offender from his residence to the victim was strongly related to how serious the offence was. If they can't find a good victim nearby, child predators might have to search elsewhere. The longer they go, the more difficult it is to persuade a child to return to the wrongdoer's house since few children will drive in a car with an outsider.

As a result, the criminal must modify his incorrect strategies and use a more direct (coercive) method. It highlights how social, value-based, and adaptable human behaviour is. This combination of the wrongdoer's social and spatial components is an arresting example of the wrongdoing from the perspective of a sane choice.

Crooks get expertise to enhance their data processing and dynamic, even though they are not criminals. It is essential to concentrate on ecological features, such as crime site characteristics and their choice organising properties, in order to advance the idea of diverse individual scenario criminal communications. The normal decision technique has

demonstrated that the behaviour of guilty persons is susceptible to ecological indications connected to the criminal occasion.

The Cycle of Sexual Offending: The Behaviour of Male Offenders Who Sexually Assault Female Victims According to a recent study of rape offenders' behaviour patterns, they engage in three phases of responsibility:

- (1) Making conscious or unconscious plans before the offence,
- (2) committing the offence, and
- (3) Developing ideas following the offence that would allow the person to recommit sexual assault in the future.

While some rapists come to a series of deliberate decisions about how, when, and where to pursue, target, and subdue a victim, the majority make a series of seemingly unimportant decisions that ultimately result in the commission of a rape. For instance, a criminal may feel depressed or enraged, start drinking to cope, and then go to a pub or club where there are several really drunk women, creating the possibility of committing rape. According to other research, the attackers' behaviour during the attack might vary greatly depending on whether they are the victim's friends or co-workers.

These can include blaming the subject or denying that the demonstration was planned. **Female Sexual Assaulters, Male-on-Male Sexual Assaulters, and Multiple Sexual Assault Offenders** There have been far less studies conducted on female rape offenders than on male offenders who assault female victims. The majority of research to far has focused on the characteristics and behaviours of female wrongdoers who harm children or young people. On the traits or behaviours of female rape offenders, there is minimal consensus. In essence, there hasn't been much recognition of adult males committing rape against other adult males up until now. A very small number of studies have looked at the matter, and a large portion of the early research on male rape primarily presented the incidents rather than contrasting the perpetrators of such displays and a control group.

Studies have frequently identified two different types of perpetrators based on their motivations for perpetrating the rape. These are heterosexual males who attack other men to assert their social dominance or authority, and homosexual men who attack other gay men primarily for intimacy or sexual fulfilment. However, generally speaking, we know very little about the characteristics of these offenders, who need further investigation. Finally, multiple perpetrator rape by more than one individual is that bad. The amount of research on this kind of assault is also quite limited. According to research, as opposed to covert accomplices, other rape offenders are typically strangers or relaxed co-workers of the victim. Most theories and studies suggest that during these attacks, a leader, or a single perpetrator, organises the actions of one or more other people. According to certain research, viciousness is more frequent in these assaults. Additionally, research suggests that young males with psychiatric health concerns or drug use disorders who live in too masculine, low-supervision environments may be more likely to commit different types of perpetrator rape [16].

3. Male perpetrators' actions when they sexually assault female victims: examples of their *behaviour*:

3.1 The Cycle of Sexual Offending

A new survey of the way of behaving of rape culprits finds they take part in a pattern of insulting that comprises of three phases:

Before committing the crime,

- (1) anticipating a degree of cognition or ignorance,

- (2) doing the crime, and
- (3) moulding thoughts following the crime allowing the person to commit rape going forward.

While some sexual attackers make a series of deliberate decisions about how, when, and where to pursue, target, and subdue a victim, the majority make a series of seemingly pointless decisions that ultimately result in the commission of a rape. For instance, a perpetrator can feel depressed or enraged, start drinking to cope with these negative emotions, then travel to a bar or club where there are many extremely drunk women, creating the possibility of committing rape. According to additional studies, the way attackers behave during an attack might alter greatly depending on whether they are close friends or family members of the victim. Following the assault, sexual assault perpetrators may exhibit mental bends, or views, that justify or provide explanations for their behaviour. These can include making accusations against the individual in issue or denying that the rally was planned.

4. Female Sexual Assault Perpetrators, Male-on-Male Sexual Assault

4.1 Culprits, and Multiple-Perpetrator Sexual Assault

There have been far less studies conducted on female rape offenders than on male offenders who assault female victims. The majority of research to date has focused on the traits and behaviours of female offenders who abuse children or teens. There is minimal consensus about the characteristics or behaviours of female rape offenders. Additionally, until recently, there has been little acknowledgement of rape committed by adult men against other adult men. Only a small number of studies have looked into the topic, and a large portion of the early research on male rape only described the occurrences rather than contrasting the perpetrators with a control group. Studies have frequently identified two distinct categories of offenders based on their motivations for committing the rape. These include heterosexual males who attack other men as a show of social dominance or, on the other side, control, and homosexual men who attack other gay men primarily for intimacy or sexual gratification. In any event, we know very little about the characteristics of these offenders, who need more investigation.[17]

Finally, several rape perpetrators have committed crimes that are so terrible.

The amount of research on this kind of assault is also quite limited. According to research, rather than being close friends, numerous perpetrators of rape are more likely to be strangers or laid-back colleagues of the victim. Most theories and studies suggest that during these attacks, a pioneer, or one culpable actor, organises the actions of one or more other people. According to some analysis, viciousness is more typical in these types of assaults. Additionally, research suggests that young males in too macho, low-supervision environments who struggle with their mental health or who are under the influence of drugs may be more likely to commit certain types of rape.

4. CONCLUSION

The primary objective of research using the conventional method has always been to produce knowledge that will aid in the prevention of child sexual assault. The routine behaviour of sexual predators toward minors was used as examples to show how the bad actors' selected patterns of action to commit crimes may be modified. These investigations found that the perpetrators of the crime utilise a variety of tactics to accomplish certain objectives (such as acquiring the victims' trust, access, collaboration, and quiet following the abuse) which enables them to carry out their crime effectively. The fact that many criminals first numb their victim to physical contact before moving on to sexual touch was a particularly reliable discovery. Despite the importance of these example analyses, the misconduct commission

process as a whole cannot be understood by following business as usual. As a result, certain experiments were conducted to determine the relationships between customary approach and many features, including casualty and situational elements. In instance, study suggested that the victim's age, orientation, closeness to the guilty individual, and presence of weird sexual fantasies before to the transgression might all have an influence on the conventional methods. Investigations into "business as usual" incidents must to be taken into account to prevent sexual abuse of children. More detailed and clear data is anticipated to more effectively prevent wrongdoers from reoffending. Data about the wrongdoer's typical course of conduct is already utilised in backslide counteraction therapy to avoid recidivism. Additionally, situational wrongdoing counteraction, a fairly novel approach to dealing with wrongdoing, was demonstrated to achieve long-term effectiveness with various infractions (Clarke, 1997). Kaufman et al. (2006) suggested a model based on the model described by Clarke (1995; 1997) that aligns wrongdoer normal method of doing things data as the key to identify early child sexual abuse lucrative open doors. This strategy has great promise and offers a creative approach to dealing with and perhaps reducing the number of children who are victims of sexual assaults.

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CHAPTER 15

ANALYSIS ON GENDER EQUALITY AND ITS GENERAL PROVISIONS

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ABSTRACT: The foundation of human rights law is gender equality. It is seen as essential to all facets of development and serves as the cornerstone and guiding principle of the 2030 Agenda for Development of the United Nations. Gender equality refers to equal opportunities for women, men, and transgender people in the areas of education, healthcare, financial resources, employment, leadership positions, participation in political life, and the process of making decisions. It also refers to the ability to contribute to the political, social, and economic advancement of a country. Gender equality stands for the recognition of the needs and interests of men, women, and transgender people, as well as the freedom of all people to make their own decisions without interference from social norms and gender-based discrimination. Even while these rights are given to men and women equally, there is still a gap that has an impact on people to differing degrees throughout different nations. The groups that are most impacted by this gap are women and transgender people. Due to greater awareness of gender issues, transgender people's experiences with gender inequality are now also emphasised, in addition to those of women. Women and transgender persons are denied their rights in all spheres of social, economic, and public life by gender norms, patriarchal ideology, conventions, and practises. The dream of sustainable development is severely hampered by this.

KEYWORDS: *Gender Equality, Patriarchal Ideology, Transgender, Women.*

1. INTRODUCTION

Each and every citizen of India has been granted certain rights, which are implemented by the courts with some restrictions, to safeguard their interests in the community against any violence. One of these essential rights is the equality of all citizens, which guards them against prejudice and other problems with gender equality brought on by the bad intentions of society. It rejects prejudice against people and the right to prohibit arbitrary treatment based on caste, race, class, sex, and religion. This practise of inequality is prevalent across society, including in the workplace, among families, in places of worship, etc.

The court's declaration of the right to equality is conditional upon the elimination of untouchability, the practise of job discrimination, and the use of titles as a barrier to equality of opportunity. In order to draw attention to the serious issues with gender inequality, this is the main privilege granted to every person in society and is also referenced under Articles 14, 15, 16, and 17 of the Indian Constitution. As it is essential that they have quick access to the court to exercise their equality rights, this is the greater privilege that has been granted to them.

Gender Equality: Issues and Challenges for Women and Transgender

Issues and Challenges for Women

Even while these rights are given to men and women equally, there is still a gap that has an impact on people to differing degrees throughout different nations. The groups that are most impacted by this gap are women and transgender people. Due to greater awareness of gender issues, transgender people's experiences with gender inequality are now also emphasised, in addition to those of women. Women and transgender persons are denied their rights in all spheres of social, economic, and public life by gender norms, patriarchal ideology,

conventions, and practises. The dream of sustainable development is severely hampered by this. The major issues debarring women from enjoying and achieving equality in our country are:

- a) Education is a powerful tool for empowering women, but many Indian women, especially those from rural or distant areas with poor incomes, lack access to it. There are several barriers that prevent many women from exercising their fundamental right to an education. Girls are typically kept at home to help with household duties or to care for younger siblings, among other things. Additionally, the lack of functional restrooms, safety concerns for adolescent girls who must travel a long distance to school, and early marriage are significant barriers to girls' education.[1]
- b) Preference for sons: Because boys are seen as a source of social stability in our Indian society, the preference for a son is also founded in the patriarchal structure of that country. Sons are often the only people allowed to perform funeral rites for their parents [2] and other religious practises, which are supposedly only performed by men, like old age security, economic roles for sons, carrying on the family name, etc. are a few other significant factors that make sons more desirable in our society [3]
- c) Domestic abuse is still a major issue in India despite the passage of the 2005 Protection of Women from Domestic Violence Act. The causes for aggressive behaviour are deeply ingrained in Indian society's patriarchal standards; additional contributing variables include alcoholism, a violent spouse, and the desire for a male offspring. Domestic violence includes hitting, slapping, humiliating women in public, and other forms of physical and psychological abuse [4]. Women's safety must be prioritised, and all forms of violence, insecurities, and abuse against women must be stopped.
- d) Female foeticide: In spite of India's development and civilization, the abhorrent practise of female foeticide continues. Many families view girls as a hassle and a burden, and they have no qualms about using whatever measures necessary to stop them from being born. Reason behind such practices is the traditional patriarchal mind-set where a male child will become source of income for whereas the girl kid will be married off to another family, the family and will continue the family line. The terrible thing is that female foeticide occurs in a nation where several goddesses are honoured and venerated. It not only has a detrimental effect on the country's economy and development but also harms its reputation abroad. The family and will carry the family line whereas the girl child will be married off to another family [5]. The saddening part is that Female foeticide exists in a country where many forms of Goddesses are celebrated and worshipped. It not only negatively impacts the growth and development of the country but also tarnishes the image of nation worldwide.
- e) Sexual harassment at the workplace: Sexual harassment violates a woman's rights to 'Gender Equality' and 'Life and Liberty' in the workplace .Everyone have the right to a workplace that is protected, safe, without discrimination. Sexual harassment hinders the realization of gender equality and has a negative effect on the overall growth of the country and the well-being of its people [6] . It has a lasting impact on individuals including psychology and physical being which disturbs the state of mind. In India, the Vishaka Guidelines addressed sexual harassment of women within the workplace and recognized that sexual harassment in the workplace is violation of their basic rights of gender equality, right to life and liberty and the right to any occupation, trade or profession. But still more efforts and awareness are needed to address sexual harassment in the interest of society.
- f) Gender-based violence: Gender-based violence involves physical, sexual, psychological and economic violence. Common forms of violence against women in

India include acts such as domestic abuse, rape, honour crimes, sexual violence, dowry deaths, gender-based sex selection; cyber violence and many more. Men can also be subject to such abuse and exploitation but majorly its women who suffer the most [7]. Gender inequality is a universal concern and violence and abuse against women is not only a crime but also an infringement of women's human rights. The Convention of the Elimination of All Forms of Discrimination against Women (CEDAW) also acknowledges that gender-based violence such as rape affects women's right of equality and freedom. Laws are there but their stricter implementation and execution will make the difference.

- g) Healthcare Issues: Poverty, gender bias and reproductive role makes women prone to various diseases and unable to access the health services[8]. There are several barriers to access these services like Economic barriers, Health system barriers such as scarcity of human resources for health, lack of sensitization and Social barriers such as stigma concerning certain diseases such as HIV/AIDS, sexual health, unawareness regarding the various schemes and programmes for women [9] which results in unfavourable health outcomes for females. Addressing and improving issues of healthcare among women will not only contribute in strengthening women but also building a healthy nation.

Laws Against Gender Inequality in India

The Indian Constitution has a number of clauses that guarantee gender equality and state categorically that no one should be subjected to discrimination on the basis of sex or gender. From a transgender perspective, just like the other two genders, they too have a right to the fundamental freedoms guaranteed by the Indian Constitution. For instance, Article 14 specifies that "the State shall not refuse to any individual within the territorial limits of the State, equality before the law or the equal protection of the laws.", Article 15 forbids discrimination against any citizen on the basis of race, caste, religion, sex, place of birth, residence, or any of them; Article 16 declares that "No citizen shall, on the basis only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State;" and Article 19 states that "All citizens shall have the right to freedom "No one shall be deprived of his life or liberty unless in accordance with the process provided by law" (Article 14, 15, 16, 19 and 21 of Constitution of India). The same rules that apply to other genders also apply to transgender people. Internationally speaking, the UN Charter was the first document to declare gender equality to be a fundamental human right. Equal rights for men and women are emphasised in the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, and the International Covenant on Social and Political Rights, all of which were signed in 1966 [10].

Gender equality is a basic human right that applies to all people, according to the 1948 Universal Declaration of Human Rights. In international accords, other Member States have repeatedly reiterated their dedication to gender equality and women's empowerment. Gender equality and women's empowerment are essential for overall development, according to the Beijing Declaration, 2030 Agenda for Sustainable Development, and the Convention on the Elimination of All Forms of Discrimination against Women (United Nations Office on Drugs and Crime, 2019). The necessity for an attitude adjustment is paramount. Everyone should recognise that all people, regardless of gender, are equal and have the same rights to chances, prospects, and respect.

Family law CEDAW provisions call for states parties to take all appropriate measures to eliminate discrimination against women, including discrimination within marriage and the

family. Article 16 (1) addresses a number of the issues relevant to family law jurisprudence reviewed in this study: States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

The family, which has traditionally been seen as a private entity, serves as an example of the conflicts between traditional, cultural, or customary customs or practises and women's equality rights. In regard to this institution, women assert their rights under family law, customary law, and/or personal (religious) law.

Regarding the main issue of this exploratory study, this sub-theme represented a sizable amount of constitutional litigation throughout Asia and Africa. The cases discussed under this subtopic deal with inheritance, polygyny, and traditional marriage traditions; marital breakup, including property partition; and polygamy. The courts must resolve conflicts between constitutional provisions and traditional or religious marriage, divorce, and inheritance customs as well as old-fashioned patriarchal common law or statutory principles that do not comply with the equality rights provisions in constitutions or international agreements in these cases.

Gender-based violence

Gender-based violence (GBV), which includes domestic violence and sexual assault, was recognised as a public law issue in the 1990s, which gave state actors increased and more specific duties and responsibilities to address violence against women and girls, whether it takes place at home, in the community, at work, or as a weapon in armed conflict. This subtopic deals to both the customary or religious practises that cause women to suffer great pain, even to the point of death, as well as the practises in state legal culture that have led to impunity for both state and private actors. Violence against women (GBV) is defined as "violence that is directed against a woman because she is a woman or that affects women disproportionately" (CEDAW General Recommendation No. 19: Violence Against Women, 1992). This includes "...physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or in private life" [11] Women and girls' human rights, such as the right to life, the right to equal protection under the law, the right to equality, the right to security, and the right to dignity, are impacted by gender-based violence. In this sub-theme, a sizable amount of constitutional litigation was found, and cases were further divided into several problems. The issue of underage marriage is addressed first because it is a flagrant violation of girls' rights. It is crucial to understand that child marriage, also known as forced marriage or early marriage, perfectly matches the subtopic of GBV.

Since child brides are more frequently the victims of physical and sexual abuse and since child marriage is frequently coerced, GBV is a topic that is being addressed more and more frequently (Girls Not Brides 2014). The Convention on the Rights of the Child (CRC) calls for states parties to eradicate traditional practises that damage children, while CEDAW sets the legal majority age for marriage at 18 years old. All types of child marriage may typically

be viewed as forced unions because children are unable to provide their legal permission. The state's responsibility to handle domestic violence is the subject of the second category of cases.

These instances show how the public/private divide in the discussion of human rights is thinning and how patriarchal legal norms are being questioned. The obligation of the state to prevent and address sexual assault is the subject of a third set of cases, while patriarchal evidentiary standards in situations of sexual violence are the subject of a fourth group of decisions that specifically address this topic. Cases of sexual assault in armed conflict constitute a fifth area of worry, notably in constitutional disputes in Latin America. Finally, the conflicts surrounding cultural norms and behaviours that either support GBV or constitute it are looked at.

Women's access to public life

In particular, women's equal rights in respect to nationality, family name, birth registration, and therefore political involvement are covered by this sub-theme, which encompasses a number of concerns relating to a broader view of citizenship. The instances examined contest ingrained patriarchal norms and behaviours that oppress women in the public arena. States parties are required by Article 9 of CEDAW to grant women the same rights as men to "acquire, modify, or keep their nationality." The ability to select a family name is included in article 16 (1) (g), which deals with "the same personal rights as husband and wife." Citizenship, when seen narrowly, is associated with legal and civic matters including the right to nationality, the capacity to confer nationality or citizenship upon spouses and children, and birth registration (UNESCO 2016). These "gateway rights," the right to nationality and the freedom to select a family name, enable women to exercise other rights and participate equally with males in all facets of public life.

Statutory safeguards for women in India to develop statutory safeguards was the need of hour and result of those movements which were favouring women empowerment. With the new prospective in 21st century new problems have also arrived. Here government not only has to ensure women safety at home from domestic violence but also from harassment which occurs at workplace. Many laws and acts have been passed in parliament ensuring women safety at each level. These safeguards can be divided into 3 major groups as

1. Safeguards which provide "Right to Live" Indian government has made many rules for providing them a "Life". It is very shameful for whole country that a girl child has to hard work to come out in outer world as they are killed in womb itself. If we see gender globe then we will find that in India still there is a gap in gender. Indian states such as Haryana, Daman and Diu and Rajasthan are still lagging behind in gender equality. There are three parliamentary acts which ensures a life for women in India means no one has right to take life of any woman here. First and foremost act is –
 - According to the act [12] no one can take life of any child by abortion as it is common to abort a baby girl if parents don't want a baby girl. In this act abortion has been mentioned a criminal act, in some exceptional cases this act provides abortion to be performed by a registered medical practitioner in a government hospital, such cases involves a risk to the life of women and substantial risk to the baby after birth.
 - *Commission of Sati (Prevention)*[13], according to this act no one can force a women to burn herself in burial ceremony of her husband. This act provide more effective prevention of the commission of sati. Act says that whosoever does any act for the glorification of sati shall be punishable with imprisonment. District Magistrate has to prevent this system in his district. The state government may, if

it is satisfied that in any temple or other structure which has been in existence for not less than 20 years, any form of worships or the performance of any ceremony is carried on with a view to perpetuate the honor of or to preserve the memory of, any person in respect of whom sati has been committed, by order the removal of such temple or structure.

- *Pre-Conception and Pre-Natal Diagnostic Techniques* [14], this act prohibits sex selection. This act prohibits the use of all techniques for the purpose of sex selection, which would also include the new chromosomes separation techniques. It also prohibits the advertisement of any technique used for sex selection as well as those used for sex determination and it also imposes prohibition on the sale of ultrasound machine to persons not registered in this act.

2. DISCUSSION

2. Safeguards which provide “Right to Safe Life”

Many years ago life of women was difficult in India also. After getting birth they had to bear a lot of taunts of people to survive life. For ensuring them a safe life Indian government has passed many acts which provides them security in her house as well as in workplace. Now we can say that Indian women are safe in and out of their house. Acts are below

- The Immoral Traffic Act*, [15] which classifies trafficking and the sexual exploitation of women for profit as crimes.
- A statutory body known as the "*National Commission for Women*" was established in 1992 under the National Commission for Women Act 1990 in order to provide Indian women with a proper platform where they could express their views about their safety, where they could ask for assistance, and where they could obtain their rights. The motivations for creating a statutory body were. To evaluate the legal and constitutional protections for women to suggest corrective legislative actions to aid in a complaint to provide advice to the government on all issues of policy that impact women. The Indian women of today are culturally anchored, internationally oriented, and healthy, according to the National Commission for Women's website. Educated, independent, secure in her home and outside, able to use all of her constitutional rights, and able to make a contribution in all spheres of life. Work is being done by the national commission on women in five key areas. It emphasises economic female empowerment to enable independent living for Indian women. The globe over, women in the twenty-first century are career-focused. Indian ladies have to keep up with them as well. It emphasises political empowerment to educate Indian women about their rights. It emphasises against prejudice and violence against women. It focuses on stopping the depiction of women indecently. It focuses on improving the circumstances of underprivileged women.
- Recently, the National Commission for Women organised many events for the benefit of women, including a national conference on the "NRI marriages issue" that was well-attended by people from all walks of life. A nationwide consultation was held on the subject of "Realizing Rights of Women Farmers: Developing a Roadmap for Action." The commission called an interactive meeting with state commissioners for women last month.
- In addition to workshops, seminars, and consultations, the commission has review sessions to examine all of the laws and protections for women. A panel was recently established to examine child care options for employees of the federal government.
- The National Commission for Women Act also mandates that each state establish a proper commission for women and safeguard the safety of women. Many Indian

governments have already established State Commissions for Women and are doing so in accordance with the National Commission's guidelines.

- f. *Domestic Violence (Prevention) Act 2005*, this act provides for the first time in Indian law a definition of "Domestic Violence" which says it includes not only physical violence but also verbal, emotional, sexual and economic abuse. Preamble of this act says, "An act to provide for more effective protection of the rights of women guaranteed under the constitution who are victims of violence of any kind occurring within the family". This act includes actual abuse or the threat of abuse that is physical, sexual, or verbal, harassment by way of unlawful dowry demand to the women. One of the main features of the act is to secure women right regarding housing. The act provides for the woman to reside in the matrimonial or shared household whether or not she has any title or right in the household. Act appoints a protection officer and NGOs to provide assistance to the women such as medical aid, legal aid or safe shelter. The victim can apply for any of the relief recognized under this law. The victim can also file a general case against culprit under Indian Penal Code. This act is helping women a lot specially housewives who used to tolerate a lot of abuses of their husbands and in laws.
- g. This is a legislative act [16] that seeks to protect women from harassment at workplace. The Supreme Court of India's Vishakha recommendations for the prevention of sexual harassment were replaced with this legislation. "This legislation will guarantee that women are safeguarded from sexual harassment at all workplaces, be they public or private," the Indian government said in a statement to PIB. This will help them realise their rights to gender equality, life, liberty, and fair treatment at work everywhere. There will be an increase in workplace security. As more women enter the workforce, the economy will develop more broadly and more successfully. It requires all businesses with ten or more employees to have an internal complaints body. Employers and local governments will be required to establish grievance committees to investigate all complaints under the law, which also applies to students in schools and colleges and patients in hospitals. If an employer fails to do this, they will face penalties. Additionally, it offers defences against erroneous or malicious accusations. Any organization's workplace and documents pertaining to sexual harassment are subject to government orders for an official to inspect. The law mandates that employers conduct education and sensitization campaigns and create anti-harassment policies. One very significant aspect of the Act is that the complaint committee has the same authority as civil courts to obtain evidence.

3. CONCLUSION

"There are two forces in the world, the sword and the pen," stated Muhammad Ali Jinnah once. The two are in fierce competition with one another. A third power exists that is more potent than both those of men. How accurate these statements are. Women are indeed powerful and are demonstrating their ability in every aspect of life, yet many environments still require a safe environment for them before they can truly shine. It is still necessary to provide security in public restrooms, local trains, streets, and at night. So that women can feel safe at night and at midnight as well, several legislative measures are necessary to protect them in public areas. There shouldn't be a gender wage disparity in any industry or position. When the gender spectrum is balanced with an equal number of men and women, the idea of gender equality will be demonstrated. To realise this objective, government action and popular support are necessary.

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CHAPTER 16

A REVIEW ON THE ROLE OF INDIAN LEGAL SYSTEM IN SAFEGUARDING GENDER EQUALITY

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ABSTRACT: To ensure gender equality in society, the law must take into account how gender inequality in social, economic, and legal abilities affects how men and women understand law and justice in their daily lives. The problem faced by gender inequality in society such as gender discrimination in school, child marriage & pregnancy, sexual abuse, unacknowledged domestic labor, exploitation, and violence are still issues for upper-class families. The author focuses on the Indian legal system which provides gender equality such as preventing violence against women and girls, providing education legislation, legal marriage age for girls, and financial assistance for child care. This paper also discussed the role of the Indian legal system in protecting gender equality in India and the causes of gender inequality in India, factors such as the gender gap index, and promoting gender equality. It concluded that the status of women in our society should be improved and that any rules restricting women's freedom of choice and access to all opportunities in life should be amended. In addition to ensuring women's equality, the Constitution empowers the state to implement policies of positive discrimination in favor of women.

KEYWORDS: *Constitution, Court, Gender Equality, Legal System, Society.*

1. INTRODUCTION

Law is a form of rules and regulations that the government enforces for the welfare of the people and to uphold justice. The social, political, economic, and cultural aspects of Indian society are reflected in the legal system of the country [1],[2]. During the existence of the legal system of India, the system of common law developed its foundation [3],[4]. Constitution, laws, common law, and High Court judgments are the primary sources of law in India. While laws issued by legislative bodies are often enforced within the boundaries of various states, rules approved by Parliament can be enforced throughout or across India. The Indian Parliament has been empowered to make laws at both the federal and state levels as per the parliamentary system of the country [5],[6]. The Union List as well as the State list, the two separate lists that make up the Indian Constitution, clearly specify the subjects of their laws [7],[8]. In addition, there is a concurrent list of subjects on which both the State Legislature and Parliament can pass laws [9],[10]. Although there are some exceptions, if there is a dispute between union and state laws, union laws take precedence [11],[12]. The law-making process is essentially the same at both levels. This section mentions only those state legislatures with a major difference which mainly focuses on the legislative processes of both the Indian Parliaments.

Gender is essentially a socio-cultural phrase that includes socially determined roles, characteristics, and functions that are assigned to a man and a woman in society. They have often seen how Indian culture has enslaved the minds of women from the very moment of their birth and abused them through female feticide. In a country like India, it is very common for women to commit suicide and perform sex-selective abortions, as well as be beaten while pregnant and forced to become pregnant. A woman experiences prejudice and abuse throughout her life cycle, even after giving birth. She experiences verbal and physical

abuse, unequal access to medical and nutritional care, female feticide, and sexual abuse at the hands of both family and strangers, rape, sexual harassment in the workplace, trafficking, sexual slavery, dowry-related violence, and much more. Gender inequality must have been realized when the Hindu philosopher Manu declared that a woman should indeed be kept in perpetuity. Woman should be in the care of her father while she is a child, in the custody of her husband when she marries, and in the custody of his son when she becomes elderly or widowed. Gender inequality occurs when a certain gender is viewed as a minority group, and complex beliefs and ideas are associated with that gender and passed from one generation to the next through traditions and practices. It is important to note that the status of a woman in India sometimes changes. Whereas the term gender equality describes a society where all genders are given equal duty, prestige, and importance as well as equality in population and relative power. Dual personality is given to women in Indian society.

1.1. History of the Legal System:

The social structure of a nation, including its legal system, reflects the social, political, economic, and cultural characteristics of that society. Consequently, it is challenging to understand the law system outside the socio-cultural context in which it functions [13],[14]. Most Indians still have little or no experience with the formal judicial process (the imported British model), which is nonetheless unfamiliar to them because their legal culture is so indigenous. The language, technologies, and procedures of the inherited legal system are precisely what prevent most of our country's uneducated, disadvantaged citizens from reaching justification. However, the opportunities provided by the laws as well as the rights and benefits given by the constitution allow the same people to use the benefits of welfare democracy which the citizens of India now gave us on 26th January 1950. This environment is familiar with its law. And every Indian, whether rich or poor, must follow its procedures. Young or old, man or woman. A level system is composed of fundamental principles and ideals (primarily outlined in the Constitution), a collection of operational norms, and laws at the federal, state, and local levels that define the rights and responsibilities of individuals. The institutional structure and a team of lawyers are charged with overseeing the administration of the system.

The presented paper is a study on the nomination of judges who do not follow any anti-women discriminatory practices. Women judges will increase the diversity and participation of the court system, and equal gender representation on that bench will affect how courts respond to gender issues. This paper is divided into several sections where the first is an introduction and the second section is a literature review and suggestions from previous studies. The next section is the discussion and the last section is the conclusion of this paper which is declared and gives the result as well as the future of the study.

2. LITERATURE REVIEW

Lotus McDougal [15] et al. have Explored how Delhi violence affected police reporting of rape and sexual assault and evaluated the contribution made by location, media reach, the status of women, and protective factors. The author has access to regression, geographic mapping, and graphically analyzed past data to examine patterns in reporting rape to police at national and district levels over time using triangulated information from Indian Crime, Census, and Intelligence Bureau records access to trends been used. It was found that a population of Indian women in the age group of 15 to 49 years was used to calculate the estimated number of women victims of sexual assault in India. Finally, women's rights and protections must be prioritized, and this includes promoting a conducive reporting environment, legislative safeguards, and accountable criminal justice.

Pangri Mehta [16] examines how the fundamental rights of gender equality as well as religious freedom have been expressed in modern Indian culture. Three important Indian Supreme Court judgments that successfully upheld both civil rights and religious freedom of women are referenced by the author. Its finding suggests that the High Court is attempting to define citizenship more inclusively, particularly one that promotes women's civil rights in the context of religious domestic laws. It was concluded that it was important to rule in favor of the individual while avoiding breaching the widely followed cultural and religious norms.

Tanja Herklotz [17] has explained that personal laws are a highly disputed topic and the debate surrounding them brings forth different interests and identities. The author deals with aspects of the Indian family law system that are problematic from the point of view of women's rights and how these aspects can be addressed and improved. This indicates that neither problems can easily be narrowed down to a specific aspect nor that there are easy solutions to the conflicts that arise in this area. Finally, the Indian state practically shares its authority on law-making and decision-making with various other stakeholders.

Dr. Biplab Tripathy and Subhechya Raha [18] have explained that Indian women fight for acceptance and equality in a culture that still places men at the top of the social food chain. The author mentions that by instituting various programs and policies, the Government of India has demonstrated substantial initiatives to support women empowerment, which not only raises the status of women in society. It found that negative sex ratios, low rates of labor engagement and literacy, and affirmations of gender discrimination, which actively and passively affect demographics, are all present in census data. Finally, social stereotypes and prejudices that hinder socioeconomic advancement have replaced old ideas that favored inequality.

Deborah Kim [19] has examined the current state of the law in India regarding marital rape. By carefully examining the impact of wider Indian culture (claims based on patriarchy and religion) on rape law reform, the author has come to the view that immunity should be abolished following the basic principle of equality. It found that the IPC is still bound by patriarchal attitudes and practices that support violence against women, even though many countries such as Australia and the United Kingdom have adopted matrimonial practices to reflect and support emerging perceptions about gender equality practices have been adopted. The exemption for rape has been revoked. Lastly, India should not use culture or religion as a justification or excuse to deny legal protection to victims of marital rape.

The above study shows that personal law remains a highly disputed topic and the debate surrounding them brings to the fore different interests and identities as well as Indian women fighting for acceptance and equality in a culture that still favors men at the top of the social food chain. In this study, the author discusses the types of legislation in the Indian legal system, the causes of gender inequality, and the promotion of gender equality in India.

3. DISCUSSION

The term gender broadly refers to the possibilities and economic, social, and cultural traits that come with being male or female. Being male or female in most cultures involves much more than just having specific biological or physical traits; Men and women also have different perceptions of how they should behave, dress, and go about their daily lives. Relationships between men and women, whether within the home, in business, or the public sector, also reflect knowledge of skills, traits, and behaviors that suit women and men.

Given that it is social and cultural rather than physical, gender is distinct from gender. In India, gender equality aims to provide equal access for all to adequate opportunities and resources, especially economic participation and decision-making, and equally appreciate all

behavior, goals, and needs. In India, gender equality has been upheld in all walks of life. In India, gender equality is a fundamental human right and a cornerstone of a stable, prosperous, and sustainable world. The Indian Court of Justice has an essential role in empowering women and promoting gender equality in a nation where gender inequality prevails in practically all walks of society. Through its legal decisions, the Indian judiciary has helped women get justice and has demonstrated that discrimination against women will never be accepted in Indian culture.

3.1. *Types of Laws in the Indian Legal System:*

The most important law governing the fundamental rights, obligations, and powers of individuals as well as the responsibilities of the government dates back to 1950 with the Indian Constitution. India has a hybrid legal system made up of interlinked laws. In India's judicial system, laws are categorized in many ways:

3.1.1. *Criminal Law:*

Criminal law deals with rules that address violations of the rule of law or social wrongs, the Indian Penal Code, of 1860, and the Criminal Procedure Code of 1973, both govern criminal law. While the Criminal Law Code of 1973 outlines the entire procedure and punishment, the Indian Penal Code 1860 defines the offense, its nature, and its punishment. Crime Violence, theft, rape, and murder are some examples of legal violations.

3.1.2. *Civil Law:*

Civil law governs how conflicts between people or organizations are resolved, through the initiation of civil litigation, civil courts enforce violations of certain rights and responsibilities. Instead of emphasizing punishment, civil law generally focuses on conflict settlement. The Civil Procedure Code of 1908 governs the procedure for action and the implementation of civil law. Tort law, family court, property law, and contract law are other subcategories of civil law. Harassment, breach of contract, and landlord-tenant conflict are some examples of civil law.

3.1.3. *Common Law:*

Common law is judicial precedent or case law. According to Article 141 of the Indian Constitution, the decision of the Supreme Court shall be binding on all courts and throughout India. Natural justice often referred to simply as natural justice, is a common law idea that includes statutory remedies for justice. *Nemo Judex, Audi Ultrum Partem*, and Fair Judgment are all natural justice principles that apply at *Casa Sua*. The guiding concept of common law is the guiding basis of the Ladder Decree. It is a Latin phrase that simply means to obey a decision. According to the concept of *stare decisis*, courts must follow the same guidelines or judgments that have been laid down by earlier decisions where the facts are all equal. Legislation cannot be repealed or replaced by a decision, but it can override or modify a common law.

3.1.4. *Statutory Law:*

Any written law which is passed by a legislative body to control the behavior of its citizens is called statutory law. Laws are made by the central government through the legislature, by the state government through the legislatures, and by the local authority through the municipality. A bill is presented to the legislature, and for it to become an act passed by the MPs of both houses, it needs the assent of the President. Indian President has the right to veto his consent.

3.2. Essential for People of Gender Equality:

The achievement of human rights, as well as sustainable development, both depend on gender equality in India. A society where men and women at all stages of life have equal opportunities, justice, and responsibilities is the main goal of gender equality. Equality has been achieved whenever men and women can participate equally in the allocation of authority and influence. They are comparable if they have equal prospects, financial independence, employment options, and opportunities to pursue their personal goals, passions, and skills. Gender equality is important to national development plans because it gives women the right to make choices that will affect their health as well as the health of their partners and children. For India to flourish from all angles, gender equality is now more important than ever. However, it is important to recognize that women are usually denied or denied access to decision-making as well as social and economic resources when there is gender inequality. The country which witnessed gender equality also witnessed a prosperous country. Gender equality in India is a major component of a prosperous country. Consequently, advancing gender equality in India is critical to women's empowerment.

3.3. Causes of Gender Inequality:

In India, achieving gender equality is not a simple process, the girl child has long been stigmatized as an unwanted member of the family and a financial burden. Women are discriminated against even before birth. Female feticide and motherhood are horrific acts that show how cruel the whole world can be towards women. Most women still struggle to take advantage of the opportunities and rights that have been given to them, even though our Indian Constitution seeks to improve the status of each group in the society along with providing equal rights and privileges to men and women also providing for Makes the same rule for Figure 1. The factors causing gender inequality are the traditional system, illiteracy, domestic obligations, lack of awareness, poor mobility, and lack of self-confidence and masculine preconceptions (Figure 1).

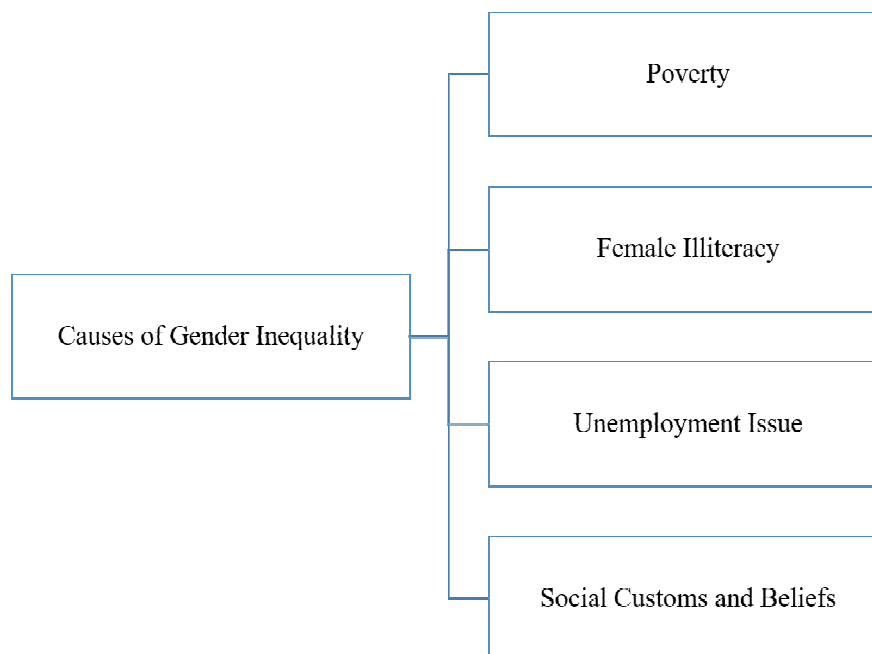


Figure 1: Illustrates the causes of gender inequality in which the Indian Constitution provides equal rights and privileges to men and women and makes equal provisions to improve their status in society.

3.3.1. *Poverty:*

In India, 25% of the population lives in poverty, with 70% of these individuals being female. Women's poverty in India is a result of a lack of employment options and limited access to financial assets including loans, land ownership, and inheritance. Due to limited access to educational and support programs as well as insufficient participation in decision-making, women frequently fall behind. Men continue to receive the lion's share of the economic pie, and the situation for women is no better. In our patriarchal culture, poverty is the main driver of gender disparity, and this economic reliance on the male counterpart is a contributing factor as well. It is, in essence, India's largest barrier to attaining gender equality.

3.3.2. *Female Illiteracy:*

The level of literacy of a nation is a major measure of its level of human capital, according to the latest figures, the adult literacy rate of India is 74.2 percent. Even though our country has made a lot of efforts to increase the literacy rate in the last few years, it still has more than 310 million illiterate persons, 60% of whom are women. Several social, economic, and cultural variables contribute to the rising percentage of illiteracy among Indian women and the fundamental gender disparity in literacy achievement. Due to these circumstances, less money is spent on the education of women. Social limits on women's mobility, which prevent every educated woman from joining the workforce and supporting her family, represent a disadvantage for women. The educational gender gap is emblematic of prejudices that discourage women's aspirations and those of other oppressed groups, as well as limited socioeconomic rewards for female education.

3.3.3. *Unemployment Issue:*

Women in rural India devote a large part of their time to unpaid household duties, due to the distribution of responsibilities within the household, if women's mobility decreases, they cannot take advantage of the new possibilities and may transition to other employment. Within a family, rights and duties are not divided equally. Traditional practices and male property ownership reduce women's motivation to try new ones. The time spent raising and raising children results in less skill as it removes the long-term labor relationship. Women cannot be financially independent due to unemployment. The biggest obstacle to gender equality in India is the economic dependence of women on their male spouses, which is the root cause of gender inequality.

3.3.4. *Social customs and beliefs:*

Women will always be subject to social norms, practices, and traditions, the traditional patrilineal joint family restricts the rights, power, and responsibility of women mainly to domestic work. Men are seen as the principal protectors and providers of the family, while women are seen as members of the hearth who play mostly supporting roles. Boys and girls receive different training for adult jobs, prestige, and power. In Indian culture, men have always controlled women and given them a low position both at home and in society. The preference for boys over women is a broad and complex phenomenon. Especially in business groups, sons are seen as economic and political gains while girls are seen as liabilities. Therefore, the biggest obstacle to establishing gender equality in India is the anti-women social attitude.

3.4. *Gender Gap Index:*

India needs more coordinated efforts to equalize women and men at the municipal, national, and private levels to continue to lead the world in development. There is a need for a change in mindset for women to be treated equally in their families and society, even though

promoting women's participation in the public sector is important and can be met with any positive discrimination. The Global Gender Gap Index 2019-2020 released by the World Economic Forum assesses the extent to which gender-based inequalities exist in opportunities and economic participation, educational achievement, well-being and survival, and political participation.

The research highlights the shockingly low levels of women's economic participation. According to the report, India is the only country out of 153 countries where socioeconomic gender inequality exceeds the democratic gender divide. One of the lowest participation rates in the world is the fact that only 25% of women are participating in the labor market, either working or looking for a job, compared to 79 percent of men (145th).

Additionally, women estimated earned income is just one-fifth that of men, one of the lowest (144th) worldwide: India dropped four places from 2018 to 112th in the 2019 World Economic Forum Global Gender Gap Index arrived on the spot. 2020 The building was destroyed. India performs poorly in terms of health and survival, falling in 150 out of 153 countries. According to the Global Gender Gap Report, it will take 50 to 100 years to achieve gender equality.

3.5. Promoting Gender Equality in India:

Empowering the women of our country requires careful planning, investment, and collaboration. Providing girls with basic facilities, security, education, and other life skills will reduce the dangers faced by them, which will help them to flourish and contribute to the development of India and services that could save their lives.

Access to programs designed with the needs of girls in mind, including access to education as well as promoting life skills, reducing violence, and empowering girls from vulnerable groups such as people with disabilities on their needs and achievements Consideration includes providing access. Increase flexibility. Long-term strategies designed for girls can strengthen them even more and serve as a guide to their transformational life opportunities. Health care: To reduce the mortality rate of girls under the age of 5 years and encourage girls to get the proper care. For example, frontline staff members urge parents to send sick girl children to the hospital immediately.

Improving nutrition: Increasing the nutritional status of women and girls, especially by encouraging more equitable eating habits (for example, women's cooperatives formulate and implement their micro-plans for adequate food in their villages). Education: Support for gender-responsive learning for girls who are not in school, enabling more gender-responsive pedagogy and curricula.

Promoting gender equality across India should be based on the principle of education for all. Child Protection: In India, early marriage and female feticide are the two biggest barriers to gender equality. To achieve gender equality in India, activities like early marriage, female feticide, teenage pregnancy, etc. should be curbed. Social Policy: There is an urgent need to support the Central Government and such State Governments in achieving gender equality in India.

The government should take initiatives to encourage women's leadership in municipal officers. Disaster risk reduction: promoting greater leadership and participation of women and girls, as well as increasing gender segregation in information management towards disaster risk reduction (Figure 2).

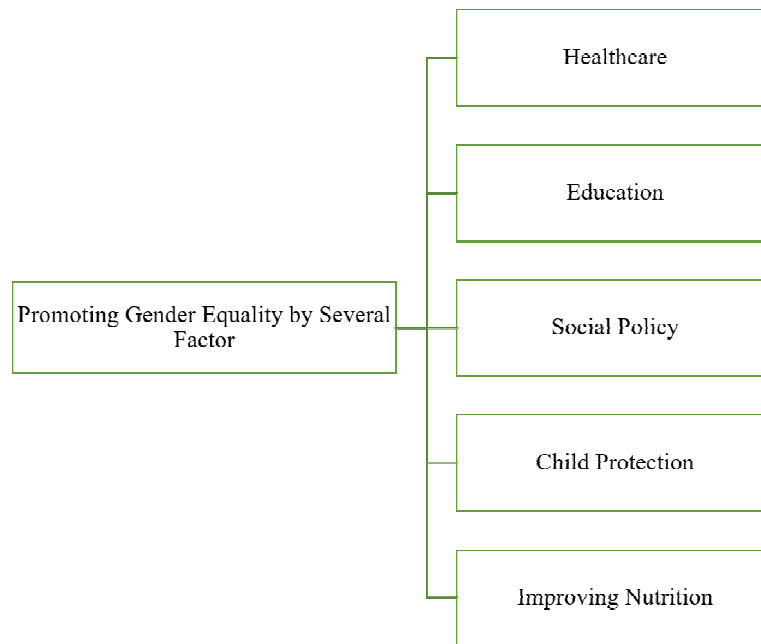


Figure 2: Illustrates the Promoting Gender Equality through Multiple Factors that Reduce the Risks Faced by them and enable them to Grow and Contribute to India's Development.

4. CONCLUSION

In India, society must work towards gender equality and drop the age-old notion that women are property. This is the first and only way to lead the country towards wealth and success. They all are aware that how gender equality in India can drive the development of the country as a whole. Many statistics, including data from countries with large populations of empowered women, show that nations with high rates of gender equality are expanding significantly every day internationally. All Indian people now have a fundamental right to equality under the national constitution. Although society and beliefs have changed since the constitution was made, there are still some flaws. The birth of a girl child is still viewed by some as an economic burden. The administration, the Supreme Court, and other authorities have sometimes taken different measures to tackle prejudice, but this has not managed to change the narrow-mindedness of those who support female feticide. Because of all this, achieving complete gender equality in a nation like India still poses significant difficulties. It is suggested that India has always had a social problem with gender inequality. Though many social, economic, political, legal, and religious initiatives have been taken for the empowerment of women before and after independence, women in India have to deal with crimes like rape, dowry murder, acid attack, and human trafficking. Other horrors. It is very important to change the mindset of society. The culture of contempt for women that is so deep in Indian society is difficult to overcome. But that doesn't mean it can't be done either, only revolutions can bring about change in a day need time to improve.

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CHAPTER 17

A BRIEF ANALYSIS AND STUDY ON TRIAL OF WARRANT AND SUMMON CASES UNDER C.R.P.C

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ABSTRACT: This paper explores the concept of official trial in summons cases, which focuses on the steps taken by judicial officials during summons case trials. There is no distinction made in the legal process between summons cases that are brought on the basis of personal complaints and those brought on the basis of police charge-sheets. A summons-case denotes that it is not a warrant-case but rather a case involving an offence. A warrant case is one that involves an offence that is punishable by death, life in prison, or an extra-long 2-year sentence. In a summons case, if the suspect is brought before an official, he must produce all necessary documents, and he is given the option of accepting the official's plea or asking for definitions. It is not essential to frame a formal charge when the accused in a summons case appears or is brought before the magistrate; instead, the magistrate will inform him of the specifics of the offence of which he is charged and ask him if he pleads guilty or has a defence to offer. It is essential that the accused receives a detailed explanation of the specifics of the offence with which he is charged. If the prosecution report does not establish an offence in violation of an International Journal of Pure and Applied Mathematics statute, the accused may not be found guilty even after admitting guilt.

KEYWORDS: *Trial, summons, case, warrant, Arrest, Offence.*

1. INTRODUCTION

The Criminal Procedure Code of 1973 is a rigorous establishment document that sets some strict parameters for the criminal justice system, as is evident from its name. However, it is important to note that there are a few provisions in the code that have the appearance of relevant regulations, thus it is not a pure descriptive law of method. For instance, part IX that deals with maintaining processes and sections VIII, X, and XI that deal with dealing with infractions. The Code specifies that criminal preliminary proceedings will be divided into three classes: warrant cases, brings cases, and framework preliminary proceedings. This text's main goal will be to present cases.

The Magistrate may convict the accused in his absence and sentence him to pay the fine specified in the request after accepting an at-risk supplication from the one who has been accused. When an instruction accepted by the accused serves the intended purpose for the charge, the magistrate must record the request as early as feasible in the counsel's communications. The magistrate may also convict the accused based on this request and punish him as previously stated.

In the event, however, that the Magistrate does not find the accused guilty as stated above, he will need to resume hearing the allegation, accept any evidence that may be presented to support the prosecution, and additionally see the accused to extract any affirmations that may be made with due consideration.

The Magistrate may also, if he sees appropriate, issue a request to any observer, directing him to go to or also to produce any record or other thing, in response to a request from the allegation or the accused. The Magistrate may anticipate that the fair costs of any such observers for attending the court date should be protected in the Court before assembling any

such observers. After reviewing all the facts, if the Magistrate determines that the party being held accountable is not at fault, he should take note of a request for redress. Under Section 2(w) of the CrPC, the phrase "gathers cases" has been defined negatively as "a case regarding partner degree offence, not being a warrant case." On the other hand, a "warrant case" suggests that a case involving a partner degree offence that is punishable by death, general detention, or a term of imprisonment exceeding two years. The two criteria ultimately lead to the conclusion that the seriousness of the offence is what distinguishes warrant cases from calls instances. This categorization becomes significant even though it determines the type of preliminary approach to be used in a case. The preliminary procedure used in calls cases lacks a great deal of convention and is similar to that used in warrant cases because the former is almost less serious in nature. The procedure for preliminary of request cases is outlined in Part XX (Sections 251-259) of the Criminal Procedure Code.

Trial Before a Court of Session

The preliminary procedure used in calls cases lacks a great deal of convention and is similar to that used in warrant cases because the former is almost less serious in nature. The procedure for preliminary of request cases is outlined in Part XX (Sections 251-259) of the Criminal Procedure Code.

- Section 228: Charges' framing

If the court determines that there are sufficient reasons to prove the accused's guilt after reviewing the evidence and hearing from the prosecution and the accused, the matter will be tried in its entirety in the Court of Session.

The Chief Judicial Magistrate or any other Judicial Magistrate of First Class will hear the case if it cannot be fully tried in Court of Session.

- Guilty admission

The judge may also enter a plea of guilty or an accusation and pronounce a conviction if they so wish. The judge will schedule a new date for the witness interview if the defendant chooses not to enter a plea.

- Section 231: Prosecution-related Evidence

The judge will continue to hear all evidence that can be provided to support the prosecution on the predetermined day. Any witness may be subjected to a cross-examination at the judge's discretion.

- Article 232

The court may order an acquittal if there is no evidence against the accused. If the accused is found guilty, he may present a defence (section 233)

- Section 235: Acquittal or Conviction

The court will issue a decision on whether to convict or acquit after hearing the arguments and reviewing the evidence.

Meaning of Discharge under Criminal Procedure Code

Several CrPC provisions use the word "discharge" in their language. The term "discharge" is used in line with Sections 398, 227, 239, 245 and 249 CrPC. Discharge is the reluctance to continue after service of process, to put it simply [1]. But none of these components have anything to do with summons cases. It is clear from this that when we refer to "summons cases," we mean instances where the longest possible penalty is two years. [2] One of two

approaches may be used to try a summons case: either a complaint from a private party or a First Information Report (FIR) from the police, to which the State is included as a party. When the process under Sections 200 and 202 is finished in complaint cases, the Magistrate either issues process under Section 204 CrPC [3] or dismisses the case under Section 203 CrPC [4]. The court issues a process once cognizance is complete in a police matter as well. According to Section 251 of the Criminal Procedure Code, the court will schedule a day and time for the accused to respond to the allegations after serving them with a notice or summons. For your understanding, part 251 is reproduced in its whole in this section:

Substance of accusation to be stated. —When the accused in a summons case appears before the magistrate, it is not necessary to create a formal charge; instead, the magistrate will advise him of the details of the offence with which he is charged and ask him if he enters a plea of guilty or has a defence to present. [5]

Therefore, following receipt of a notice or summons, the defendant must choose whether to enter a plea of guilty or not guilty. If the defendant decides not to enter a plea of guilty, the magistrate is required to record the defence on the record. Whether noting a defence and hearing an accused person's defences are merely formalities is the question that now has to be answered. Giving a defendant the option to present his defence makes little sense if the court is still required to reveal the specifics of the charges. If the judge's mind is already made up and he or she proceeds to describe the specifics of the charge after the accused person's defences are presented, then in my opinion there is no need to record the defences under Section 251 CrPC.

In light of *Malloch v. Aberdeen Corpn* [6], where Lord Reid decided that a sacked teacher who was not listed as needed by the education authority is entitled to a hearing, this makes more sense. In defence, it was contended before him that holding a hearing before dismissing the appellant would have been a meaningless formality because nothing he might have said could have affected the result. It could, however, be a good response if it could be convincingly shown, the Court did say. I need not, however, rule in this instance since there was a "considerable chance" that enough commissioners could have been convinced to abstain from voting to dismiss the appellant. [7]

It is crucial to understand that the rule of nature is based on the ultimate principle of suitability with regard to the nature of man as a rational and social entity. For many years, the tenet of *audi alteram partem* has served as the cornerstone of our judicial system. It may be found in innumerable decisions made by judges of the highest calibre. No one may be condemned as a result of not being heard. The Indian Constitution's Article 19 guarantees the right to a fair trial. [8] To interpret Section 251 CrPC to exclude discharge is bad law.

The court has consistently held that a literal reading of the legislation must be avoided because it would go against constitutional principles and produce unfairness, despite the fact that it frequently includes expressions that are not specifically mentioned in the text. It is crucial to pay attention to what has been said because the language used by the legislature will primarily disclose its goals. [9]

Doctrine of Interpretation of Statute

The principles of acting with comprehension of the Act should be taken into consideration in order to analyse and value Section 251 CrPC more thoroughly. In actuality, "the troubles of purported translation emerge when the lawmaking body had no importance at all; when the question raised on the rule never seemed obvious to it; when what the Judges need to do is, not to verify that the council implied on a point which was available to its brain, yet to think

about what it would have expected on a guide not present toward its psyche, assuming that the point had been available.[10]

In *Sakiri Vasu v. State of U.P.*[11]

The Supreme Court held on 7-12-2007

It is widely understood that any equivalent or implied powers that would assure the proper execution of that something are likewise included when a power is granted to a position in order to accomplish anything. Overall, anytime any power is openly relinquished by the resolve, even without specific acknowledgement, every power and every control, the rejection of which would prevent the true award from being made, are impliedly remembered for the reward. Because of this, whenever a law gives authority, it also implicitly gives the right to take any necessary steps or make use of any necessary methods.

In light of the aforementioned case, it can be inferred that the implied force of release will be incorporated into the allegation if a Magistrate is presumed to be able to understand the substance of an allegation under Section 251 CrPC because disregarding the choice of release renders the actual reason for noticing down the guard of the charged irrelevant. By citing Crawford [12] in the comparable judgment, it was further stated that the standard's (tenet of implicit power) explanation is sufficiently evident at para. 19. Numerous inconsequential elements are not covered by regulation. If these nuances couldn't be integrated by suggestion, the process of creating laws would be unpredictable and the official anticipation would probably be crushed by a very little detail.

In *Kesavananda Bharati Sripadagalvaru v. State of Kerala* [13], Ray, J. advanced a crucial point that a term changes based on the context in which it is used. The accused is given the ability to raise defences under Section 251 CrPC to allow courts the power to assess these defences and release the accused if a prima facie case cannot be proven after doing so.

In *Sakiri Vasu*, the Supreme Court decided that, rather than assessing a necessary inference, the Court should only determine and uphold the legislative meaning. It is equally as much a part of the law as something that is expressly mentioned in it for something to be unavoidably implicit. Therefore, the accused is not prohibited from making any discharge in a summons case simply because Section 251 CrPC does not mention the word "discharge."

In the words of Justice Cardozo:

Laws and rules do not render judges redundant or their work routine and robotic, it is true. There are gaps that need to be closed. The misery and injustice can be reduced, if not entirely prevented. It's common to hear interpretation described as nothing more than the search for and discovery of a meaning that already existed in the legislator's mind, even if it was latent or hidden. Sometimes the method is that, but it is usually something different. When interpreting a statute, a judge's concern for intent may be the least important. [14]

The *Arvind Kejriwal v. Amit Sibal* case [15] provides context for Justice Cardozo's remarks. It was determined that the CrPC's provisions are not exhaustive. The way the CrPC outlines justice has two fundamental flaws:

First, there are instances and situations in which justice must be administered but which are not covered by the "specific provisions of the Code". Laws cannot regulate for all time and can only predict the most natural and common events in order to specifically protect against all disadvantages, which are endless in number, and to ensure that their dispositions shall reflect all potential cases.

Second, the established rules of procedure may be abused or used in a way that, as in the current situation, makes the administration of justice more difficult than helpful by giving a simply formality the weight of a substantial influence.

According to Section 251 of the Criminal Procedure Code, the purpose of both the hearing of an accused's defences and the exposition of the content of the allegation is to provide the accused a chance to answer. Therefore, the court that issued the summons to the accused has the inherent right to discharge at the level of Section 251 either by taking into account the police report or under Section 204 CrPC. In the case of *Badshah v. Urmila Badshah Godse* [16], the Supreme Court issued the following decision in this regard:

Thirdly, under these situations, the requirements of Section 125 CrPC must be construed carefully. When making a decision regarding an application from a poor wife, helpless children, or helpless parents under this Article, the Court is dealing with the disadvantaged groups of society. The objective is to establish "social justice," as mentioned in the Preamble of the Indian Constitution. The constitution's goal is to accomplish this. In order to ensure justice, liberty, equality, and fraternity for all of its citizens, we have chosen the democratic path under the rule of law, as stated in the Preamble of the Indian Constitution. It places special emphasis on understanding their social fairness. Therefore, it is morally required of the courts to foster social justice. The court, in interpreting a particular provision, is supposed to bridge the gap between the law and society.

Further the Court stated:

Thus, it is respectfully argued that "social context judging" is essentially the application of equality jurisprudence as developed by Parliament and the Supreme Court in a variety of cases that come before courts and involve unequal parties engaged in adversarial proceedings and where courts are asked to administer equal justice. The adversarial process itself works against the weaker party in addition to revealing the limits of the poor in an unfair conflict due to social and economic inequalities. If a miscarriage of justice is to be avoided in such a situation, the judge must not only be aware of the differences between the parties but also sympathetic to the weaker side. Social context judgement, also known as social context analysis, is used to produce this result.

It was stated that:

Since unequal parties are involved in adversarial proceedings and courts are asked to administer equal justice in a variety of cases that come before them, it is respectfully argued that "social context judging" is essentially the application of equality jurisprudence as developed by Parliament and the Supreme Court. In an unfair disagreement brought on by social and economic inequities, the adversarial process itself works against the weaker side in addition to exposing the limitations of the underprivileged. The judge must not only be aware of the differences between the parties but also sympathetic to the weaker side if a miscarriage of justice is to be avoided in such a case. This is produced via social context judgement, also known as social context analysis.

2. DISCUSSION

Discharge In Case of Summon Cases

The first-class Magistrate has the authority to halt the proceeding at any time during the stage under Section 258 of the code, with the previous approval of the Chief Judicial Magistrate. As a result, if he ended the case "after recording the evidence," it would have resulted in the discharge, and if he stopped it "before recording the evidence," it would have been free.

In the case of *K. M. Matthew v. State of Kerala*, where the accused had sought to have a summoning order recalled in a summons case, the Supreme Court addressed the subject in great detail for the first time. Although the matter of discharge was settled by the magistrate court in the case of *Rooplal Jindal*, and the same position was maintained for a long time, the Hon'ble Supreme Court held in the case of *Bhushan Kumar v. State (NCT of Delhi)* that the magistrate has the authority to discharge in summons case, and this decision of *Bhushan Kumar* case [17] was later followed in a number of decisions and It is true that the Apex Court in *Adalat Prasad v. Rooplal Jindal and Ors* held that "there cannot be calling back of summoning order," but as can be seen in the context of decisions made by the Hon'ble Supreme Court in the *Bhushan Kumar* and *Krishan Kumar* case [18], the aforementioned decision could not be interpreted to mean that once a summoning order has been passed, then it cannot be called back. What use does hearing the accused at the point of framing the notice under Section 251 of the Cr.P.C. serve, if that were to be the case? This Court believes that the Supreme Court's decision in the *Adalat Prasad* Case should not be interpreted incorrectly to mean that even if a prima facie case is not established, an accused cannot be removed from the proceedings in a summons complaint case at the notice-filing stage under Section 251 of the Criminal Procedure Code."

It is argued that even if the magistrate lacked sufficient evidence to convict the accused in a summons case brought on the basis of a complaint, he does not have the authority to dismiss the case. This is due to the fact that the Magistrate would have to recall his own order if he did so. The Honorable Supreme Court observed in a number of cases that the matter of process is currently an order of the Magistrate, not the judgement, thus the magistrate may call it back. There is no legal requirement allowing the magistrate to dismiss the case in these situations. [19] The Magistrate was not permitted to discharge, reconsider, or recall the order of the procedure in summons cases based on complaints. "The trial court must close the case; there is no dropping of the matter. [20] In summons cases, the trial court's magistrate lacked the authority to dismiss the case due to a lack of a corresponding legal requirement. Under such circumstances, a person may also apply to the High Court pursuant to Section 482 of the Cr.P.C. [21] In summons cases brought on the basis of a complaint, there is no possibility for discharge; the accused must be found guilty or not guilty [22].

Critical Analysis

For the sake of a quick resolution, the summons cases trial is less organised than other trial procedures. As a result, Section 258 of the Code, which forbids the Magistrate from dismissing any case even in the lack of reasonable justification, somehow works against the accused. The Magistrate has inherent power to dismiss the case if the allegations submitted against the accused do not prove the commission of any crime, according to the Supreme Court's ruling in the *K.M. Matthew* case (19). It has diverged in numerous judicial decisions. The Hon'ble Supreme Court said in the *Arvind Kejriwal* case that "the law did not clearly authorise the Magistrate with regard to dismissing the case under the Section 258 and giving the case to the high court to enquire with it under Section 482 of the code." However, it must be kept in mind that the High Court will need to review the case once more in order to determine whether there is sufficient evidence to convict the accused. This will prevent the case from moving forward quickly, which was the summons case's major goal. Although this issue has been raised before the Supreme Court in a number of cases, it needs to be reviewed once more to ensure that the right of the accused and a fair trial are never in jeopardy.

3. CONCLUSION

The term "Summons Cases" has been delimited, during a negative sense, under the Section 2(w) of the Cr.P.C. The trial procedure provided for summons cases is sterile of a lot of

formality and item as in warrant cases since the previous is less serious in nature comparatively with the warrant cases. Chapter XX (Ss. 251-259) of the Criminal Procedure Code outlined the procedure which has been followed during the trial of the summons cases under the Cr.P.C. A Summons Case means a case which is related to an offence which is not being any warrant case, involving all cases which is related to the offences which is punishable with imprisonment which is not more than two years. In respect of summons cases, there is not necessary to frame any formal charge. The court directs substance of the accusation, which is called notice, to the accused when the person goes in pursuance to the summons.

In light of Section 251 of the Cr.P.C., the Magistrate is mandated to explain the information of the offence of which the accused is being prosecuted. According to the Section 252 of the code, if the accused pleads guilty, the Magistrate will have to take the note his plea as much as possible in the words which has been stated by the accused. Section 253 of Cr.P.C. is an exception to the general rule which gives a simple procedure for inclining of minor cases without the presence of accused in court by post and through the messenger also. By this provision discretion lies with the Magistrate to convict the accused. It also authorizes the counsels authorized by the accused to plead guilty before the magistrate on behalf of his client when offence is punishable only with the fine. So, as per the Section 254 of Cr.P.C., if the accused is not convicted under Section 252 or 253 of the code, the court should have to hear the prosecution and also is under the obligation to collect the information lead by the prosecution and also have to listen the accused and do all such evidence as he gives in his defense. Section 255 of the Cr.P.C. talks about the acquittal or the conviction. Section 256 of the Cr.P.C. talks about the condition of non-appearance or death of the complainant. Section 257 of the Cr.P.C. states about the cancellation of complaint subject to the satisfaction of the Magistrate.

Subsequently, this section applied to the summons cases. Section 258 of the Cr.P.C. talks about the powers to end the proceeding in certain cases. Section 259 of the Cr.P.C. authorizes the Magistrate to convert a summons case into warrant case in two conditions: (1) if the offence is punishable with imprisonment exceeding six months, & (2) if he is of the view that it will be in the interest of justice to try such case with respect to the procedure for the trial of the warrant cases. Section 274 of the Cr.P.C. states about the record in the summons cases and inquires. The Magistrate will, as the examination of each witness proceeds, prepare a memorandum of the substance of his evidence in the language which is followed in the Court. Therefore, if the magistrate is not able to prepare such memorandum himself, he will, after recording the reason of his inability, cause such memorandum to be made in writing.

Basically, there is no difference in the procedure between trial of summons cases instated on private complaints and trial of summons cases instated on the police charge-sheets. The only thing where there is difference between the two types of cases was that in summons cases instituted on the police charge-sheet, the Magistrate shall see that copies of documents mentioned under the Section 207 of the code are supplied to the accused as soon as he goes or is being brought before the Court, and the same is no more a good practice, as now the accused persons are authorized to the Copies irrespective of categorization.

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CHAPTER 18

HUMAN RIGHTS AND CONSTITUTIONAL PROVISIONS FOR GENDER EQUALITY AND EQUITY: A STUDY

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ABSTRACT: Human rights are intrinsic and considered to be characteristics of the human personality as opposed to constitutional rights, which are awarded to people by virtue of their citizenship or place of residence in a specific nation. A human right may be both theoretical and actual. A constitutional provision is a law that is written directly into the foundation laws rather than being derived from legislation or common law. A law in India's constitution is one that was written into the founding laws rather than being derived from statute or common law. The author of this paper explored the human rights and constitutional provisions pertaining to gender equity and equality as well as how these issues impact national variables. Longer-term changes in geopolitics and technology are bringing up a variety of new human rights organizations and concerns, as well as new possibilities and challenges. The proliferation of populist and illiberal democracies is forcing human rights practitioners to adapt and innovate in the future.

KEYWORDS: *Constitutional Rights, Equity, Gender, Gender Equality, Human Rights.*

1. INTRODUCTION

Indian women have been treated differently since ancient times. Even after gaining their independence, women were still discouraged from doing a lot of activities and were seen as householders. Despite the nation's widespread goddess worship, this level of inequality persisted. Even though gender equality has come a long way since the independence of the country, there is always scope for development in terms of the outlook of the society [1]. Law pervades all aspects of people's lives and affects both men and women equally. The importance of law and rights in influencing people's lives becomes more and more apparent as we see the growing jurisprudence of life, or the spread and penetration of the legal realm into more and more elements of other social, public and private spheres. Law and justice affect people's ability to collect assets, receive the benefits of those assets, access rights and resources, and function as independent, independent actors in society. Norms and institutions arising or arising from such norms, whether social or legal, are those that perpetuate, codify, challenge inequalities in endowment, available resources and rights, social and family status, voice and agency and do repairs. Although both men and women can be affected by these disparities, women lag behind men in many occupations [2].

Discrimination and inequality arise from people's attitudes and ways of approaching situations. Everyone is affected by gender inequality, including children, women, transgender people, and even men. Although access to opportunities and decision-making abilities differ between men and women, gender equality is a basic right. Empowerment of women is an important component for achieving gender equality [3]. Providing equal opportunities to women and ensuring equal share of their rights helps in achieving not only gender equality but also many other development objectives. Certain rights have been provided to every citizen of India, which are enforced by the courts with certain restrictions, to protect their interests in the community against any invasion. One of these essential rights is equality of all citizens, which protects them from prejudice and other problems with gender equality arising

out of evil intentions of the society. It rejects prejudice against people and the right to prohibit arbitrary behavior on the basis of caste, creed, class, gender and religion. This practice of inequality is prevalent in the society including workplace, families, places of worship etc.

The court's declaration of the right to equality is conditional on the abolition of untouchability, the practice of discrimination in job and the use of titles as an obstacle to equality of opportunity [4]. To draw attention to the serious issues with gender inequality, it is the main privilege given to every individual in the society and also referred under Articles 14, 15, 16 and 17 of the Indian Constitution. As it is necessary that they have easy access to the court to exercise their equality rights, it is the greater privilege given to them.

1.1 Gender Sensitive Society:

As it relates to the rights of women and men, which have been repeatedly violated by members of society due to their attitudes toward other citizens, gender equality in India is a subject of considerable concern and has been the subject of a number of significant rulings. Similar to this, the Supreme Court took twenty years to rule on the facts in the case of *Mary Roy v. State of Kerala*, but ultimately the plaintiff was successful [5]. The gender bias against women's rights has led to several attacks on Indian family law since Independence. Women fought for their rights as a result of this social norm since the Indian judicial system's precedent was so highly valued. In this instance, a woman argues against the inheritance law's denial of the daughter's request to inherit her father's property due to gender inequality.

After some time had passed and the Indian Succession Law, 1865 had come into effect, there were still no laws protecting Syrian Christians, and the courts were split over whether or not to apply the Act's guiding principles because, in the end, the full bench could find no evidence of any particular custom [6]. The Travancore Christian Succession Act (TCSA) was discovered to be unlawful from 1951 onwards, and the women's community requested that the lawsuit be increased since there were no regulations and procedures governing the topic of property concerns and succession over the father's transfer of land (Figure 1).

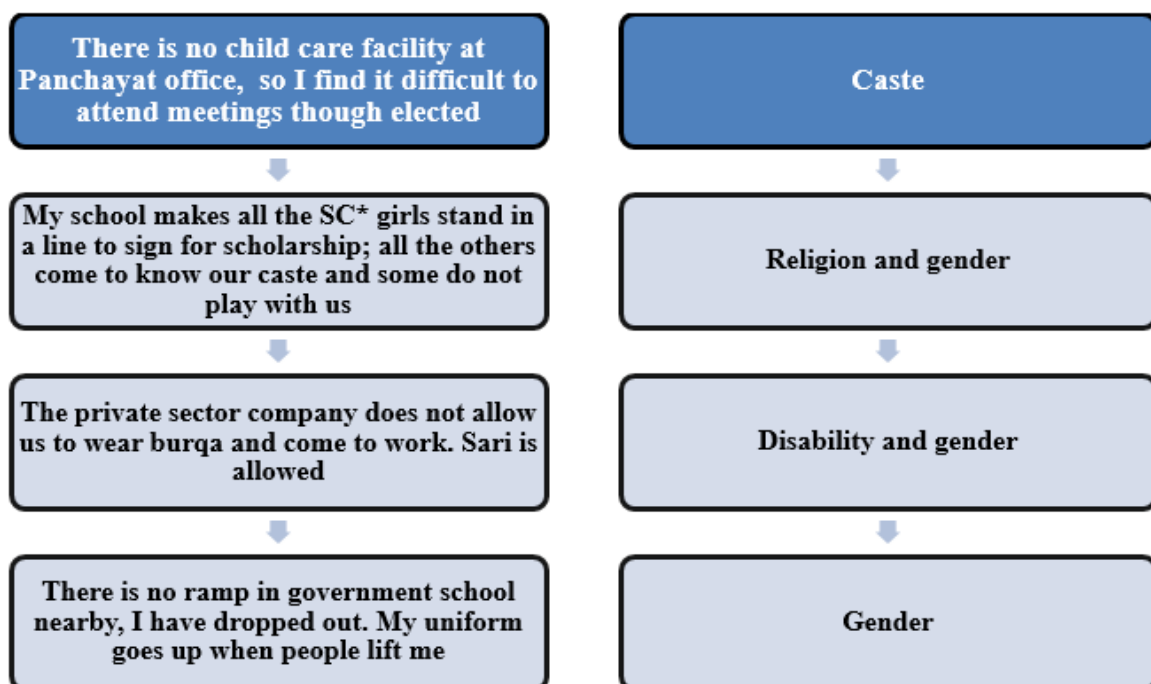


Figure 1: Illustrate the factors that helps to understand the gender equality.

1.2 Understanding gender equality:

Two ideas of similarity can be learned from the story of the fox and the stork and the examples of inequality in Figure 1 shows both formal and actual equality exist.

- *Formal Equality:* The idea of formal gender equality is based on the equality of men, women and children, with the implication that if men, boys and women are given equal opportunities and treated fairly according to masculine norms, equality will be achieved. It ignores the ways in which women and men differ socially, as well as some biological diversity and the ways in which these differences have deprived women. Placing a saucer in front of a thirsty fox (for males/boys) and a thirsty stork (for females/girls) would represent formal equality.
- *Substantive equality:* The idea of true equality recognizes that in order to achieve equality, women and men must be treated differently and their inherent shortcomings must be eliminated. The actual parity technique requires placing a beaker in front of the thirsty crane and a saucer in front of the thirsty fox (male/boy). The fundamental equality approach also recognizes how gender interacts with other identities including race, class, color, ethnicity, religion, ability and age to maintain the status quo of disadvantaged women and girls. One strategy for true equality includes improving child care facilities in panchayats, passing a law allowing women to dress according to their culture, automatically transferring scholarships to bank accounts, and making ramps mandatory in all public schools [7].

Many ethnic and religious groups exist in India, and since India is a secular state, it is not ready to change the rules that these communities follow. RPLs in various respects give women less opportunities and less rights than men, which is now the biggest concern of the Government of India as they seek to prevent gender inequality under the Constitution of India [8]. As a result, in the modern world, these laws are fueled by some groups debating their rights. Feminists have argued in the past that distinctions between men and women on the basis of race, ethnicity, religion and sexual orientation should be accepted and taken into account by Indian law. There is no dispute over the existence of domestic violence in this scenario. In India these personal rules are consuming a lot of space and restricting the rights of women. Because of these circumstances, it was said that there should be only family law and religion personal laws should be repealed.

2. DISCUSSION

2.1 Issues and Challenges for Women:

The patriarchal structure of Indian society is where gender inequality first emerged. The saddest aspect of gender inequality for our society is that many women have accepted their inferiority to men as a result of widespread social and cultural education. Without a question, women are change-makers who support socioeconomic advancement. In addition to improving women's freedom and well-being, improving women's skills in the areas of education, health, economic independence and access to resources leads to the welfare of the entire family, society and the country as a whole. Some of the beneficial improvements seen in several studies focused on gender equality and women's empowerment include better and better child care in terms of education, health and their future prospects. It is now generally accepted that achieving developmental milestones depends critically on gender equality and women empowerment.

In India, women face discrimination at every social level, including social, economic and political participation, economic prospects, educational status, and resource access, among other things. Most of the women in India are deprived, illiterate, subservient, untrained,

ignorant, and unable to free themselves from authoritarian and regressive socioeconomic conditions. Women's equality does not always include treating everyone equally. In order to enjoy the same rights as men, women often need to be treated differently [9]. Because of biological differences between men and women, women have different roles than men. A woman has a reproductive function, which includes giving birth to a child, and because of biological differences, she experiences many physiological changes over the course of her life. Thus they require different treatment than men to exercise their fundamental rights, such as safe transportation, adaptable work schedules, and childcare support, among other things that will lighten their burden [10]. The main barriers that prevent women from enjoying and achieving equality in our society are:

- i. *Education*: Although education is a powerful tool to empower women, many Indian women, especially women from rural or economically disadvantaged areas, do not have access to it. There are many barriers which prevent many women from exercising their fundamental right to education. Girls are usually hired to help with household chores or to look after younger siblings [11]. Additionally, lack of functional toilets, safety concerns for adolescent girls, who have to travel long distances to go to school, and early marriage are significant barriers to girls' education.
- ii. *Preference for sons*: The desire for a son is also rooted in the patriarchal structure of our Indian society, where sons are seen as the source of social stability. Often sons have the right to perform last rites for their parents, and other religious practices that are performed only by men, such as old age protection, economic role of sons, taking the family name, etc. Other important factors that make sons more desirable in our society.
- iii. *Domestic Violence*: Despite the "Protection of Women from Domestic Violence Act 2005" domestic abuse is still a major issue in India [12]. The reasons for aggressive behavior are deeply rooted in the patriarchal norms of Indian society; other contributing variables include alcoholism, a violent spouse, and a desire to have a male child. Domestic violence includes hitting, slapping, humiliating women in public and other forms of physical and psychological abuse. Women's safety must be given priority, and all forms of violence, insecurity and abuse against women must be stopped.
- iv. *Female foeticide*: Despite this development and civilization, the dreadful practice of female foeticide continues in India. Many families see girls as a hassle and burden, and have no hesitation in using necessary measures to prevent them from being born [13]. The old patriarchal mindset stipulating that a boy's child should be married into another family and becoming a source of family revenue is the reason for such behaviour. The terrible thing is that female foeticide happens in a nation where many gods and goddesses are respected and respected. This not only has a detrimental effect on the economy and development of the country but also damages its reputation abroad.
- v. *Sexual harassment at the workplace*: In the workplace, sexual harassment is against a woman's rights to "gender equality" and "life and liberty". Everyone has the right to an environment at work that is safe, secure and free from discrimination. The achievement of gender equality is hindered by sexual harassment, which also harms the general development of the nation and the welfare of its citizens [14]. This has a long-lasting effect on people's psychological and physical well-being, affecting their mental state. The Vishaka guidelines in India addressed sexual harassment of women at work and acknowledged that it violates their fundamental rights to gender equality, life, liberty and freedom to engage in any occupation, trade or profession. But there is

a need for even more initiative and education to tackle sexual harassment in the interest of the society.

- vi. *Gender-based violence*: Physical, sexual, psychological and economic abuse are all components of gender-based violence. Domestic abuse, rape, honor crimes, sexual violence, dowry death, gender based gender selection, cyber violence and many other types of violence against women are frequent in India [15]. Men can also be victims of this abuse and exploitation, but women often bear the brunt of it. Gender inequality is a global issue, and violence and abuse against women is a violation of their fundamental rights as well as the law. According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), women's rights to equality and liberty are affected by gender-based violence, such as rape. Although laws exist, their strict application and enforcement will make a difference.
- vii. *Healthcare Issues*: Women are more vulnerable to many diseases and unable to receive health treatment due to poverty, gender bias and their role in reproduction [16]. Access to these services is hindered by a number of factors, including the economy, the health system such as lack of human resources for health care and lack of health literacy, and social factors such as stigma associated with diseases. Ignoring various women's programs and schemes with HIV/AIDS and sexually transmitted diseases as well as having a negative impact on women's health). Women will be strengthened and a healthy country will be built through addressing and improving health concerns among women.

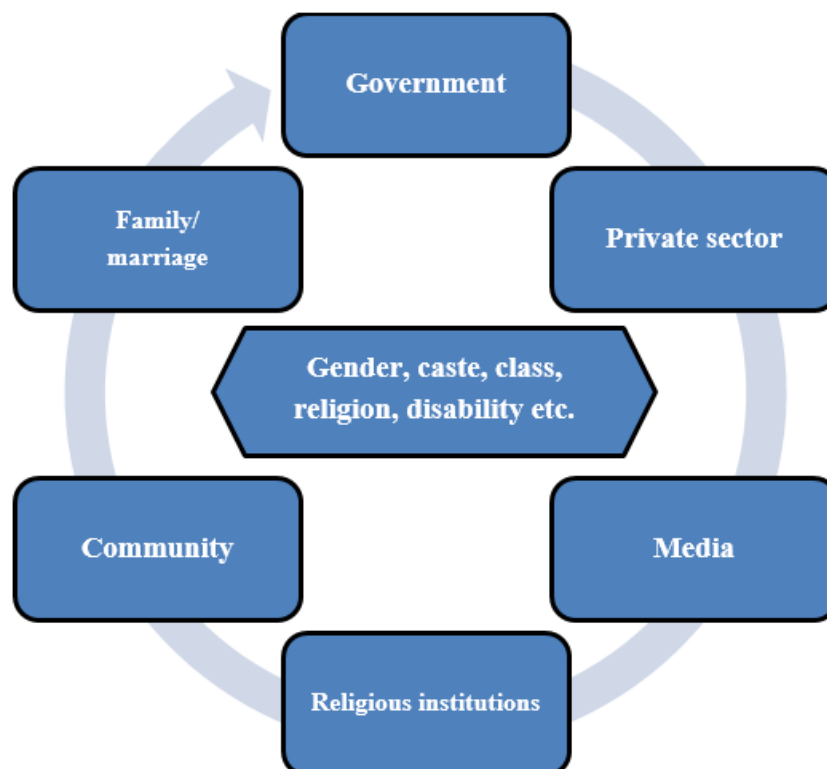


Figure 2: Illustrate the challenges faced towards the gender equality.

Despite all these laws, regulations and programmes, gender gap still exists in India's economy, politics, health care and education. What difficulties do you see at the family/marriage, neighborhood, church, media, and business sector and government levels [17]. In Figure 2, place it in the corresponding circle. The integration of all identities into different institutions of society presents difficulties for gender equality. The Indian

government's strategies, laws, programs and plans aim to change some of the rules governing these institutions and identities, but not all of them. For example, the Hindu Succession Amendment Act of 2005 provides equal inheritance rights to women, but there are not many programs to enable women from landless families to establish or support their wealth as they move from school to the workforce in metropolitan areas do infection [18].

The term "gender equality" refers to men and women who have equal opportunities, rights and responsibilities. Equality does not mean that men and women will become equal, but that the rights, responsibilities and opportunities of each gender will be independent of the gender that was assigned to them at birth. To achieve gender equality, the diversity of different groups of women and men must be recognized and their needs, objectives and interests must be taken into account. A prerequisite for the guarantee of gender equality and human rights is gender equality, which creates an equal playing field for men and women so that they have a fair opportunity to achieve equal results [19]. Ensuring that men and women have equal access to and benefit from society's resources, opportunities and rewards is the ultimate objective of gender equality. Women should also participate equally in determining what is valuable and how it can be accomplished. Equality is the ultimate goal; Equivalence method. Gender equity refers to a component of social justice that is often based on tradition, custom, religion or culture, and which often works against women. The Women's Rights Bill, officially known as the Convention on the Elimination of All Forms of Discrimination against Women, states that nations should:

- i. Take action to stop violations of women's rights, whether they are committed by private individuals, groups, or organizations;
- ii. Work to change social and cultural norms that stereotype one gender or place women in a subordinate position;
- iii. Make sure that women have equal access to education and information;
- iv. Do away with barriers that women face while seeking medical treatment;
- v. Eliminate prejudice against women in all areas of marriage and family life.

2.2 Women's Movement and Legal Reforms:

The practice of gender audits in governance was formally recognized in 1975 when the Government of India ratified the United Nations Charter on Equality, Development and Peace. The Equal Remuneration Act was enacted in 1976 to provide equal opportunities, equal treatment and equal pay for labor of equal nature. Section 34 of the Factories Act, 1948 allows the state government to establish rules defining the loads that can be carried by men and women, and the Contract Labor (Abolition and Regulation) Act and Rules, which provide for utilities for women disassemble and work [20]. The hours have been the subject of public scrutiny by all-women's groups. While these rules are well enforced, there is no system to track how they affect women. Women's career prospects have often been harmed by the exclusive accommodations for them. The representation of working women in decision-making processes affecting industrial and agricultural relations is very limited. Despite the Legal Services Act of 1987, women's access to legal services generally remains inadequate.

2.3 Violation of basic Human Rights in Informal Sector:

In contrast to the formal economy, the informal economy is often characterized broadly as one in which employees lack legal status as employees and are not provided with any kind of social security. Women employees are compelled to labor in the unorganized sector under unfavorable working conditions, poor pay, and little social protection. Women who work in the informal sector find it challenging to prioritize their health in the lack of economic

stability and health insurance [21]. The availability to school for the children of women working in the informal sector is often directly impacted by a lack of wage stability. They are unable to learn and escape from poverty.

Children often enter the informal sector as adults owing to a lack of education or as kids to assist adults in making more money (e.g. home based workers, vendors, self-employed). Women Rag Pickers in Mumbai: A Case Study Since unorganized labor is often seen as "poor" and a beneficiary, national budgets include provisions to assist them in escaping poverty and vulnerability [22]. They are considered as anti-poverty program participants. Unreliable employment is the biggest issue for those who work in the informal economy.

2.4 Issues and Challenges for Transgender:

People who identify as transgender experience societal transphobia on a global scale. Transgender persons have also experienced gender inequity and social marginalization on a number of fronts in India. For sustainable development, it is crucial to prevent such human rights breaches. This holds true for transgender persons just as much as it does for other people. Every human person, including transgender individuals, places a high priority on achieving all 17 SDGs. Transgender persons, like all other people, enjoy the basic rights to life, liberty, equality, health, privacy, speech, and expression. However, these rights are denied to them since their gender identification is not accepted. The 2030 Agenda for Sustainable Development of the United Nations cannot be accomplished in this environment. Despite protections under numerous Constitutional clauses, the transgender minority in India nevertheless experiences prejudice and abuse. The Supreme Court recognized numerous civil and political rights of transgender people in its historic decision in *NALSA v. Union of India* in April 2014 on the grounds of the inalienable right to gender equality for everyone.

Even in areas of basic needs like health, jobs, and education, disparity is so clear. It is vital to take proactive steps to guarantee that transgender persons do not leave school early as a result of bullying or social marginalization. The time has come for raising awareness of transgender people as well as other genders in society and ensuring their social inclusion. The Supreme Court of India acknowledged in *NALSA vs. Union of India* that transgender people are denied the fundamental equality guaranteed by the Indian Constitution. These rights are also reaffirmed under the Yogyakarta Principles (Yogyakarta Principles, 2006), which state that all people, regardless of sexual orientation or gender identity, are entitled to equality in dignity and the full enjoyment of all human rights. Like all of us, they are entitled to a good education, social acceptance, and access to public spaces and other career opportunities. In accordance with the proposed Transgender Persons (Protection of Rights) Bill, 2019, discrimination against transgender people is outlawed in all areas, including education, employment, healthcare, access to and enjoyment of products, services, and opportunities offered to the general public. The Transgender Persons Bill, 2019, which promotes social and economic emancipation, is opposed by many due to its scant provisions.

2.5 Gender equality and legal pluralism:

Legal pluralism occurs in social systems that accept multiple sources of law. Various legal structures and underlying norms coexist in these settings, supporting, opposing and balancing each other. In these societies, the state, sometimes at multiple levels, as well as customary and religious authorities, who enforce various rules, including state law, customary law, religious law and local norms, have jurisdiction over common transactions such as marriage, inheritance, keep, , and land exchange. Ambiguity, confusion, and even the resulting open conflict are likely exacerbated by the lack or ineffectiveness of mediation methods between them. Gender relations are directly affected by these various, often conflicting regulatory

mandates. For example, while a nation may be a signatory to an international convention against discrimination against women, it may also empower traditional legal systems to settle inheritance disputes that do not recognize widows' claims. Similarly, formal religious decrees (such as specific forms of Sharia law) may appoint women and men to separate public places, even in situations where there is no discrimination.

The general notion of legal systems tends to distinguish two groups: the state legal system, which refers to the collection of laws and institutions that the state creates and maintains, and non-state systems such as religious and customary systems, which they obtain by their own right. These are valid by traditional sources and their social and cultural intertwining. Traditional approaches to justice reform tend to focus on state structures, with most interventions targeting court reforms such as case management, infrastructure and training. In recent reforms, non-state systems have also been taken into account, often as a distinct and alternative set of institutions that require efficiency- and norm-based change. Such methods miss the fact that the legal system does not exist in a vacuum and, in an environment where there is legal pluralism, multiple systems constantly interact and influence each other.

Because of this, divisions between state and non-state systems are useless; instead, there is a landscape of justice institutions that can either empower or oppress. In other instances, prejudice against women stems from a mixture of several systems rather than just one of them. A comprehensive strategy that considers the many criteria, institutions and stakeholders that better influence women's law and justice. Reform initiatives should focus on empowering women to manage the intricacies of many existing institutions, and making them actors of justice rather than passive beneficiaries, rather than attempting to create an "ideal" justice system.

3. CONCLUSION

There is no doubt that education plays an important role in the protection and advancement of human rights. Everyone needs to get education so that they can appreciate the value of human rights. The Convention on the Fundamental Principles of the Rights of a Child includes respect for the opinion and equality of children as key factors in decisions involving children. If learners receive human rights education in their mother tongue, they will be better aware of their beliefs and how to apply them in daily life. The virtues of social and cultural diversity should be taught from childhood. Language and environmental studies are relevant courses at the primary level to integrate human rights. In this paper author conclude that the different between the men and women reflected in different places and some time it will represent the different major difference. In future it will be necessary to choose poetry, songs and short stories that promote the principles of human rights. Gender equality, respect for human rights and respect for all should be taught in schools.

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CHAPTER 19

A DETAILED AND COMPARATIVE ANALYSIS ON THE OFFENCES WHICH ARE AGAINST PUBLIC TRANQUILLITY

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ABSTRACT: The public tranquillity are offences which are not only against the person and property of an individual but also an offence that is against the state. Tranquillity is the quality or state of being tranquil. These offences are group offences which are generally committed by the large number of persons resulting to disturbance of public tranquillity. The public tranquillity is the group of persons doing an activity that causes the disturbance of the peace in the society. As per this provision when a large number of persons engage in a criminal act with a common intention then each of the persons are made liable. These offences are classified into four categories as unlawful assembly, rioting, promoting enmity between different class and affray. For the development of the society, there must be peace in the society. But these offences are injurious of the public peace.

KEYWORDS: *Assembly, Criminal, Peace, Public, Unlawful.*

1. INTRODUCTION

The conditions for social progress are calmness and peace. Therefore, maintaining peace and tranquilly is essential for every community and nation as a whole. If there is disorderliness in society or any other such barrier, the society cannot provide each individual the chance to grow and develop to their full potential. Offences against the public peace are committed not just against one person or piece of property, but also against the entire community. These types of crimes are done by a group of individuals with the shared goal of upsetting the peace and tranquilly of a location, which has an impact on the entire society. To prevent these offences, it is crucial to research them.

The public tranquilly is the collective of people engaging in behaviour that disturbs the social calm. According to this clause, any individual who participates in a criminal conduct with a big group of people has their actions held accountable. Unlawful assembly, rioting, inciting animosity between social classes, and affray are the four categories into which these offences fall. Peace in society is necessary for social growth. However, these offences endanger the general peace.

Peace in society is necessary for social growth. As a result, the sections declaring and specifying the offences that are against the public tranquillity were integrated into the Code by its creators. The purpose of this essay is to examine the offences against public peace and order and the sanctions imposed on those who commit such offences.

Maintenance of Public Peace

A civilization's foundation is peace and morality, thus maintaining these values is crucial; otherwise, the whole fabric of society would be threatened, which would impede the advancement of the individual.

The state has a responsibility to uphold public peace and order. To keep order in public areas and on public roadways, it is even included in Section 23 of the Police Act of 1861. It is

really illegal to disturb the public order or peace, impede it, irritate people, put themselves in danger, or do other harm. Additionally, Section 34 of the Police Act of 1861 charges the police with keeping the public calm and punishing offenders. Therefore, maintaining public order requires that one's activities do not disturb the quiet of the community or inconvenience anybody else in any way.

Peace and Morality

The foundations of society are morality and peace. It is deemed an offence when anything occurs that has an impact on the social order and morals. Such offences are subject to IPC penalties. These offences include rioting, affray, and illegal assembly. The Indian Constitution offers the governing framework for upholding social order. Disturbed situations impede society's growth. Public instability and unrest circumstances hinder the nation's economic development.

Public Offences

The IPC's Chapter 8 addresses public offences. These offences might be divided into four categories:

Unlawful gatherings, rioting, animosity between classes, and altercations are all prohibited.

In addition, Chapter X of the Criminal Procedure Code of 1973 outlines the roles, responsibilities, functions, and powers of the Executive and the Police with regard to maintaining public peace and order.

Unlawful Assembly.

The IPC, 1860's Section 141 addresses illegal assembly. The freedom to peaceful assembly is guaranteed under Article 19(1) (B) of the Indian Constitution of 1950, however this clause aims to make it illegal to assemble.

Who is and is not a member of such an illegal assembly is determined under Section 142 of the IPC. The mere act of attending the gathering does not subject one to Section 141's liability. The individual entering the assembly must be aware that it is illegal and share the same common goal to provoke public disruption as the other participants. An individual who participates in an assembly but leaves it shows that he does not share its objectives and is not a part of the illegal gathering. A person will be held accountable even though they were not physically present at the unlawful assembly because of an illness or physical disability if they shared the same intentions as the other participants. Every member of an unlawful assembly is held vicariously accountable for any crimes committed by any member who furthers the common goal of the unlawful assembly [1].

Definition

Unlawful assemblies are those with five or more participants who come together to perform an illegal act. A shared desire to disturb public peace and tranquilly is a crucial component of an illegal assembly. A person is not punished for their simple attendance at a gathering if they have no intent to disturb the quiet in the area. Identifying the assembly's purpose and nature is the shared goal. Additionally, a legal gathering could end up being against the law.

Common Intention and Common Object

According to Section 149, each of these individuals is accountable for the conduct in the same way as if it had been committed by them alone when it is committed by many people in pursuit of a shared objective. Section 149 does not establish a substantive offence; it just establishes a rule of evidence. This section is designed to address situations when it may be

challenging to discern between the actions of the various party members or to demonstrate precisely what role each member played in advancing the common goal of all. This clause really states that if two or more people act jointly and knowingly, it is the same as if each individual. In these situations, everyone is considered guilty since the presence of accomplices encourages, protects, and supports the person who is really performing the offence.

The IPC's Section 143 imposes penalties. Each participant in an illegal assembly faces a potential six-month jail sentence, a fine, or both.

In accordance with Section 144, participating in an unauthorised assembly while carrying a lethal weapon is an aggravating circumstance that carries a two-year jail sentence and a fine. The conditions that must be met before Section 144 can be applied to a person are as follows:

- Using a dangerous weapon or a weapon that, if used, is likely to kill someone
- Participation in an unlawful assembly
- This section's key clause states that even if a person is not carrying a lethal weapon, he or she is nevertheless subject to prosecution if they participate in an illegal gathering that is armed with one.
- A person of this nature will be prosecuted under Section 141 rather than Section 144.

A person who joins or persists in an illegal assembly that has been ordered to disperse is subject to the rule set out in Section 145. Such a person will receive a two-year sentence as punishment. However, anybody joining or continuing to disrupt the public peace shall be subject to Section 151 punishment if the assembly is not unlawful and consists of five or more people who have been told to disperse. According to the law, the accused must have produced a disturbance despite knowing they had done so.

Rioting

Riots are incidents of public disruption caused by irrational groups of people who regularly threaten to use violence against the state, other citizens, or public property. Riots commonly stem from unhappiness or a grievance. In accordance with Section 146, any member of an unlawful assembly who uses force or violence to achieve the assembly's common objective is considered to be a member of that assembly and is thus guilty of rioting. When we reflect on the past, we see that racial unrest, oppression by the upper classes, and antagonism against the government have all been major contributing factors to riots.

Sections 147 and 148 describe the sanctions for rioting. If Section 147 is broken, the punishment is a two-year prison term, a fine, or both. For breaking Section 148 or participating in rioting while in possession of a deadly weapon, the penalty is either a fine, a term of imprisonment of any type not to exceed three years, or a combination of both. A person will only be subject to prosecution under this clause if they are in actual or constructive possession of a deadly weapon or other item.

Everyone is accountable for the offence when there is a link established between a shared item and the act that is performed. Rioting is described as a violent gathering of five or more individuals with a shared object [2].

Regarding inciting a riot by an unauthorised gathering with the aim to cause one, Section 153 is crucial. A person can be found guilty under this section if they intentionally or recklessly do an illegal conduct with the aim described above. An act of aiding or incitement is not taken into consideration by the provocative words or actions [3]. The phrase "provocation" used in this section does not, however, refer to a random provocation [4].

A transgression of public peace the laws pertaining to offences against public peace or public order are found in Chapter 8 of the Indian Penal Code. These offences are not against a

person's or a property's person or property; rather, they are against the state. Karina Mayasita and colleagues 2014 the offences listed in their chapter are referred to as "group offences," because they typically involve a large number of persons disrupting the quiet of the community. The offences are under the categories of rioting, fostering hostility, illegal assembly, and effect.

The legal guidelines for maintaining public order and calm are provided in Chapter X of the Code of Criminal Procedure, which also specifies the responsibilities, authority, and roles of the Executive Magistracy and the Police in this regard. A gathering in violation of Section 141. A gathering that has five or more participants is considered an illegal gathering. If someone violates someone else's property without their consent or forces someone to do something against their will or refrain from doing something they are legally allowed to do. (Tremblance Base; Lobban 1990) using or displaying unlawful force against a public employee, the state, or the federal government to challenge the application of the law or legal procedure. To cause harm or engage in criminal trespass against someone. To use unlawful force to deny someone the ability to exercise their rights or seize another person's possession. To force someone to act in a way that is against the law by using unlawful force.

The sections which deal with unlawful assembly are as follows.

Section 141 defines an unlawful assembly. Section 142 deals with participation in an unlawful assembly.

- a) Punishment - Section 143
- b) Participating in or maintaining a dead weapon assembly - Section 144
- c) Participating in or maintaining a dead weapon assembly while being aware that it has been ordered to disperse - Section 145
- d) Liability for constructive criminality - Section 149
- e) Participating in or maintaining a dead weapon assembly - Sections 150, 152, 154, 157, 158

The section also specifies the various instances where an unlawful assembly may be assembled.

1. Taking control of the federal or state governments, or their officials
2. Resistance to the application of the law.
3. Mischief-making commission
4. Compulsory possession
5. Unlawful coercion

Ingredients of section 141

There must be more than five participants in an unlawful assembly, and the shared purpose must be illegal. A criminal trespass or other offence should have occurred. by employing unlawful force to compel anybody to engage in any unlawful activity. (1982, McCorquodale)The state, the federal government, or any public employee must be subject to some form of criminal force. Such gatherings' primary goal must be illegality. There must have been a criminal trespass or other offence committed. A person must be coerced into performing an illegal conduct using criminal force.

Common intention:

A person is not implicated by his simple presence in a location where participants of an illegal assembly have gathered. The participants in an unlawful assembly must share a same goal and intention, as well as commit one of the acts listed in section 141 of the IPC. The right to individual defence cannot be regarded as the common goal when an unlawful

assembly uses that right and the opposing party assaults them at that point. 2004 Pawlowski However, such an assembly is illegal if five or more people abduct a woman and detain her in wrongful captivity. The same object is covered under Section 149 of the IPC. Every participant in an illegal assembly is subject to punishment under this rule.

Exceptions:

A gathering with less than five participants cannot be considered an unlawful assembly.

Punishment:

The person who participated in the illegal assembly is punished under Section 143. The Penal Code (Unlawful Society Declarat...) this section lists possible penalties, including a fine or both, that can last up to six years.

Rioting:

Rioting is covered under IPC sections 146 and 147. Section 147 deals with the consequences of rioting, whereas Section 146 deals with the act of rioting. *State of Uttar Pradesh v. Maiku* 2 The sub inspector was under investigation while performing his duties; thus, it cannot be argued that he was committing an illegal conduct and he cannot be found guilty under section 147 of the IPC. Every member of each assembly is guilty of rioting under Section 146 of the Penal Code anytime forces or violence are employed by an unlawful assembly, or by any of its members, to further the common goal of such assembly [5]. In accordance with Section 147 of the law, anybody found guilty of rioting faces a sentence of up to two years in jail, a fine, or a combination of the three. 2014's (*Karina Mayasita et al.*) Section 148 imposes a three-year jail sentence, a fine, or a combination of the two as penalty for rioting when it is carried out with dangerous weapons. It is a punishable offence that can be tried by any first-class magistrate.

Allauddin Mian Sharif Mian v. State of Bihar [6]

There is a relation between a common object and offence created, when the offence is committed with common object then every person is liable for that. Unlawful assembly is equal to five or more Persons plus Common object. Rioting is equal to Unlawful assembly plus Violence. Section 153B - Imputations, Assertions, Pre-judicial to National Integration - is punishable with Imprisonment for 3years or fine or both.

2. DISCUSSION

Explanation for rioting:

A riot is a type of civil disruption that is frequently characterised when unorganised groups lash out in a sudden and severe rash of violence against authority, property, or individuals. Riots can be attempted to be led or controlled, although they are normally disorganised, display herd behaviour, and are frequently the result of civic discontent. Riots frequently start as a result of perceived injustice or discontent. Unfavourable living or working circumstances, oppression by the government, taxes, or conscription, racial tensions, the availability of food, the outcome of a sporting event, or dissatisfaction with the legal systems for redressing complaints have all historically been causes of riots. A violation of 148 is punishable by up to three years in jail, a fine, or both. It is a crime that can be prosecuted by any first-class magistrate. (Sheth 2016) For instance, Muslims used to buy cows to butcher. Hindus pushed Muslims aside while grabbing cows. There were ten Hindus in total. Organizing a group to steal is an illegal gathering. Rioting involves entering a Muslim area and stealing. (2009) Berenschot encouraging immensity among several groups:

Promoting hostility between various groups on the basis of religion, race, place of birth, residents, language, etc., and engaging in acts detrimental to the maintenance of harmony are both prohibited under Section 153A and are subject to a three-year prison sentence, a fine, or both.

Whoever, by words, either spoken or composed, or by signs or by obvious depictions or something different, raises or attempts to progress, on grounds of religion, race, spot of birth, residence, language, station or local area or another ground by any means, disharmony or feelings of hostility, scorn or perniciousness between different strict, racial, language or regional get-togethers or standings or gatherings, or perpetrates any show which is one-sided to the help of concordance between different strict, racial, language or nearby social occasions or positions or gatherings, and which irritates or is presumably going to madden the public quietness, or sorts out any action, improvement, enter or other relative development expecting that the individuals in such activity could use or be ready to use criminal power or savagery or realizing that it generally will be possible that the individuals in such activity will use or be ready to use criminal power or brutality, or makes an interest in such move wanting to use or be ready to use criminal power or brutality or realizing that it will generally be logical that the individuals in such activity will use or be ready to use criminal power or brutality, against any strict, racial, language or regional get-together or rank or local area and such activity under any condition whatsoever causes or is most likely going to cause fear or ready or an opinion precariousness among people from such strict, racial, language or commonplace social affair or position or local area, will be rebuffed with detainment which might reach out as long as three years, with fine, or the with both Bilal Ahmed Kaloo v. Territory of Andhra Pradesh [7] Mens rea is fundamental element for the offense that is committed under segment 153A of IPC.

Case laws:

State of U.P VS Sughar Singh [8] :

Five accessed were lying in a bush on either side of a lane, with armed guns. When the deceased came near, the accused 4 and 5 exhorted him, and accuses nos 1, 2 and 3 shot the deceased with their guns respectively. Accused 1, 2 and 3 threatened the witnesses. The trial court held that all of these were sufficient to come to the conclusion that these five accused had constituted an unlawful assembly and has members had common object to kill the deceased. They had a prearranged plan. The trial court convicted the accused. On appeal, the high court quashed the conviction. The state appealed to the Supreme Court. The Supreme Court upheld the conviction against the accused.

Aravindan Vs State of Kerala [9]

A sudden quarrel arose between two parties. Each party abused other party. There was no premeditated plan. All of a sudden, each party attacked others. The court held that neither of the parties would constitute the unlawful assembly.

Discussion:

It is the fundamental principle of the state to maintain the public peace and order. The definition of public tranquility is given in the section 31 of the police Act of 1861. This act provides to maintain the peace in the roads, public places and etc. (Penrose 1776) Many provision must be bought to maintain public order and peace in the society. The criminal procedure code also provides certain provisions in order to maintain peace in the society. The unlawful assembly is also provided legally by the government but when it is done illegally or extended to rioting or Affray then it is punished by the sections of IPC.

Affray

The Indian criminal code discusses affray-related offences under sections 159 and 160. Affray is a crime that involves two or more people fighting in a public space and endangering the peace and order of the community. Affray participants may be charged with unlawful assembly, rioting, and other offences depending on their activities. The penalty for affray is covered in Section 160. The penalty may consist of a one-month jail sentence, a fine of up to \$100, or both. The following elements must be present for a fight to be considered an offence: It must include two or more individuals, take place in a public area, and terrorise bystanders. In the case of *Sunil Kumar Mohamed Alias Mahakhuda v. The State of Orissa* [10], it was determined that while fighting in the street disturbs the tranquility of the community, it does not constitute an act of affray when one person hits another in a public setting. The requirements for committing affray are as follows:

1. There must be two or more persons.
2. Fighting in a public place.
3. By that fighting, they should disturb the public peace.

Punishment:

Section 160 describes the penalties for fighting, including up to one month in jail, up to Rs. 100, or both. The police legislation stipulates it. According to Section 31 of the Police Act of 1861, law and order must be upheld in public spaces and on public roadways. Public order is clearly defined as the principle that no group's actions should be allowed to interfere with another group's rights or convenience by Sections 34, which make it an offence for anyone to cause obstruction, inconvenience, annoyance, risk, danger, or damage, and Section 23, which requires the police to maintain the public peace and prevent the commission of an offence and of public nuisance.

Proposals for Reform

The law commission of India has circulated a questionnaire covering various aspects of public order. Only 12% of the respondents were satisfied with the current management of public offences in our country. 5% were satisfied only to some extent while 79% were highly dissatisfied, and the major reasons being-

- The administration of public order under external influence.
- Issues are not addressed at their source.
- There is no long-term course of action.
- Insufficient engagement of social workers, NGOs, and other civic society
- There is no institutional framework in place to define duties and responsibilities.
- When crime is just starting off, lower-level cops lack the authority to stop it.
- The police and government workers are not properly trained to deal with public offences.
- A lack of equipment and technology from the contemporary era.
- Lack of a criminalised perpetrator database.
- The absence of an overarching national policy to address the problem of public disturbance and crimes.
- Inefficient performance management organisations and monitoring systems.
- The police force and other relevant institutions are not held accountable.

Several reforms that could be introduced are:

- The development of the rule of law.
- Visible policing is a useful strategy for preventing public offences.

- A police system that is effective, efficient, accountable, and well-equipped.
- A reliable, independent, and efficient system for investigating crimes, supported by a just and competent criminal justice system.
- Civil societies that are aware of their obligations, rights, and authority.
- Responsible and alert media.

3. CONCLUSION

Offenses against the public peace are punished under the Indian criminal code. The public peace is endangered for the advancement of society and is violated by criminal offences. The research presents statistical information that is organised and debated regarding offences against public order in various years. The public peace is endangered by these offences. Inconvenience in society results from disturbing the calm. Group offences perpetrated by groups of persons in the community are tranquilly. According to the law, when a large number of individuals are impacted, the public peace is destroyed, which may constitute an offence against the public quiet. The IPC imposes severe penalties for many offences, including fines and imprisonment. Thus, the IPC strongly enforces punishment for offences involving public peace. These offences disrupt society and threaten the general peace. The Indian penal code harshly punishes offences against public calm, according to the alternative theory.

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CHAPTER 20

EXPLORING GENDER PERSPECTIVES ON THE CONSEQUENCES OF CHILDHOOD SEXUAL ABUSE

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ABSTRACT: Sexual abuse is coercive sexual behavior or activity with a woman, man, or youth without that person's permission. The abuse of a man, woman, or child with another man, woman, or child falls under this category. Sexual abuse occurs when an attacker uses force on a victim weaker than himself. The problem due to Childhood Sexual Abuse (CSA) such as teenage sexual abuse can then lead to depression, social humiliation, or the end of a relationship. Hence the author focuses on the factor that increases the risk of child abuse such as stressful home environment, low self-esteem, poor communication between children and their parents, and domestic abuse. The author also discusses the effect of long-term childhood sexual abuse, and organizations that help in cases of molestation, violence, and sexual abuse. Emphasis is placed on the harm caused by sexual violence, including immediate or delayed physical, psychological, mental and social suffering in addition to child sexual abuse. In the future, counseling to process the event and medication to control symptoms are often used in trauma-focused therapies for child sexual abuse.

KEYWORDS: *Childhood Sexual Abuse, Health, Gender, Sexual Abuse, Women, Depression, Humiliation.*

1. INTRODUCTION

A complex system of responsibilities, feelings, personalities, actions, and qualities that have been assigned gender importance by society is called gender [1],[2]. They are usually given to people based on how their sexual characteristics were shown at the time of their birth. Gender characteristics can vary from culture to culture and over time [3],[4]. Gender norms are social codes that place restrictions on how men, women, and youth should act and publicly show their gender identity [5],[6]. Gender norms change throughout history and are not always universal or fixed [7],[8]. Positive criteria include the rule that children should not smoke. Different criteria cause inequality [9],[10]. For example, girls are more likely to do household chores than boys. Two-thirds of all children are girls who do at least 21 hours of homework per week, which can be detrimental to their academic success. Similarly, women labor at home and take care of others for two to ten times longer than men. In comparison, men and boys are more commonly targeted by violent organizations for active combat situations because of the connection between masculinity and the safety of one's family and neighborhood.

A gender stereotype is a widely held inference or generalization about the behaviors and characteristics associated with men and women. Women are usually portrayed as passionate, kind, and protective [11]. Men are typically portrayed as strong, rational, and career-focused stereotypes. These beliefs can be harmful, such as the idea that men are rigid and women are irrational, or they can seem innocuous, such as the idea that women are caring and men are strong. However, stereotypes can be narrowed down in all their manifestations [12]. Regional norms and culture have a profound effect on complex social expectations. Institutions and others, including family members, friends, the media, schools, and churches, teach children about gender roles. Because young children are often given recommendations about how boys and girls may look, behave and play, traditional gender roles can harm all genders.

These commonly held and mostly unconscious beliefs begin to develop during childhood. In addition, it enables healthcare providers, especially nurses who have worked with women in different historical periods, to take this issue into account and to engage in group or individual medical questions that pertain to childhood. Those cases of sexual abuse that people prefer to keep a secret may come to light during May.

Most sexual abuse occurs when children are still very young, but incest is probably the most common type. The consequences of child sexual abuse can vary from person to person and from case to case. Comparing experiences of sexual abuse experienced by women who have been victims of both familial and non-familial abuse. They found that when women looked back on their experiences of family violence, they were more anxious and unhappy at the time. They observed that young people at times of initial sexual assault risk, more serious sexual abuse incidents, and lower overall incidences of sexual abuse promoted grading of expressed suffering. While the type and extent of a sexual encounter can have a more profound effect, many other circumstances can also have an impact on the degree of trauma suffered by the victim.

Other factors include the person's attitude, internal abilities, and level of support. The therapist should be aware that sexual abuse and harm to the victim can occur even when there is no direct contact with the abused child. By showing too little child pornography, attacking them online, or forcing them to make pornographic images, the perpetrator may profit from the situation. The fundamental rights of a person are violated when he is sexually abused in childhood. When it is developmentally appropriate, children should be allowed to engage in sexual activity that is within their control and subject to their choice. Sexual harassment and abusive relationships can have a painful dynamic and nature. Childhood sexual abuse can impair normal social development and lead to a wide range of psychological issues.

The present paper is the importance of including reflection and debate on this topic in graduate curricula in the fields of health, education, social support, and justice is important for supporting girls, adolescents, and women in childhood who are accountable in some way. This paper is divided into several sections where the first is an introduction and the second section is a literature review and suggestions from previous studies. The next section is the discussion and the last section is the conclusion of this paper which is declared and gives the result as well as the future scope.

2. LITERATURE REVIEW

Leonhard Kratzer et al. have pointed out that sexual feelings caused by childhood sexual abuse are quite common in Post-traumatic Stress Disorder (PTSD) and cause great suffering, but they are not addressed or reduced by current treatments. The authors state that 445 individuals with post-traumatic stress as a result of CSA were assessed for their post-traumatic, dissociation, depression, and sexual symptoms. The comorbidity structure was examined using a partial correlation network with regularization. That findings indicated that difficulty having sex was associated with symptoms of depression and overstimulation, while disturbed sexual desire was associated with anger and dissociation. Finally, individuals with childhood sexual abuse who have PTSD often experience sexual symptoms.

Natalia Manay and Delphine Collin-Vézina [13] have Explained how disclosure for a CSA is a difficult, complex process with many constraints that are greatly influenced by an individual's personal, family, and social circumstances. The primary goal was to compile data on recipients and routes of CSA disclosure to determine potential developmental and gender disparities between disclosure recipients. It was determined that children and teens tend to split things up over time, first with classmates and then moving on to a parent or other

responsible person who can help the child notify someone in a position of authority. Finally, occasions when another person discloses abuse, unintended eyewitnesses, and circumstances where there was solid evidence but no voluntary exposure are all forms of involuntary disclosure.

Charlene M. Rapsey [14] et al. stated long-term study to look at the relationship between sexual abuse of children with mental disorders, and female participants over the age of 50. From one such postal survey of 2220 women, the author selected a sub-sample for inclusion. In survey studied included 276 women who had previously admitted to childhood sexual abuse and 221 women who were not included in the sub-sample. It was demonstrated that older women, despite a history of abuse, were less likely to develop an internalizing condition than younger women. Finally, as people mature, multiple victims and childhood sexual assault remain associated with an increased risk of mental illness.

Helen P Hailes [1] discussed the extent, validity, and potential of the evidence used to study the association between CSA and future outcomes have not been well assessed. The primary objective was to carefully review the available meta-analyses on the various long-term effects of CSA on mental, psychological, and physical health. To explore observational studies looking at the association between long-term effects of early sexual assault (before 18 years of age) (aged over 18 years) and odds ratios (ORs) calculated for different scenarios. Were. It was shown that people who had CSA were more likely to suffer from long-term behavioral, mental as well as physical health effects. It is suggested to prioritize those initiatives that preclude the emergence of outcomes with solid evidence to support them.

Alan J. Drury [15] et al. have described how CSA is particularly harmful and how adverse childhood experiences are associated with a variety of undesirable behavioral outcomes. To explore the idea that sex crime is linked to CSA. The author assigned a nearby group of prisoners on supervised release in the Midwest region of the United States to test the concept using hierarchical negative binomial regression techniques. Despite adjusting for gender, country, age, and time of arrest, the results showed that CSA was strongly related to formal claims of rape or sexual abuse. Finally, even after controlling for important clinical and forensic psychology factors, CSA and subsequent sex crimes remain highly associated.

The above study suggests that sexual feelings due to childhood sexual abuse are quite common in PTSD and cause much suffering, they are not addressed or reduced by current treatments. And to examine the relationship between abuse and CSA and mental illness in a longitudinal study with female participants over the age of 50. In this study, the author discusses the long-term effects of CSAs and their health consequences on the female body.

3. DISCUSSION

Sexual assault in English refers to any coercive sexual act or act done against any woman, man, or child without the consent of the person. This includes the abuse of children by a man, woman, or any other man, woman, or child. When an attacker uses violence on a victim less powerful than himself, it is called sexual abuse. Sexual assault that involves skin-to-skin contact that is done by force but without the consent of the opposing person is punishable. Sexual violence is when someone forces another person into unwanted sexual contact without that person's permission and tries to convince them. Anyone can experience sexual assault, including children, adults, and the elderly. The sexual abuser could be a family member, close friend, stranger, or even someone you trust.

Sexual assault shall be any intentional, lewd, or lascivious act other than a violent act of sexual assault on the front of the body or every other part or with a representative of a child under the age of 14 years. It is done to arouse, attract or satisfy the desires, aspirations, or

sexual desires of an attacker or victim. In case of such an incident contact the police and file a molestation complaint. If found guilty, the person molesting the defendant shall be punished with a punishment that may or may not include imprisonment for a term of not less than one year. Factors that make child sexual assault more likely.

3.1. Long-Term Effects of Childhood Sexual Abuse:

Sadness, regret, shame, self-blame, disordered eating, physical dysfunction, anxiety, isolation tendencies, repression, rejection, sexual dysfunction, and high levels of interpersonal issues have been linked to sexual abuse in childhood. Evidence suggests that among survivors, depression represents the most common long-term effect. The inability to externalize the abuse can cause the survivor to think poorly of themselves. People who have experienced self-loathing over the years feel inadequate and shy away from social situations when they feel they cannot contribute. List of symptoms of child sexual abuse. Depression in the survivor manifests as a constant feeling of sadness, suicidal thoughts, difficulty sleeping, and trouble eating. Shame, regret, and self-blame are commonly felt by survivors. It has been established that abuse victims often attribute the abuse to themselves.

Young people may find it difficult to view the abuser adversely when an adult they trust and admire sexually assaults them, making it difficult for them to understand that what happened is not their fault. Was. Many times, survivors blame themselves and absorb negative messages. Survivors typically engage in more self-destructive behavior and have more suicidal thoughts than individuals who have not suffered abuse. Additionally, body image issues and binge eating disorders have been linked to the long-term effects of CSA. Symptoms of body image issues in CSA sufferers include feelings of filthiness or disfigurement, being unhappy with one's physical appearance or physique, disordered eating, and obesity. Somatic issues can arise as a result of the suffering of the survivors. Compared to those who had not experienced sexual assault, female survivors expressed significantly more medical issues. Pelvic discomfort was the most prevalent medical complaint. In survivors, symptoms of somatization often include pelvic discomfort, digestive problems, headache, and trouble swallowing. Stress and anxiety can be long-term effects of CSA. CSA can remain terrifying and stressful even after the event or conversation has stopped. Often, survivors deal with fear, recurrent panic episodes, and persistent anxiety. The factor that increases the risk of child sexual abuse is in Figure 1.

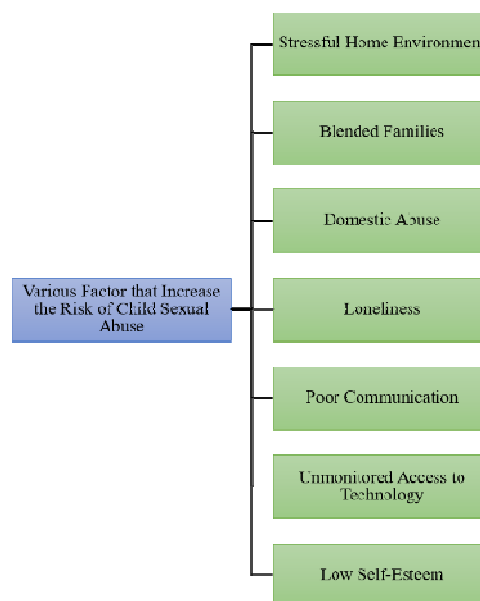


Figure 1: Illustrates the Various Factor that Increases the Childhood Sexual Abuse.

3.1.1. *Stressful Home Environment:*

When an adult gives a child who lacks confidence in their surroundings, especially home, stability, and prosperity, the child is more inclined to adopt stability, even when it coincides with other bad behaviors. Children who experience anxiety at home may still lack trust in their parents because they are likely to be overburdened and may not respond effectively due to their stress.

3.1.2. *Low self-esteem:*

When an adult provides stability and prosperity to a child who lacks confidence in their circumstances, especially at home, the adult is more likely to adopt an adult's dependence, even when matching other adversarial characteristics of the child it occurs. Children who experience anxiety at home may still lack trust in their parents because they are likely to be overburdened and may not respond effectively due to their stress.

3.1.3. *Uncontrolled access to technology:*

Various opportunities are provided by technology to help your child communicate, be creative, and learn. Unfortunately, crooks love to mess with technology. Because of the technology, they have greater anonymity and greater access to judgment, along with potential targets. Even your child's smartphone, tablet, or laptop can be used by the perpetrator as an access point to talk to your children. Modern equipment not only significantly expands the reach of an accused but also removes several barriers to it, such as the need to attempt to isolate a child or the ability to provide inappropriate information.

3.1.4. *Poor Communication:*

Teens who do not feel confident disclosing private information to their parents may feel isolated, lonely, and insecure, which may result in a higher chance of being framed by the perpetrator. Children are less likely to communicate with their grandparents when it comes to important topics such as new individuals in their lives they have seen or encountered, or physical differences in their bodies. If and when sexual abuse occurs, a child who struggles to communicate with people other than their parents is more likely to hide it. They may be busy worrying about failing, receiving criticism or ridicule, burdening their loved ones, or going unnoticed.

3.1.5. *Loneliness:*

Loneliness seems to be a strong emotion. There may be feelings of isolation, estrangement, and abandonment. An important step in the maturity period is to isolate the child physically and emotionally from their loved ones. If a child is already feeling lonely, it will be much easier for the perpetrator to complete this step. A perpetrator is more likely to have contact with a child if he is not regularly left alone or supervised.

3.1.6. *Children who Identify as "LGBTQ":*

Children who identify as Lesbian, Gay, Bisexual, Transgender, Questioning (LGBTQ) or individuals who are still adjusting to their sexual preferences and/or gender expression are at risk of feeling isolated from their peers. They could see themselves as outsiders without any emotional support as a result of facing fear, anxiety, and uncertainty. A perpetrator may take advantage of the child's innocence and desire for direction to try to convince them that it is they who understand and value them. Young people may be reluctant to confess because they have heard many misconceptions about sexual abuse and sexual orientation. The abuser may use the child's fear to tell their parents about their sexual orientation so as not to report the abuse.

3.1.7. *Misunderstanding Boundaries:*

One of the biggest risk factors for child sexual abuse is a lack of education or understanding of boundaries. It is highly unlikely that children who struggle with boundaries will be able to differentiate between appropriate and inappropriate behavior. They may not be able to tell when someone has crossed their limits or when they have crossed someone else's. They are not inclined to report any sexually inappropriate behavior they see, engage in, or learn because they have a blurred understanding of what constitutes harassment. In addition, they may conduct illegally or engage in activities that may attract the attention of potential offenders.

3.1.8. *Domestic Abuse:*

When abuse, neglect, or other forms of abuse occur in a home, there is also a high potential for sexual abuse to occur. This is especially valid in homes when physical abuse occurs. Domestic violence encourages an environment of unpredictability, restlessness, inadequate communication, and misdirected aggression. It is also possible that it is related to drug or alcohol use by one or perhaps more than one family and friend. Each of these factors increases the likelihood of CSA. Mothers who have faced marital hostility are six times more likely to face inter-familial CSA.

3.1.9. *Blended Families:*

In mixed households, communication and relationships can be difficult. Parents may disagree about how to educate their children about acceptable sexual behavior, confidentiality, and conflict resolution skills. Friction between parents and siblings, as well as between individuals in the step-family can lead to domestic conflict, which can also cause young people to feel less comfortable in their circumstances. Family situations increase the likelihood that the child may interact with the offender, whether the person is an adult such as a devoted parent, a live-in spouse, or another child such as a step-sibling.

3.2. *Reproductive Health Consequences of Sexual Abuse:*

Rape is a gruesome crime and sexual offense which cannot be neglected by anyone under any circumstances and it should be reported to the authorities at the earliest. Rape appears to be the non-consensual forced entry of sex organs into a person's vagina, anus, or groin. It can leave a lasting impact on one's life and may lead to mental and physical ailments in the future.

The significance of rape is centered on the belief that it is a crime that deserves the harshest punishment.

This is considered rape and a sex offense with a girlfriend, for example, the girlfriend begins to decline the same offer of sex, but the lover still forcibly enters Helen's genitalia and engages in sexual activity with her, even though she was extremely reluctant to consent. To act the reason for this is that the girlfriend was not given a chance to give her consent and action was taken against her will. If someone says no if she's your wife or your girlfriend, that's a big no.

The same is true for women trying to rape men. Because once potential confounding factors were taken into account, complex and multidimensional logistic regression revealed a statistically significant association between living arrangement(s), reproductive health with parents, and sexuality of residence. There needs to be an honest discussion about location, and substance use as shown in Figure 2.

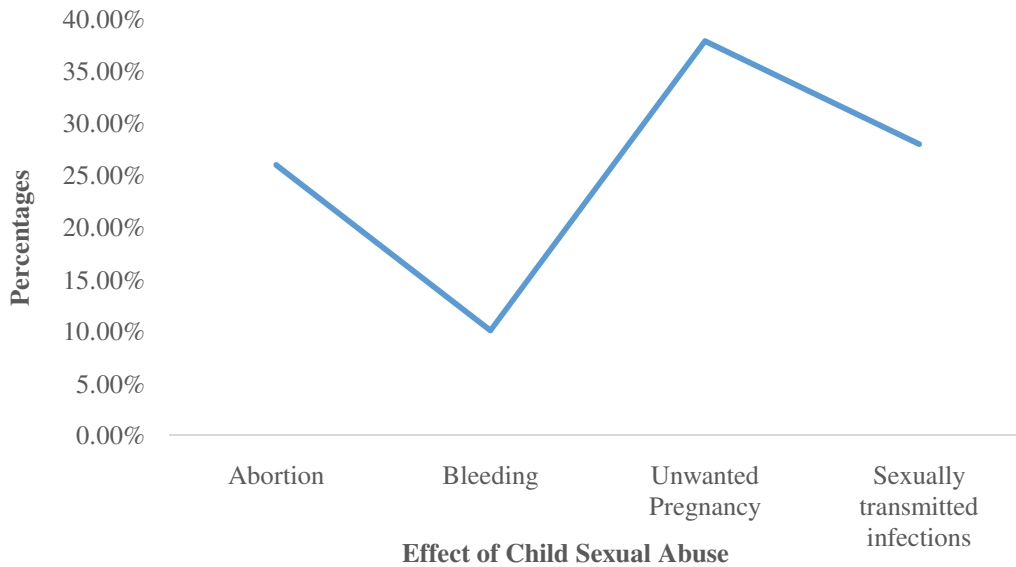


Figure 2: Illustrating the Effects of Child Sexual Abuse and its contributing Variables on Reproductive Health [16].

3.3. Organizations in India for Reporting Cases for Sexual Abuses:

In India, some NGOs and organizations have taken up the issue. They assist women who have been victims of sexual assault, rape, molestation, or child sex trafficking. If you're a victim, identify someone who knows someone who needs help with the accompanying attack phone number via their toll-free or online contact. Within our conservative society, people often shame the victim when powerful figures such as politicians promote false statements about women's underwear and freedom, resulting in crimes involving sexual violence and rape. However, it should be remembered that this is not their duty. Request immediate help to get justice in a country that promotes women's rights and gender equality (Figure 3).

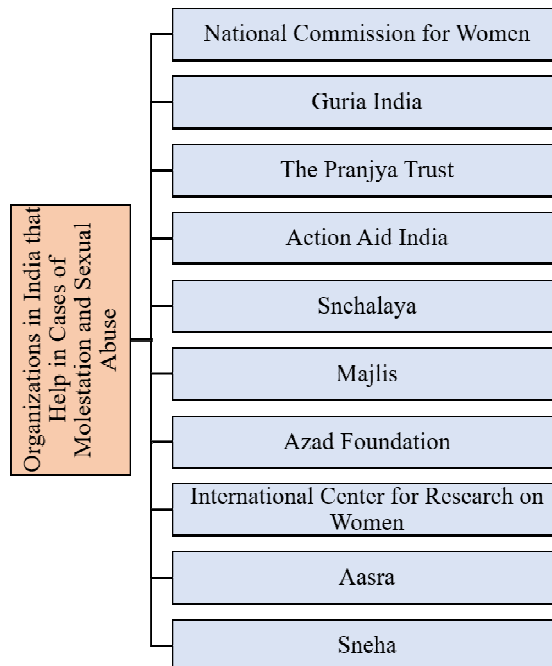


Figure 3: Illustrates the Organizations in India that Help in Cases of Molestation, Sexual Abuse & Violence.

4. CONCLUSION

Women experience all forms of sexual and gender-based violence against themselves before and after all kinds of disasters, including climate change. Because of their gender, they suffer double damage. To effectively address this issue, which has serious implications for domestic societies, world peace, and security, environmental protection, human rights, and refugees, as well as the international legal protections provided by the processes of humanitarian law, it is necessary to urgently International and domestic constitutional and institutional techniques. It is necessary to continue research on the long-term effects of CSA. Most people are aware of how serious this issue is and the impact it has had on the lives of individuals. Given this information, counselors must continue to learn more about child sexual abuse. There is still much to learn about best practices for physicians and counselors to help victims of child sexual abuse overcome its long-term effects. It was suggested that many manifestations of child sexual abuse can be traced back to empirical classifications that arose from the accounts of women participating in social media campaigns. It suggested, however, that the men said they had a harder time coming out because they were concerned about being victimized and viewed as homosexuals. Women had more difficulty because they felt torn about taking responsibility and feared being held accountable or distrusted more strongly. Theoretical work on traumatic impairment is tied to the findings. Findings showed that gender and generational supportive status influenced femininity, masculinity, and childhood social structures.

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CHAPTER 21

OFFENCES AGAINST PUBLIC TRANQUILITY

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ABSTRACT: India is a democratic and peaceful country in the world. This article analysis the provisions related to public tranquillity, which was dealt under CHAPTER VIII, Sections 141 to 160 of IPC, 1872. And it discusses about classifications of offences, and its punishment accordingly prescribed under law. The article concludes public order and peace is important thing in one's Nation. We are try to decrease these type crimes in our Nation with maintain peace, and tighten the laws related to this type of offences. For the development of the society, there must be peace in the society. However, these offences endanger the general peace. Infractions against public tranquillity are explained in Chapter VIII. It's important to research the crimes that are compromising social harmony. Research was done to learn more about the offences against public peace. Finding the offences that are against public peace is the major goal of the research. With the help of this study, we may learn more about public order offences and what they entail.

KEYWORDS: *Assembly, Criminal, illegal, Peace, Person.*

1. INTRODUCTION

The conditions for social progress are calmness and peace. Therefore, maintaining peace and tranquilly is essential for every community and nation as a whole. If there is disorderliness in society or any other such barrier, the society cannot provide each individual the chance to grow and develop to their full potential. Offenses against the public peace are committed not just against one person or piece of property, but also against the entire community. These types of crimes are done by a group of individuals with the shared goal of upsetting the peace and tranquilly of a location, which has an impact on the entire society. To prevent these offences, it is crucial to research them.

1.2. Maintenance of Public Peace

Peace and morality are the cornerstones of civilisation, thus upholding these ideals is essential; otherwise, and the very foundations of society would be in jeopardy, impeding individual growth. It is the duty of the state to maintain public tranquilly and order. It is mentioned in Section 23 of the Police Act of 1861 to maintain order in public places and on public roads. To annoy others, obstruct public order or peace, put them in risk, or do other harm is actually prohibited. In addition, the Police Act of 1861's Section 34 mandates that the police maintain public peace while punishing offenders [1]. Therefore, upholding public order necessitates refraining from any actions that could annoy others or disturb the peace of the neighbourhood.

1.3. Public Offences

Public offences are covered under IPC chapter 8. Four categories might be used to group these offences:

- Unlawful assembly;
- Rioting;

- Enmity amongst different classes;
- Affray.

The Executive and the Police's tasks, duties, obligations, and authorities with regard to upholding public peace and order are further described in Chapter X of the Criminal Procedure Code of 1973 [1] .

1.4. Unlawful Assembly.

Illegal assembly is addressed under Section 141 of the IPC, 1860. In Article 19(1) (B) of the Indian Constitution of 1950, a fundamental right to peaceful assembly is granted, yet this provision intends to outlaw unlawful assembly [2] .

1.5.1. Definition

Unlawful assemblies are those with five or more participants who come together to perform an illegal act. A shared desire to disturb public peace and tranquilly is a crucial component of an illegal assembly. A person is not punished for their simple attendance at a gathering if they have no intent to disturb the quiet in the area. Identifying the assembly's purpose and nature is the shared goal. Additionally, a legal gathering could end up being against the law.

In the case of *Dara Singh v. State of Bihar* [3] , the SC ruled that the accused cannot be found guilty using Section 149 where the Common Object is a matter of an Illegal Assembly is not proven.

The Supreme Court ruled in *Ram Bilas Singh v. State of Bihar* in 1963 that conviction should occur in cases when even the number of people in an illegal assembly falls below 5.

1.5.2. Who is considered as a member of Unlawful assembly?

Anyone who intentionally joins or remains in an unlawful assembly while being aware of the circumstances that make it unlawful is said to be a member of an unlawful assembly.

Additionally, Section 142 of the IPC, 1872 dealt with the provisions pertaining to "Member of an Illegal Assembly."

1.5.3. Punishment

Members of an unlawful assembly are subject to a sentence of imprisonment that may not exceed six months, a fine, or both [section 142].

The members of an unlawful assembly who join with lethal weapons and are likely to cause the death of any person are punished with a period of imprisonment that may last up to two years, a fine, both a term of imprisonment and a fine, or neither [4] .

1.5.4. Section 141 unlawful assembly

The legal guidelines for maintaining public order and calm are provided in Chapter X of the Code of Criminal Procedure, which also specifies the responsibilities, authority, and roles of the Executive Magistracy and the Police in this regard.

- To use or display unlawful force against a public employee, the state, or the federal government
- To challenge the application of the law or legal procedure.
- To cause harm or engage in criminal trespass against anyone.
- To use unlawful force to deny someone the ability to exercise their rights or seize another person's property.
- To coerce someone into acting in a way that is against the law by using unlawful force.

The sections which deal with unlawful assembly are as follows.

- a) Sections 141 and 142 define an unlawful assembly and the consequences of participating in one.
- b) Section 143 of the penal code;
- c) Section 144 of the penal code; and
- d) Section 143 of the penal code;
- e) Sections 145 and 149 address the following:
- f) Participating in or persisting in an unlawful assembly after being ordered to disperse; and
- g) Liability for constructive criminality.
- h) Sections 150, 152, 154, 157, and 158 address numerous methods of providing assistance.

The section also lists the different circumstances in which an unlawful assembly may come together.

1. Taking control of the federal or state governments, or their officials
2. Resistance to the application of the law.
3. Mischief-making commission
4. Compulsory possession
5. Unlawful coercion

1.5.5. *Ingredients of section 141*

There must be more than five participants in an unlawful assembly, and the shared purpose must be illegal. A criminal trespass or other offence should have occurred. By employing unlawful force to compel anybody to engage in any unlawful activity. (1982, McCorquodale) The state, the federal government, or any public employee must be subject to some form of criminal force. Such gatherings' primary goal must be illegality. There must have been a criminal trespass or other offence committed. A person must be coerced into performing an illegal conduct using criminal force.

1.5.6. *Being a member of unlawful assembly*

Being a part of an illegal assembly is covered under Section 142. A person is considered a member of an unlawful assembly if they are aware that it is one and purposefully participate in it or continue to do so.

A person is not automatically considered a member of an unlawful assembly by virtue of their attendance at that gathering. Everyone who participates in an unlawful assembly is considered to be a member since they must have a shared goal and should voluntarily join the group [5]. When an illegal assembly moves on with the shared goal mentioned in section 141 but a person leaves the assembly, it is obvious that the individual is not a part of the illegal assembly. A person is considered to be a member of an unlawful assembly when they share a common goal but are unable to achieve it because of physical limitations or another injury *Joseph Mingel Koli v. State of Maharashtra* [6].

By pursuing the common aim, each member of an unlawful assembly is held vicariously accountable for the crime committed by that member. Legal provisions in the Criminal Procedure Code regarding the preservation of public order

The major goal of the government is the preservation of tranquilly and public order. The country can prosper and reach new heights when its residents live in peace. A society may be in a state of terror if a nation's administration fails to keep the peace in the public realm.

1.5.7. *Common intention*

A person is not implicated by his simple presence in a location where participants of an illegal assembly have gathered. The participants in an unlawful assembly must share a common goal and intention, as well as commit one of the acts listed in section 141 of the IPC. The right to individual defence cannot be regarded as the common goal when an unlawful assembly uses that right and the opposing party assaults them at that point [7]. Pawlowski in 2004 however, such an assembly is illegal if five or more people abduct a woman and detain her in wrongful captivity. The same object is covered under Section 149 of the IPC. Every participant in an illegal assembly is subject to punishment under this rule.

1.5.8. *Exceptions*

A gathering with fewer than five participants cannot be deemed an illegal gathering.

1.5.9. *Punishment*

The person who participated in the illegal assembly is punished under Section 143. (Penal Code (Unlawful Society Declarat...)) This provision provides penalties that can range from a fine to a maximum of six years.

2. DISCUSSION

3. *Rioting*

Riot refers to a crowd's disturbance of the peace. Section 146 of the IPC, 1872, dealt with the provision defining "Rioting." Rioting refers to any participant in an unlawful assembly who uses force or violence to accomplish any crime with a shared objective [8].

Such a participant in an unlawful assembly commits the offence of rioting and is penalised with a 2-year jail sentence, a fine, or both. IPC Section 147 of 1872.

2.1. *Liability of a Person for Whose Benefit Riot is Committed*

Sections 154-156 of the IPC deal with constructive liability of a person having interest in the land on which an unlawful assembly is held or a riot is committed and of a person for whose benefit such an assembly or riot is committed.

Section 154 imposes criminal liability on an owner or occupier of land or a person having an interest in land for the failure of his servant or manager to give information to the public authorities or to take adequate legal measures to stop the occurrence of an unlawful assembly or riot upon the land of such an owner or occupier.

To be more precise, section 154 imposes liability on an owner or an occupier of the land on which an unlawful assembly or a riot has taken place for the following omissions of his servant or manager:

- i. failure to give earliest notice to the public authorities about the unlawful assembly or riot;
- ii. intentional failure to give notice of the unlawful assembly or riot which was about to be held or committed and
- iii. Abstention from taking appropriate measures to suppress an unlawful assembly or riot. The owner's liability does not depend upon his knowledge of the riot or of the acts and intention of his servant or manager. He is punished for the taking place of an unlawful assembly or riot on his land.

Sections 155 and 156 deal with the liability of persons for whose benefit a riot is committed. The former deals with liability of the owner or an occupier of the land on which an unlawful assembly or a riot, who has derived benefits from such an assembly or riot and he or his agent, knowing or having reasons to believe that such assembly or riot is likely to take place, has failed to use lawful means within his reach to prevent, suppress or disperse it. While the latter section holds an agent or a manager of an occupier or an owner of the land on which a riot has taken place and from which such an owner or occupier has derived benefits responsible for his failure, having reasons to believe that such a riot is likely to take place, to resort to all lawful means within his power to prevent or suppress such a riot.

2.2. To invoke section 155 the prosecution needs to prove that:

- i. a riot is committed for the benefit or on behalf of land owner or occupier;
- ii. such riot took place in respect of the land, of which the accused is either the owner or an occupier;
- iii. the accused accepted or derived benefits therefrom and
- iv. he, his agent or manager, having reasons to believe that such a riot was likely to be committed or such an unlawful assembly to be held, has not used lawful means to prevent or oppress or disperse the riot or the unlawful assembly.

2.3. Waging war against state

The three aspects of abetment, attempt, and actual war are covered in section 121 of the IPC. According to the IPC, waging war is the worst offence against the state and all three of these are punishable offences. Fighting the state and starting a riot frequently go hand in hand. The conspiracy to conduct war is covered under section 121A, which also has penalties for the offence [9]. All crimes against the state, to put it generally, disrupt the public peace. As it affects public peace and racial integration, inciting hostility between various groups also falls under the category of waging war against the state. Warfare against the state is covered by IPC Sections 121, 121A, 122, 123, and 124A. A lot of people are detained for waging war against the state under IPC Section 121A.

2.4. Offence against public tranquillity

The provisions of Chapter 8 of the Indian Penal Code pertain to offences against public peace or order; these offences do not involve an individual's person or property; rather, they involve an offence against the state (Karina Mayasita et al. 2014) The offences listed in their chapter are referred to as "group offences" because they are typically committed by a large group of people and disturb public order. The offences can be categorised as rioting, encouraging hostility, unlawful assembly, and effect [10]. The legal guidelines for maintaining public order and calm are provided in Chapter X of the Code of Criminal Procedure, which also specifies the responsibilities, authority, and roles of the Executive Magistracy and the Police in this regard.

3. AFFRAY

A group brawl that disrupts the peace in a public setting is known as an affray. Disposition concerning the definition of "Affray" under Section 159 of the IPC, 1872. Affray is defined as two or more people fighting in a public space while upsetting the peace.

If someone is found guilty of committing an offence or engaging in physical violence, they might face a period of imprisonment that could last up to one month, a fine that could reach \$100, or both.

According to the Supreme Court's ruling in *Sunil Kumar Mohamed Alias Mahakhuda v. State of Orissa*, an attack does not always need to be witnessed by the general public. It might only be considered an altercation if it had the potential to disturb the peace of the community.

3.1. Promoting Enmity Between Classes

The IPC's Sections 153A and 153B, which deal with empowering animosity between classes, have this structure. Section 153A discusses making hostility between various groups, such as those based on religion, place of birth, race, language, and other factors, a crime. Whoever is accused of inciting hatred between different classes when, through words, whether spoken or written, through signs, or through apparent portrayal, it results in feelings of hostility or contempt between two classes of residents implies, is punished with detention that could last up to three years, a fine, or both detention and a fine.

Despite the fact that our right to freedom of speech and expression is protected by Article 19 of the Indian Constitution. It is forbidden to speak or convey words in a way that fosters animosity or hatred amongst various groups. Why? Because there are some limitations, such as those that the state may impose to preserve peace and public order.

In *Bilal Ahmad Kalo v. State of Andhra Pradesh* [11], the SC ruled that *Mens Rea* is a crucial component in determining whether to condemn someone who is deserving of Section 153A punishment.

The Supreme Court ruled in *Gopal Vinayak Godse v. UOI* [12] that it is not required for some activities to foster animosity or hostility amongst various social strata. However, the subject, which is covered by Section 153A of the IPC, either whole or partially signifies that it is sufficient to that.

3.2. Enmity amongst Different Classes

Whoever promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will between different religions, languages, races, regions, castes or communities, or whoever does anything which is prejudicial to the maintenance of harmony among any such group, which disturbs public tranquillity, or whoever organises any movement or drill with the use of criminal force and violence against any such group which may or is likely to cause insecurity among members of such group, will be liable punishment of imprisonment up to 3 years or fine or both. If any such offence, as mentioned above, is committed inside the premises of a place of worship, the perpetrator shall be imprisoned for up to 5 years and shall be liable to pay fine.

In the case of *Gopal Vinayak Godse v. Union of India*, the Bombay High Court held the following with respect to the scope of Section 153A:

- “It is not necessary that enmity or hatred actually arose between different classes, because of certain acts or objects.
- The matter which comes under the purview of Section 153A of the IPC should be considered a whole and not some stray or isolated parts or portions.
- It is necessary to consider the class for which the act or the object, meant to promote enmity is subjected to.
- Truth is no defence under Section 153A.”

Section 153AA[xxvii] was added in addition to this and it states that whoever carries arms to any procession against the imposition of Section 144A of the CrPC[xxviii], shall be imprisoned up to 6 months along with a fine of ₹2,000.

Section 153B was also added to reduce the increasing disharmony amongst communities in 1972 when there were high tensions amongst various castes, which largely affected the social harmony as well as the national integrity of the country. It categories offences into the following:

- Making or publishing an imputation that a certain person who belongs to a particular community, cannot bear allegiance to national integrity.
- Asserting, counselling and propagating that a certain group of people belonging to a particular community shall be stripped of their right to citizenship.
- Making or publishing and asserting that the above act must involve discord and disharmony among various communities.

Whoever does any of the above act, shall be liable to a punishment of imprisonment up to 3 years or fine or both and whoever does any of the above act inside the premises of a place of worship or during a religious ceremony, shall be liable to imprisonment of up to 5 years, along with fine.

3.3.Maintenance of public order

It is the fundamental duty of the state to maintain public order and peace. It is given in the police act. Section 31 of the police act of 1861 states that order should be maintained in the public roads and public places. Section 34 which make it an offence for any person to cause obstruction, inconvenience, annoyance, risk, danger or damage and section 23, which makes it incumbent upon the police to maintain the public peace and prevent the commission of offence and of public nuisance, it is clear that public order really means that the actions of a group of individuals should not impinge on the rights and convenience of any other group.(Ghosh 1993) An assembly of persons who use criminal force in order to cause a public servant to desist from his duty, resist the execution of any law or legal process, commit mischief or criminal trespass, deprive any other person of his property, enjoyment of a right of way or peaceful enjoyment of rights by use of criminal force, or use criminal force to compel a person to do an illegal act automatically becomes an unlawful assembly under section 141 of the IPC if it consists of five or more persons [13] .

3.3.1. State of U.P VS Sughar Singh:

Five accused were lying in a bush on either side of a lane, with armed guns. When the deceased came near, the accused 4 and 5 exhorted him, and accuses nos 1, 2 and 3 shot the deceased with their guns respectively. Accused 1, 2 and 3 threatened the witnesses. The trial court held that all of these were sufficient to come to the conclusion that these five accused had constituted an unlawful assembly and has members had common object to kill the deceased. They had a prearranged plan. The trial court convicted the accused. On appeal, the high court quashed the conviction. The state appealed to the Supreme Court. The Supreme Court upheld the conviction against the accused [14] .

3.3.2. Aravindan Vs State of Kerala

A sudden quarrel arose between two parties. Each party abused other party. There was no premeditated plan. All of a sudden, each party attacked others. The court held that neither of the parties would constitute the unlawful assembly [15] .

3 CONCLUSION

Public peace and order are the core of the governance of a country and not just any other issue of it. It comprises the vital aspects of democracy and the basis on which the foundation of this nation was built.Chapter VIII of the IPC deals with offences relating to public

tranquillity. These offences are committed against the entire society and disturb the peace and order of the entire society. Any offence against this public tranquillity, committed either by an individual or by a group of persons, would fall under the scope of a public offence. In addition, it is not necessary for the offence to have been committed; any possibility of the commission of an offence against public tranquillity is punishable under the IPC. Offences against public tranquillity are categorised into unlawful assemblies, rioting, enmity against different classes and affray, all of which are similar to each other to some extent with minor differences. However, some reforms are necessary to make these provisions in compliance with the development of the nation.

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CHAPTER 22

A COMPREHENSIVE STUDY ON THE FACTORS OF HATE CRIME

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ABSTRACT: A "criminal act against a person or property motivated in whole or in part by an offender's bigotry towards a race, religion, handicap, sexual orientation, ethnicity, gender, or gender identity" is referred to as a "hate crime." Although the phrase "hate crime" is intuitively accepted across policy and practice areas, various settings interpret it differently. While it is acknowledged that a single, worldwide definition of a hate crime is not conceivable nor desirable, it is possible to establish common definitional parameters for the word that allow for jurisdictional freedom while maintaining a common meaning. The basic components of a hate crime will be ultimately described in this work, and it will then go on to provide definitional parameters for the word that are relevant across academic and policy areas. A hate crime is defined as any criminal act that the victim or any other person believes was motivated by animosity or prejudice against the victim because of the victim's race, religion, sexual orientation, transgender identity, or perceived disability, or because the victim is believed to have any of these characteristics.

KEYWORDS: *Assault, Crime, Criminal, Hate Crime, Violence.*

1. INTRODUCTION

One of the most controversial topics is whether community organizations should receive additional legal protection. In some ways, a greater social and political dimension is given to the idea of hate crime because the question of protected characteristics is not answered in the same way in laws. It is concerned with social structure, social power, and the influence of diverse social groups, all of which have the potential to influence the choice of the legislator. Throws light on the legitimate issue of boundary [1]. Legislators establish this line and decide which groups are considered victims. This membership is often determined by ethnic, national and religious identity. There has been disagreement and lack of acceptance in the literature on the inclusion of gender and categories of people with disabilities in the idea of hate crime. Additionally, the idea of a hate crime includes violence against homosexuals. Because of their sexual orientation, homosexuals often become the targets of crimes. According to Barbara Perry, since social constructs such as social identity and hate crimes are subject to change every civilization is different. In addition, a person can be a member of several social groups at the same time [2].

Although the phrase "hate crime" is used in a variety of situations, regions, and settings, it may come as a surprise that the term has no common interpretation. Because of this, even within practice silos, disagreements can arise between academics, lawmakers and policy makers when debating the problem. According to some, a "hate crime" is an event that typically involves a wide range of hostility directed towards a minority population, which from a legal point of view would be considered criminal action for discrimination, hate speech and subtle offenses. Others view the phrase "hate crime" as a limited concept that applies solely to illegal activities. For academics, decision-makers and analysts, this presents a potentially unique dilemma [3]. There is often broad agreement on the meaning of the terms in policy areas and other criminological expressions in academia. Although legal definitions of what constitutes a rape may vary from jurisdiction to jurisdiction, there are definite limits

accepted for the meaning of that term in different settings. This, for example, enables the perception of what is to be discovered and problematic by academics from other regions and jurisdictions, as well as enabling analysts and policy makers to understand the issue at an international level [4]. This makes it possible to compare data and learn from other countries how to effectively address this social evil.

The decision to include violence against women and disability in the definition of a hate crime has generated debate in the literature. Arguments in support of the inclusion of a disability in the definition of a hate crime center are based on the idea that prejudicial views and stereotypes about the disabled are the result of their social exclusion. There are 54 million people with disabilities in the US alone, a significant portion of the global population. The study findings suggest that individuals with disabilities feel a sense of group identity. As a civil rights movement, associations of persons with disabilities in America have gained enormous political influence.

When considering disability, it is important to consider whether people with disabilities are targeted because they are vulnerable targets who cannot defend themselves or because there is a bias toward disabilities. It is necessary to keep this important point in mind while assessing this subject. The controversial topic of gender in relation to hate crimes will take years to be addressed [5]. In a sense, attacks motivated by factors other than gender fit the hate crime paradigm if the victim is chosen solely on the basis of gender and if the attack has not been incited in any other way. In fact, there are many femicide cases, or there have been murders of women just for being women. According to study participants, women are the group most likely to avoid becoming victims of hate crimes. Common objections to the inclusion of gender in the definition of hate crime indicate that feminist lobbying groups are blamed for the prohibition of hate crimes based on gender [6].

However, gender does not fit the hate crime paradigm as the victim generally knows and has previous contact with the aggressor and violence against women is a widespread phenomenon in society. Radical feminists strongly support the inclusion of gender in the idea of hate crime. While it is true that many women who experienced violence knew the people who had attacked them, this relationship does not always prove that the crime was committed with prejudice in mind. Rape and domestic abuse cannot be classified as hate crimes [7]. The presence of special legislation relating to the prevention of violence against women, which is a widespread phenomenon in most countries, is cited as another justification against including gender in the consideration of hate crimes. It is not necessary to hate the victim for abusing her. The idea of hate crimes has only recently begun to involve the gender question [8]. Violence against women remains an important social issue whether hate crimes are considered to be motivated by a person's gender or not.

The pyramid displays biased actions that increase in complexity from base to top. Even though actions at each level have detrimental effects on both people and organizations, as one moves up the pyramid, the actions have more serious consequences. The lower layers support the top levels, like pyramids. When individuals or organizations view previous levels as acceptable or "normal," the next level of actions become more acceptable [9]. The Pyramid of Hate demonstrates that acceptance of the behaviors outlined in the lower levels of the pyramid displayed in Figure 1 is the basis for hatred of genocide, responding to inquiries from the international community about its origins.

Because it targets a victim who belongs to a group that is different from the general population because of factors such as color, ethnicity, religion, sexual orientation, physical or mental impairment, and even political views, a Hate crime differs from "normal" punishable offence. However, the crime itself is only a stage, and it can take various forms, including

assault, assault, murder, property damage, bullying and arson, along with verbal abuse and other forms of "justifiable" verbal abuse. Over the past 20 years, the terms "hate crime" and "crime based on bias" have been regularly used and debated in academia, law, and the media. However, many nations were adamant on how they handled these crimes.



Figure 1: Illustrate the pyramid of hate in the different levels [10].

Over the years, hate crimes have been registered in Australia, the United States, Europe, and Israel. According to news reports from these nations, there appears to have been a significant increase in racial crimes; nevertheless, the number of people arrested and convicted of hate crimes in these countries is still small (Figure 1).

2. DISCUSSION

2.1. The Effects of Hate Crimes:

More psychological discomfort is more likely to be felt by victims of violent hate crimes than by victims of other violent crimes. Particularly, victims of bias-motivated crimes are more likely than victims of crimes without motivation to feel post-traumatic stress, safety worries, sadness, anxiety, and rage. Hate crimes victimize the whole group and reduce feelings of safety and security by sending signals to members of the victim's group that they are not

welcome and safe in the community. Additionally, seeing prejudice against one's own group may result in psychological discomfort and decreased self-worth [11].

2.2.Leads to Hate Crimes:

An severe type of prejudice, hate crimes are more likely to occur in an environment of social and political upheaval. Members of new groups may be devalued in public and political discourse, and offenders may believe that demographic shifts endanger their livelihood or way of life. Offenders could be driven more by fear, ignorance, or wrath than by hatred. These may result in the dehumanization of strange groups and focused violence.

2.3.Hate crimes and hate incidents:

Most crimes are motivated by something that the victim has or is under their control. When a person commits a hate crime, they are motivated by "who" the victim is or "what" the victim looks like [12]. According to the definition of a hate crime, it is "any criminal offense which the victim or any other person believes to be motivated by hatred or prejudice on the basis of a person's race or alleged race, religion or alleged religion, sexual orientation or perceived sexual orientation." Disability or alleged incapacity, and any offense motivated by hatred or prejudice against a transgender or person deemed to be transgender [13]."

Any incident that the victim, or anyone else, believes was motivated by prejudice against them because of their race, religion, sexual orientation, disability, or gender identity, is considered a hateful incident. Even though not all hate crimes result in criminal offences, it is important that the police are informed and tracked. You don't need to believe that the incident was motivated by hatred [14]. This would suffice if another person, a witness, or even a police officer believed that the act was motivated by hatred.

2.4.Types of hate crime:

There are three basic categories of hate crimes: physical assault, verbal abuse, and incitement to hatred.

2.4.1. Physical assault:

Any form of physical assault is illegal. If you have experienced this you should report a physical attack. A perpetrator may be prosecuted for general assault, actual bodily injury, or grievous bodily harm, depending on the severity of the planned violence.

2.4.2. Verbal abuse:

For minority groups, verbal abuse, intimidation, or name-calling can be frequent and very disturbing experiences. Many times, victims of verbal abuse are unsure whether a crime has been committed or feel unable to stop it. Nevertheless, laws exist to protect you from verbal abuse. If you have experienced verbal abuse, notify the police or one of our affiliates about the incident. You can find a list of them on our website explaining how to report hate crimes. The information may still enable us to improve how we police the area where the abuse occurred, even if you do not know who verbally abused you.

2.4.3. Incitement to hatred:

When someone behaves in a threatening manner with the intent to encourage hate, it is a crime known as incitement to hatred [15]. This comprises content that has been put on websites and may take the shape of text, photographs, videos, or music.

Hateful substance may also include:

- Statements encouraging violence against a certain individual or group
- Websites that depict or describe acts of violence committed against anybody because of their perceived differences
- Chat rooms where users request that others commit hate crimes against a particular individual or group.

Levels of Hate-Based Violence to aid in the identification of various levels of hate-based violence and to raise awareness of it, the authors provide a method in Figure 2.

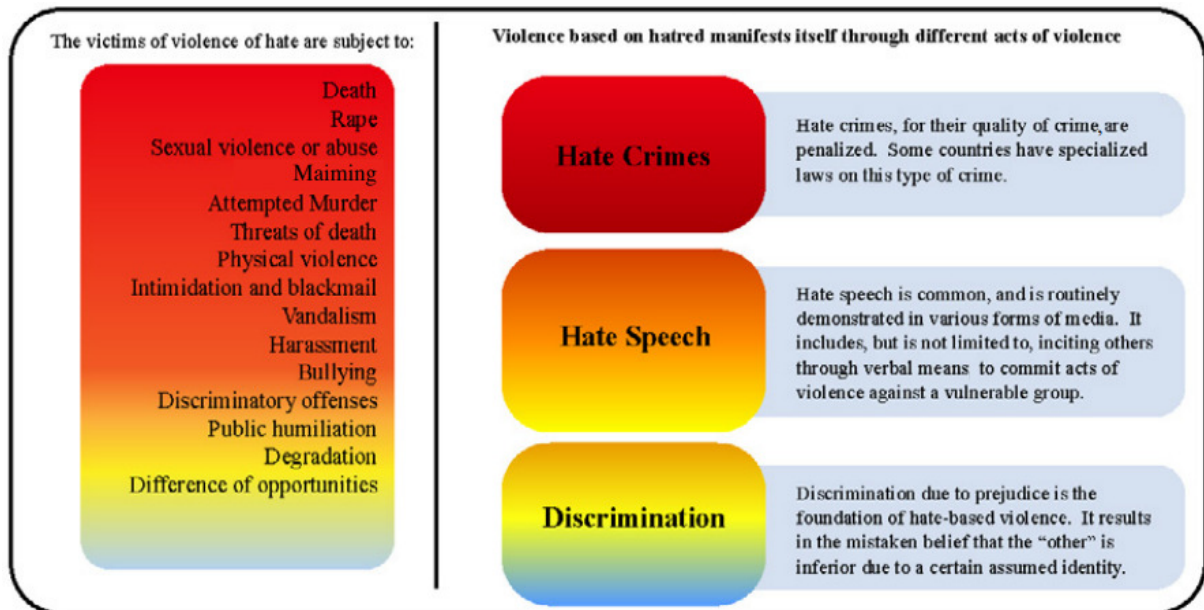


Figure 2: Illustrate the way to identify different levels of hate-based [16].

Hate-based violence is built on discrimination and prejudice. Verbal abuse, such as denigration, harassment, humiliation, and threats, may be a type of hate-based violence. Hate-based violence may also be physical, such as bullying, sexual assault, and disfigurement, and it can even include murder and genocide. The difference between the root causes of hate-based violence and the actual acts of hate-based violence must be understood because preventing hate-based violence requires first addressing its causes. If prevention efforts are unsuccessful, interventions may be required to help victims regain their safety and heal from the trauma caused by hate-based violence. Prejudice, including negative preconceptions and distortions, and discrimination, including actions like exclusion and disqualification, often precede or are present in hate-based crimes.

Hate speech, a kind of violence that describes acts or words that seek to dehumanize a group, reinforce harmful stereotypes, undermine dignity and self-worth, oppress, intimidate, and/or generally perpetuate a power imbalance, may also occur before or in conjunction with hate crimes. The degree of severity and intensity may be the only distinction between the basis for hate-based violence and the actual acts of violence [17]. As previously mentioned, ideas such as hate crimes, hate speech, and discrimination may be subject to the cultural norms and legal framework of the country in question. Prejudice, discrimination, hate speech, and hate-based crimes are all ways of communicating that bias and prejudice are present and that the out-group "should be kept in their place," meaning in a place that denotes "other" and "less than."

Hate crimes have opened up a whole new way of thinking about an old issue that is present, to a lesser or larger degree, in all societies, regardless of geographic, political, economic, or cultural distinctions. Hate crimes are a relatively new study paradigm in criminology. When the idea of hate crimes was first brought into criminal law and judicial practice, criminology was confronted with the difficulty of defining it, formulating it scientifically, and providing answers to several conceptual problems [18]. Despite the concept's theoretical and practical merits, the term "hate crimes" itself has to be scrutinized. The words we use to express ideas have a purpose beyond simple semantics. "Hate crimes" has deeper theoretical and practical ramifications.

Further investigation is necessary to determine if the word "hate crime" or "bias crime" best describes the crimes in question or whether an alternative phrase should be used. Hatred is difficult to define and demonstrate. To the degree that the term is useful in reality, there is theoretical support for and sustainability of the notion of hate crime. The concept's outline is the subject of the following question [19]. Because multiple legal theories exist, the question of protected qualities is not always addressed in the same manner by law. All of this results in fresh conundrums and the need for more theoretical and empirical study. There are obvious distinctions between similar but distinct phenomena including genocide, ethnic cleansing, hate speech, and discrimination. Given the parallels between certain hate crimes and domestic terrorism, the relationship between these two types of crimes has to be further studied.

2.5. Impact of hate crime:

As mentioned above, the effects of hate crimes may differ significantly from those of crimes without a prejudice purpose, especially in terms of how they affect specific victims and others who are close to them. Understanding the effects of hate crimes paves the way for treating their victims with respect and compassion and may help us better comprehend their needs [20].

2.5.1. Direct impact:

Each victim of a hate crime is unique and has distinct effects. The kind of occurrence, a person's prior exposure to discrimination, devaluation, and disadvantage, the presence of social support networks, and a person's psychological and financial resilience are just a few of the variables that might affect how victimization affects them. The intersectional nature of identities, which occurs when a number of personal qualities function and interact with one another simultaneously in a manner that is inextricably linked, might affect the effect of hate crimes. For instance, based on the various social roles and statuses within a community or culture, each individual will be affected by hate crimes in a different way [21]. A person's experience will also vary depending on their ethnic origin, sexual orientation, religion, etc. A multiple-bias hate crime's effect and the offender's responsibility may be increased by the targeting of numerous related traits.

The fact that victims of hate crimes are chosen because of who they are, however, is a recurring thread. Therefore, the perpetrator's acts may be seen as an assault on the fundamental foundation of the victim's identity, which is diminished, disparaged, and mocked. One of the most important effects of being a victim of a hate crime, which is more severe than being a victim of other crimes, is post-victimization socio-emotional and psychological anguish, in addition to the physical injury and shock experienced immediately after an assault [22]. The emotional effect will cause temporary mental anguish; however, it may linger for a few weeks. The psychological effect entails longer-lasting and more chronic emotional anguish. A substantial body of research indicates that victims of hate crimes are more likely to experience prolonged and higher levels of depression, withdrawal,

vulnerability, anxiety, and nervousness; a profound sense of isolation; prolonged fear; prolonged psychosomatic symptoms; significant difficulties with their job or schoolwork; and significant difficulties with family members or friends.

2.5.2. Indirect impact:

A hate crime often has an effect on several victims. A hate crime assault conveys a message of denigration and rejection to the target as well as the group they stand for in society. The victim's community may feel attacked as if they too were the victim since they share the victim's traits. They could feel scared and vulnerable to more assaults. Where a community has traditionally experienced marginalization, prejudice, or even persecution, these consequences may be amplified. Hate crimes may also have an effect on a community's quality of life, sense of security, and level of involvement. Communities may be unable to plan their cultural or religious activities because of assault fear. Additionally, a community's and its members' fear of victimization may lead to increased caution and often self-censorship in public areas. Communities may lose faith in their security and the state authorities if the hate context is not handled by the authorities and no clear message is delivered to the offenders. As a result, communities may need to arrange security for their venues and gatherings rather than relying on the government to take money intended for cultural and social activities. Communities may be forced to transfer to another location, city, or even nation in certain severe situations due to a lack of assistance from the government.

2.5.3. Secondary victimization and its impact:

For many hate crime victims, secondary victimization may result in even more degrading treatment and isolation, which will have a bigger negative effect on their mental and emotional health as well as their social and economic well-being. Therefore, victims of hate crimes may be adversely affected by the actions and responses of representatives of criminal justice organizations and staff members of organizations that assist victims of crime, such as medical and psychological services, legal services, social work, and victim support services provided by civil society.

2.5.4. Need for confidentiality and trust:

Being the victim of a hate crime often results in a fundamental loss of faith in oneself, in the community, in society, and in the principles that guide that society. Restoring victims of hate crimes' confidence is important. Gaining back trust gives the victim the ability and fortitude to accept help, deal with the effects of the crime, and triumph over them. Victims are more likely to disclose crimes and trust law enforcement when they get appropriate, victim-centered help. Providers of victim support services should proactively get in touch with the impacted individual when they hear of a hate-motivated event or crime or when the victim consents to receive help after reporting the occurrence to the police. This interaction is crucial because it gives victim support organizations the chance to establish the process' secrecy. Most victims agree to the consultation offer after being assured that their information would be kept private. The identities and details of victims who actively seek counseling must likewise be kept private. However, some victims want the world to know about their ordeal because they believe that doing so would protect them.

2.5.5. Need for information and advice:

The experience of being a victim is unsettling and distressing for many individuals. Victims could feel powerless, lost, and incapable of doing action. The majority of victims will ask for information right away. Therefore, it must be acknowledged as a particularly urgent

requirement. While some individuals are aware of their rights and available resources, many others are unsure of what has happened to them. Recognizing and effectively satisfying the victim's complete information demand gives them the capacity to participate in the process as a genuine party, regaining their agency and ability to make decisions, and boosting their self-esteem. The spectrum of information that is pertinent to the victim is broad and includes their need for knowledge on their legal options, their rights as victims, accessible services and assistance, and particular facts relative to their case. Depending on the victim's circumstances, the necessity for information may vary many times throughout time. As a result, disseminating knowledge shouldn't be considered a single event. For ease of access, the material must be made accessible in a variety of forms, including internet portals, helplines, social media channels, pamphlets, flyers, and posters in public spaces. The content has to be accessible to those with disabilities or sensory impairments and translated into languages spoken by minorities.

2.6. The future: hate crime or bias crime:

The passage of legislation that aims to create and/or raise the penalty for hate crimes, such as the Crime and Disorder Act 1998 in England and Wales or the abundance of Federal and State laws in the US, is one of the most controversial topics of discussion in this subject (see the Anti-Defamation League www.adl.org for comprehensive coverage of the latter). Laws against hate crimes often combine punishment and deterrence in a fairly basic manner, as is typical of most criminal legislation, but their success is far from guaranteed. They demonstrate the priority placed on containing this threat and the state's awareness of an evident, arising, and growing danger to society. The possibility for harsher punishment for the criminal shows that the victim and larger communities may suffer disproportionately from hate crimes. Hate crime laws are also believed to foster social cohesiveness by formally stating that it is unacceptable to victimize "different" groups in a contemporary democratic society, and their sheer presence sends powerful symbolic signals about what behavior is proper and wrong. However, a lot of detractors contest the tenets of the argument for hate crime legislation on moral, legal, political, and practical grounds. According to them, the reported hate crime pandemic in the US is socially created rather than "actual." In fact, they contend that compared to a century ago, America is today freer of prejudice and intolerance.

The acceptance of broad legal definitions that encompass relatively meaningless low-level offenses for which the strength of the hate element is debatable, as well as an irresponsible media that exaggerates the latter point, are the causes of the so-called "hate epidemic," which is also a result of minority groups' success in bringing "identity politics" into the criminal justice system. In the end, these opponents contend that hate crime is not special in any way that prevents it from being appropriately addressed by general criminal law. They also maintain that a lot of the assertions made about the particulars of hate crimes are supported by contradictory data and methodologically flawed research. Critics contend that it is difficult to devise a suitable response to hate crime since the crime itself is the topic of doubt, controversy, and a certain amount of misunderstanding. We should not accept the word "hate crime" as a sufficient description of "bias-motivated behavior," as Perry (2003b) contends. The inability to analyze the distinctiveness of the criminal experiences of the varied victims of "bias crime" and the effect on society as a whole, according to Perry, is the main knowledge gap. Others believe the problem is that social psychology literature is not being studied by policymakers. More recent research demonstrates that people are less likely to act biasedly when they observe others acting or expressing prejudice. Despite this, new online hate spaces are emerging, for which new strategies will need to be devised. Internet newsgroups used by white racists to recruit and incite violence against non-white persons and their property are increasingly a common occurrence.

3. CONCLUSION

Hate crimes are unlawful acts, often violent and damaging, when the offender is motivated by prejudice towards the victim's social group. Hate crimes are very harmful to society as a whole as well as the victims' lives. Hate crimes have been classified as a separate form of crime, which is commonly accepted in literature. Arguments supporting this classification are stronger than those against it because they take into account the individual motivations for committing the crimes and their effects. The resolution of fundamental conceptual problems opens the door to a critical analysis of additional conundrums, which is not universally accepted in theory or practice. The report states that despite the fact that research on hate crimes has been ongoing for more than 20 years, it is still important to critically assess the conceptual plausibility and practical applicability of this idea.

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CHAPTER 23

DRUG USAGE AMONG TEENAGERS, SUBSTANCE ABUSE AND DRUG POLICY ARE ALL CULTURAL ISSUES.

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ABSTRACT: In order to better understand the nature, extent, distribution, patterns, and associated characteristics of drug misuse and alcoholism, the author of this article applies the public health method to analyse these problems in the context of interactions between the host (person), substances, and environment. While issues linked to socially acceptable drugs have previously happened in many countries over the last few centuries, there is a propensity to consider them as a completely new and distinct occurrence whenever they reach a critical level in society. The meanings, values, attitudes, beliefs, and conventions that a society gives to any given substance influence drug usage patterns. The psychological and social roles that drug use is attributed vary greatly between cultures. Cross-cultural research on drug misuse reveals that although certain societal policies around drug use serve to curtail and prevent the consumption of drugs and alcohol, other policies have the potential to exacerbate drug issues.

KEYWORDS: Abuse, Alcohol, Cocaine, Drugs Opium.

1. INTRODUCTION

Drug misuse or usage is frequently seen as a single issue. The substance itself, the user, the person with the problem, or the environment in which the problem is occurring can all be seen as the problem. As a result, things get oversimplified. Unitary thinking about the misuse of psychoactive drugs may be addressed with the support of the public health approach. It considers the factors that contribute in different ways to the emergence of drug or alcohol issues, including the agent (using a psychoactive substance), the host (a person afflicted by drug or alcohol misuse), and the environment (society and culture). This suggests that in order to understand a person's use of psychoactive substances, one must consider not only the interactions between the drug and the person—the two elements that are most obvious in a clinical setting—but also the interactions between the drug and society (such as social acceptance of drug use) and the person and society (such as the person's role and status within society or the person's acceptance of social norms).

Some schools of view advocate either thinking about drugs in terms of pharmacology, which primarily considers chemical composition and neurophysiological consequences, or in terms of morality, which refers to appropriate or inappropriate drug usage. Although it's crucial to understand various pharmacological features and to analyse one's personal usage of psychoactive substances from a moral perspective, these approaches are too limited to properly address drug misuse in society as a whole. The focus of psycho-social and socio-cultural approaches to drug use is on the societal and individual purposes that psychoactive substance use serves. This article, while taking these factors into account, concentrates on host, agent, and environmental interactions related to drug use.

Drug use as a function of host, agent and environment

Psychopharmacological aspects: the host-agent interaction

Drugs can be used to influence or change how one perceives himself, other others, or society as a whole [1] . The alleviation from boredom, rage, anxiety, and dysphoria that can result from such changed or altered perceptions. In addition to treating painful or unpleasant conditions, the medication may also induce a joyful sensation. Some have proposed that altered states of consciousness brought on by drug use, as well as those brought on by activities like transcendental meditation, yoga, and religious practice, may improve one's physical and mental well-being [2] . Alcohol, opiates, cannabis, stimulants, and hallucinogens are some of the drugs that have been used for this.

Drugs can be used to treat a variety of symptoms, including those that have a somatic (such as pain and withdrawal symptoms) or psychological (such as depression and anxiety) origin, or a combination of both (such as depression and anxiety). The pharmacological effect of the drug being used will influence the type of symptoms. Sedatives, for instance, can momentarily ease a variety of conditions, including vaginismus, vaginitis, vaginismus, fear, anxiety, and insomnia. All of them, along with pain, coughing, and diarrhea, can be treated with opiates. In the short term, stimulants may reduce boredom, fatigue, somnolence, and inattentiveness as well as boost energy. Hallucinogens may aid in diverting the user's attention from compulsive thoughts or emotional distress by changing perceptions [3]. The "disease concept" of alcoholism and drug dependency has been developed with consideration for these roles.

Time for a Change

It's time for society to modify the way we approach substance use disorders like alcohol and drug abuse. Federal, state, municipal, and tribal authorities around the nation are all paying attention to a nationwide drug overdose crisis. New opportunities to expand access to preventative and treatment services are emerging as a result of ongoing efforts to overhaul the criminal justice and health care systems. Laws promoting equity and health care reform offer several possibilities and financial incentives for addressing drug abuse and associated illnesses more successfully in a variety of healthcare settings. Many states are simultaneously changing their drug laws, from requiring the use of prescription drug monitoring systems (PDMPs) to removing mandatory minimum punishments for drug offences [4]. With regard to addressing social and health issues associated to drug abuse, these shifts provide fresh possibilities to develop policies and practises that are more evidence-based.

Effectively addressing drug abuse and addiction for all Americans is both morally required and strongly economically necessary. According to estimates, the costs of drug abuse and addiction to society in terms of health care, lost productivity, and criminal punishment total \$442 billion annually. To save these expenses while enhancing health and wellness, several evidence-based preventative and treatment policies and initiatives may be put in place [5]. Studies have shown that preventive and treatment programmes for employees with drug use disorders are cost-effective in increasing worker productivity [6] . More than 10 million full-time workers in our country suffer from a substance use disorder, which is a primary cause of disability. Additionally lowering expenses associated with criminal justice, prevention and treatment are far less expensive than alternatives like jail. Implementing evidence-based interventions (EBIs) can result in savings of up to \$58 for every dollar invested. Additionally, studies have shown that every dollar spent on treatment for drug use disorders results in savings of \$4 in medical expenses and \$7 in legal fees. However, highly efficient preventative strategies are rarely implemented. For instance, only approximately 11 percent of young people (aged 12 to 17) report taking part in a drug use prevention programme outside of school, and only 8 to 10 percent of school administrators report employing EBIs to prevent substance misuse^{7,8}. Only 10.4% of people with drug use disorders obtain treatment,

and of those, only about a third receive care that complies with the very minimum standards of practise. The public health-based strategy urged in this Report seeks to address the many individual, social, and environmental elements that have an impact on drug abuse and its effects in order to enhance the general public's health, safety, and well-being [7]. It strives to comprehend and address the vast range of interrelated variables that have an impact on drug abuse and substance use disorders in various communities, and it organises efforts among many stakeholders to reduce both.

Conflicting values in drug use

The deliberate non-medical use of psychotropic medicines is definitely not something that modern industrialised cultures are indifferent about. It is simply deemed not "right," "good," or "proper" for people to achieve pleasure or salvation. This is regardless of whether one simply accepts the position of American psychologist Erich that people are raised to desire and value the kinds of behaviour required by their economic and social system or whether one goes further and speaks of the Protestant ethic in the sense that German sociologist Max Weber used it to delineate the industrialist's quest for salvation through worldly work alone [8] . Modern industrialised civilizations are most definitely not apathetic toward the purposeful non-medical use of psychotropic drugs. Simply said, people finding happiness or redemption is not thought to be "right," "good," or "appropriate" This is true whether one simply accepts the idea put forth by American psychologist Erich that people are socialised to value and desire the kinds of behaviour demanded by their economic and social systems or goes further and refers to the Protestant ethic in the sense that German sociologist Max Weber used it to describe the industrialist's quest for salvation through worldly work alone.

Although ancient values are still felt in many modern nations, the social and economic necessities have undergone significant change in recent decades. Current drug debates are sometimes a reflection of cultural lag, with the ensuing clash of values being a reflection of the discrepancy between conventional teachings and the way the world is now seen by a sizable portion of society. As a result, periods of instability in the prevalent attitudes toward drugs and drug usage are common in modern cultures that are undergoing fast change.

Youth and drugs

The fact that adults frequently take drugs to deal with stress and other aspects of life seems to provide a great deal of comfort for young people. There is no denying that many communities in the world today are drug-oriented, yet drug use's effects on adults may differ from those on adolescents [9] . The adult already has some notion of who they are and what they want to do with their lives. He or she has dealt with the issues surrounding love and sex, possesses some level of economic and social ability, and has been accepted, if not fully incorporated, into some dominating social order. Even though adults tend to use drugs and alcohol for many of the same reasons that children do, drug use doesn't necessarily prevent an adult from remaining productive, forgoing commitments, maintaining close relationships with others, respecting others' rights and authority, tolerating restrictions, and making plans for the future. It's fascinating that the young adult is well equipped to develop ethnocentrism and egocentrism when using drugs [10] . The person withdraws both from the culture of prescription drug use and from inside. Some young individuals who use drugs express a disdain for obligations when more profound formative experiences are needed.

Cannabis use

In general, 96.8% of those who had used marijuana in the previous year claimed that it helped them "unwind," 90.7% claimed that it rendered them "inebriated," and 72.8% claimed that it caused a "increment movement." People regularly said that marijuana usage helped them

"feel better" (69.0%), "reduce fatigue" (70.1%), and "rest" (69.6%). The majority of respondents who reported using marijuana at least a few times in the previous year supported nine out of the 17 competence categories. No significant sexual orientation differences were made, with the exception of using marijuana to "stay going," for which male members were strongly required to attest that they had done so the previous year [11].

Distribution and illicit trafficking

Most nations around the world have an illicit drug trade. Politically less problematic than purely domestic illicit production or consumption is the recognition of illegal importation and distribution, a criminal activity that frequently involves foreigners. Smuggling and illegal dealing seem less like a local issue when outsiders are involved. Drug abuse is a problem in many nations. In fact, it has been discovered that the majority of countries' once-considered-safe locations, such as prisons, schools, and places of worship, actually have drug-related issues. For instance, due to the prevalence of drug abuse among prisoners, illicit drug trafficking is now commonplace. The focus is typically on supply control because individuals acting alone do not typically move significant amounts of drugs [12].

Traffic patterns often follow drug categories and country of origin. For instance, cocaine trafficking begins in the Andean region and moves north via Focal America, Mexico, and the Caribbean region to final points in North America, Europe, and other locations. With thorough treatment of the consumable item close to the beginning point, significant heroin selling occurs in South-west and South-east Asia. Many countries and areas, including Malaysia, Thailand, Hong Kong, and China, may be included in the diffusion process. The best police practises to reduce the supply of pharmaceuticals are the prohibition and seizure of illegal drugs. Drug traffickers complicate detection by converting opium into morphine and heroin (or coca leaves into cocaine) in or near the production areas.

Drug classifications and countries of origin frequently appear in traffic patterns. Cocaine trafficking, for example, starts in the Andean area and travels north via Focal America, Mexico, and the Caribbean region to final sites in North America, Europe, and other places. Significant heroin sales take place in South-west and South-east Asia with full treatment of the consumable item near to the starting location. The diffusion process may involve several nations and regions, including Malaysia, Thailand, Hong Kong, and China. Prohibition and drug seizures are the greatest police tactics for reducing the supply of medications. By turning opium into morphine and heroin (or coca leaves into cocaine) in or close to the producing sites, drug traffickers make it more difficult to catch them [13]. The success rate of interdiction at national borders, which was already low, may drop even lower if commerce between nations increases and commodities are allowed to move around in significant regional trade blocs. When authorities take strong action in one place, the pattern of criminal activity frequently changes or moves to another location.

Illegal drug shipments will probably continue unless interdiction and seizure success rates are high, even while interception attempts may stretch or disrupt the chain of illegal movement and enhance the vulnerability of the unlawful operation to seizure in a particular location. Drug smugglers are frequently low-level individuals who are quickly replaced by fresh recruits. Those who are already on the outskirts of society, such as the poor, stand to benefit significantly and lose very little through smuggling [14]. Interception attempts are unlikely to curb illegal distribution given the extremely large profit margins and possible 10% seizure rate (frequently discussed in law enforcement circles). After a thorough examination of interdiction, which highlighted the adaptability of smugglers, the diversity of their tactics, and the profits at stake, one commentator made the following observation in reference to the

United States: "The recent past suggests that interdiction, even if it produces a high rate of seizures, will do little to decrease cocaine imports."

An Epidemic of a Performance-Enhancing Drug.

Some currently illicit drugs first spread as legal substances with one or more purported benefits besides euphoria. Indeed, in some cases the substances did in fact bring real benefits. However, these drugs were subsequently banned when use led to abuse or adverse side effects were discovered. This could happen again. That is, it is not only currently illicit drugs such as ecstasy and methamphetamine that might emerge as problem drugs of the future. It could also be some current or yet-to-be-invented drug that is intended to help people improve memory, lose weight, or treat attention deficit disorder, depression, or some other mental or behavioural condition [15].

Technological Progress in Drug Testing.

It may be possible to create a test that is less invasive, quick, and inexpensive than urine sampling. What if, for instance, a patch placed on the arm for a short period of time could be used to detect the presence of drugs? What if the patch also checked for additional signs of health? It could be tough for parents to resist such a diagnostic tool. Additionally, it could help to overcome certain privacy-related objections to broad drug testing, such as when it's done as part of regular physicals. Insofar as it may transfer some punishing activities from the criminal justice system to parents, employers, coaches, and other screeners, this might have an impact on both drug use and drug policy.

It is important to keep in mind that technical advancements must be utilised in society as well as in the lab. Any advantages will only be theoretical if policies (or territorial defences of jurisdictions) do not encourage adoption or strive to prevent it. It's feasible that far more successful addiction therapy may face moral concerns from some places, for instance because it might be tougher to resist the desire to engage in drunkenness if the curse of addiction is lifted. Similar justifications have been very successful in preventing the creation of laws that support or even permit needle exchange [16].

Overview of opium/heroin and coca/cocaine

Afghanistan, the Lao People's Democratic Republic, and Myanmar are where the majority of the world's opium is cultivated. Opium is also produced in a number of other nations, but in smaller amounts. The growth of sizable user and addict populations in many nations is a symptom of considerable societal shifts, which make it increasingly harder to curb drug manufacturing. Drug use has tremendous impacts, affecting not just the brain functions that influence or govern individual behaviour but also, eventually, the social environment, whereas any social problem may be very tough to remedy. It is inevitable that some of the illicit drug manufacture that begins in distant regions of developing nations gets diverted from the intended user and given to local people along the road [17]. In many instances, the neighbourhood serves as a reliable consumer base for unlawful manufacturing. The divide between a producer and a consumer nation is not a hard one, and the conventional classifications of producer and consumer nations are being supplanted by the realisation that excessive consumption is a serious issue in production nations as well. For instance, officials have recorded a steady rise in opium and heroin consumption since 1970 in Myanmar, one of the countries that produces the most opium. Although the level of usage and addiction is unknown, Afghanistan, another significant producer, saw a rise in opium poppy growing areas in 1992. With no end in sight for the surges, there were reportedly 650,000 heroin addicts in Pakistan.

Indigenous inhabitants in the Andes have been chewing coca leaves for generations. Bolivia, Colombia, and Peru are the main growing countries for the plant, with Peru having the most plant output. Coca paste smoking is currently common among young people in Bolivia, Colombia, and Peru, sometimes combined with tobacco or marijuana. The main active component of coca leaves is cocaine, which is taken from the leaves and used to manufacture other drugs like coca paste or crack. The United States, which witnessed significant rises in the 1980s, is the largest single market for cocaine. High percentages of those detained by the police tested positive for cocaine usage, and deaths and injuries connected to cocaine got extensive media coverage [18]. The vast riches made from the cocaine trade have fuelled the establishment of new manufacturing facilities, the penetration of new markets, and legitimate companies and political organisations in a number of nations. Because of its addictive properties, cocaine usage can quickly increase in frequency, dosage, or use in conjunction with other substances. Cocaine abuse has had a significant negative impact on many communities around the world, frequently placing a strain on welfare, treatment, and law enforcement organizations.

Family Ecology

Dependence in childhood has been identified as a major risk factor for drug abuse in later life. Even after adjusting for familial history of substance misuse, women who had experienced physical abuse were 1.58 times more likely to take drugs than their adult counterparts who had not experienced such violence.

Girls appear to be more impacted by domestic environmental influences. Untidy, crowded, chaotic settings with minimal emphasis on traditions and religion are strong indicators of eventual drug use in girls [19]. Only by coincidence did the familial environment for males correlate with eventual marijuana usage.

Eighth-graders who took care of themselves after school had a significantly higher risk of using alcohol, tobacco, and marijuana. Risk increased with longer duration of self-care, such that the relative risk for alcohol use for kids who self-cared for at least 11 hours per week was 2 for alcohol, 2.1 for tobacco, and 1.7 for marijuana. High drug use rates were found in kids who were easily angered, thought they were stressed out, were bitter about their parents being away, or came from families that were in conflict. These results were corroborated by subsequent research, such as that of Chilcoat and Anthony, who studied 926 young people and found that children in the lowest quartile of parental monitoring began using drugs at a younger age [20].

Community Environment

Youngsters between the ages of 12 and 17 are more likely to have witnessed drug sales in African American neighbourhoods (41.2%) than in areas where white or Hispanic children make up the majority (7.4% and 23.9%, respectively). Compared to children of other ethnic groups, African American children aged 12 to 17 are more likely (55.7%) to be exposed to persons who are high or intoxicated. When compared to their white counterparts, a greater proportion of African American and Hispanic kids claim that getting access to illicit substances is fairly or extremely simple. Despite this exposure, drug usage among African American teens is lower than that of their white classmates.

According to Crum's research's exposure to cocaine is associated with disadvantaged neighbourhoods. When compared to youth living in more affluent neighbourhoods, those in the most disadvantaged areas had a probability of being offered cocaine that was more than five times higher [21].

2. DISCUSSION

Prevention interventions

Prior to 1970, prevention strategies were based on an information-deficit theory. The presumption was that kids didn't know enough about the consequences of drug usage. Therefore, informational outreach was part of preventative measures. Prevention initiatives during the 1970s and 1980s were centred on models of social and interpersonal impact. This strategy was based on the assumption that young people experimented with drugs and alcohol because they did not yet have a fully formed internal value system to fend off external influences [22]. The preventative initiatives of the 1990s provide a thorough systems approach. They are interactive resistance models that are founded on research and are age- and culturally-appropriate. These preventative initiatives include school-based curriculum that involve social resistance skill development and normative instruction to increase protective characteristics while lowering risk variables.

Training in social resistance skills appears to be easily adaptable for many ethnic groups. Students learn via typical schooling that the majority of children do not take drugs. The main teaching method, as opposed to passive didactics, is active learning. These programmes must include interactive, small-group, and role-playing learning methods. Preventive education programmes have been created for kids as soon as preschool age. More and more young children are likely to experience peer pressure to partake in drug and alcohol usage. During times of change, children are also more susceptible to the desire to use drugs. The danger of drug misuse is highest throughout adolescence [23].

Drug abuse in India: Current and future challenges

The Ministry of Social Justice and Empowerment has performed two nationwide drug surveys since the NDPS's founding in the past three decades. These studies were released in 2004 and 2019 and covered the whole country. These polls' findings indicate that drug abuse is unabatedly increasing in India. Opioid usage has climbed from 0.7% in the prior report to little over 2% in the current one, or from two million to over 22 million people. What's more alarming is that heroin is now the most widely misused opioid, displacing the natural opioids (opium and poppy husk) [24]. This conclusion was supported by sizable epidemiological research from the Punjab. Cocaine use has substantially grown, as has the use of other synthetic narcotics. The survey's findings point to the need to enhance our current system, make a more concentrated effort, and close loopholes. The following are some areas that the government may want to focus on in the years to come:

The Ministry of Health and Family Welfare's DTC programme might serve as a starting point; however, it is insufficient. The NDDTC, AIIMS, is currently responsible for implementing the programme. Possible participation from more centres. A coordinated and determined effort is needed to close the treatment gap with a minimal quality of care since drug demand reduction is directly under the jurisdiction of the Ministries of Health and Social Justice [25]. To understand the trends in substance usage in India and to help the government make informed choices, nationwide drug surveys must be done on a regular basis.

Considering everything, India has dealt with its drug addictions well and promptly. Even though the government has a comprehensive plan, a committed workforce, and a number of focused projects and strategies at its disposal, there is still a need to work on ongoing projects (to address the unmet needs), to have an organised effort between Services, bringing about consistency at the strategy level, to pursue logically educated choices, and to reinforce the inventory decrease chains.

3. CONCLUSION

Drug usage is associated with various meanings, values, and attitudes throughout social systems. The ideal and behavioural norms around the use of a certain substance are similar among populations, yet they differ significantly between others. Although various medications may have identical pharmacological characteristics, even within the same ethnic group, ideal and behavioural standards for one drug may be same while being different for another. A certain substance is likely to be used widely, with all of the complications it entails, in societies where ideal and behavioural standards towards its usage differ.

A multitude of reasons, including wealth, drug dispersion, urbanisation, migration, and cultural change, may have a role in the rising number of drug-related issues in modern society. Cross-cultural research helps identify social tactics that both mitigate and stop these issues, as well as tactics that make them worse. Stress should be put on the fact that methods that work in one society could not in another. Data, planning, and rationale should all be considered when deciding whether to implement new methods.

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CHAPTER 24

GENDER, STATE AND SOCIAL POWER IN CONTEMPORARY INDONESIA: DIVORCE AND MARRIAGE LAW

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Abstract: Indonesia has a very intricate system of family law, with various guidelines for Muslims and non-Muslims. This chapter provides a thorough summary of the laws governing marriage for both groups, including registration requirements, unregistered marriage status, foreign marriage, mixed marriage, underage marriage, and polygamy. It also covers the several types of property handled when a marriage ends: harta bersama (shared matrimonial property) and harta bawaan. Divorce law is also covered, including the reasons for "talak" divorces, custody and support guidelines, and rujuk or reconciliation (pre-marital property). It discusses inheritance in its final section. It explains the specific laws that apply to Muslims under the Kompilasi Hukum Islam (Compilation of Islamic Law) and to non-Muslims under the Civil Code, as well as how courts have interpreted these laws to provide more equitable divides of deceased estates between genders.

KEYWORDS: *Development, high, infringement, injunction, law, monopoly.*

1. INTRODUCTION

It was on a rainy Friday that I met Ukht Raudha, a 22-year old married cadari (a face-veiled woman), in her campus. I was allowed to sit in on her class. Usually during the break between the lectures, students chat as they wait for the next lecture to start. That day I sat next to Ukht Raudha. She was smiling at me the whole day. I asked her why she was smiling. She said she was extremely excited to see her husband of five months who was returning from Saudi Arabia the coming Sunday. They had to stay apart because he had to continue his study in Saudi Arabia. All of a sudden, she told me that she wanted to share her story about how she met her husband.

Ukht Raudha's marriage was arranged by her father who is a prominent religious scholar in the community. She said that her family had very strict rules on relationship between members of the opposite sex. Therefore, passionate courtship before marriage was not in the 'dictionary' of her family. Ukht Raudha said that when her father told her that he had someone for her she could not sleep because of excitement. She trusted her father:

I know my father. It is impossible for him to choose an inappropriate husband for me. I am sure he will choose an Sālih. (Pious) Muslim man for me who has the same religious ideological background. A man who can be the imam (the leader) in our family. a man who can protect my purity and dignity.

Ukht Raudha's marriage was, according to her, conducted in the most proper Islamic way. She only met her husband one week before their marriage, in the presence of her parents. The main purpose of the meeting was for her prospective husband to see her face directly and the meeting lasted less than an hour. Ukht Raudha's story is one of the most common stories that I found during my ethnographic research. Her marriage demonstrates how ideology plays an important role in the formation of her family life. In this article, I'll examine the importance of religious homogamy in guiding decisions about marriage and divorce among Cadari whose lives are governed by strict religious understanding of Islam. Data presented in this paper

were collected between 2008 and 2009 from Tablighi Jamāat and Salafi women in Jakarta, Makassar and Yogyakarta.

The subjects for the interview were selected through snowball sampling.

As many of the interviewed women lived close to each other it was easy to select women for the interviews. The interviewees consisted of 23 married cadari, seven divorced cadari, three divorced men and single cadari.

1.1. Divorce and Marital Dissolutions in Indonesia

Everyone aspires to have a committed relationship. But if things don't work out, you should be aware of your legal options for dissolving a marriage. The 1974 Marriage Act and the procedures for its application have controlled divorce and marital dissolution in Indonesia.

For non-Muslims, a divorce petition must be submitted in the local district court; for Muslims, it must be filed in the local Religious Court. According to the 1974 Marriage Law and Islamic Law, there are a few grounds for ending a marriage. [1]

1.2. Marriage Law of 1974

According to marriage law, there are a number of reasons why a marriage may end, including the following:

1. Either party dies
2. Divorce
3. Upon a court's ruling

1.2.1. Death

The death to either party will automatically terminate the marriage.

1.2.2. Divorce

Divorce is one method for ending a marriage. Only before a court hearing, in the district court for non-Muslims and in the religious court for Muslims, may a divorce be finalised. As a result, the divorce petition must be submitted to the court by any of the parties [2].

The Marriage Law has established the following legal grounds for applying for divorce: If one of the parties:

- has been sentenced to imprisonment for five (5) consecutive years or a longer period;
- has engaged in cruelty or severe ill treatment, endangering the life of the other spouse;
- has developed an addiction to alcohol, drugs, gambling, or other substances;
- has committed adultery;
- exhibits other vices that are difficult to overcome;
- has separated from the other spouse for two (2) years in a row without consent and without a valid reason; or in the absence of circumstances beyond his control;

1.3. Consequences of Divorce

Marriage Law Article 41

Has been sentenced to imprisonment for five (5) consecutive years or a longer period;

- has engaged in cruelty or severe ill treatment, endangering the life of the other spouse;
- has developed an addiction to alcohol, drugs, gambling, or other substances;
- has committed adultery;
- exhibits other vices that are difficult to overcome;

- has separated from the other spouse for two (2) years in a row without consent and without a valid reason; or in the absence of circumstances beyond his control[3].

1.4. Annulment according to Compilation of Islamic Law

Marriage annulment is governed by the Compilation of Islamic Law, which was promulgated by Presidential Instruction Number 1 of 1991.

- The bride is not legally free to marry and is still in a marriage with another man;
- The bride is in the "iddah" of her former husband, which is a waiting period during which a woman is not permitted to marry another man.
- The time frame may change depending on why her previous marriage ended, i.e., 90 days for divorce and 130 days for death;
- the marriage did not meet the minimum age requirement as stipulated by the 1974 Marriage Law; the wali nikah (marriage guardian) was not present or was one who was not authorized [4].

1.5. Marriage performed under threat

Marriage annulment, also referred to as fasakh, is the cancellation of a marriage contract (akad) and the dissolution of a marriage between a husband and wife as a result of a defect in the marriage contract (akad) or as a result of sudden circumstances that could make the marriage contract unsustainable (akad). For instance, it may be the result of a conflict inside the family. The marriage contract (akad) will be nullified on Fasakh [5]. Either the husband or wife can file an annulment petition with the local religious court that has authority over their place of residence, or they can submit it to the local religious court that has jurisdiction over the area where the marriage took place. A court order to dissolve a marriage will be effective back to the day the marriage took place [6].

1.6. Authorized parties to file for annulment petition are:

- Husband or wife;
- Authorized personnel responsible for ensuring that marriages are performed in accordance with the law;
- Other parties who are aware of any marital defects in terms of the marriage requirements as required by the current legislation.

1.7. Divorce for Foreigners in Indonesia

You could be eligible to acquire a divorce in Indonesia if both of your spouses are foreigners and you've been residing there for a while owing to job obligations. Divorce is challenging for all parties involved in any nation. Divorce proceedings may be expensive and costly. When you file for divorce abroad, the process is significantly more difficult. The very last thing you want to happen is to file for divorce in your native country only to have the court dismiss it for lack of subject matter jurisdiction. You could pay even more as a result. Legal theories may claim that because of your extended stay overseas, you are now governed by international civil law. When more than one legal system is involved in your specific case, things get extremely difficult. When both spouses are foreign nationals, you must go through all the appropriate steps to determine whether it is feasible to file for divorce in Indonesia.

2. DISCUSSION

2.1 Where does the Indonesian Court Stand?

Even though there is no obvious legal justification for the lawsuit to be brought in an Indonesian court, the judicial system there should not decline to review, hear, and determine

the matter. The case must be investigated and decided by the court. This is a fundamental tenet of Indonesia's judicial system. Period[7].

The court is not permitted to decline to hear the matter. However, do they have any authority over your situation? You might be wondering if the Indonesian courts could hear your divorce case if both of you are foreign nationals and your marriage was performed and lawfully registered elsewhere [8].

2.1.Problems of Rights and the Experience of Indonesian Women as Litigants in Divorce Cases

This section discusses the experiences of Indonesian women who have filed for divorce in relation to the fundamental issue of exercising one's rights, particularly women's rights. The author interviewed 14 Indonesian women who had endured domestic abuse in 2011 and 2012 and had sought justice in the State Court and Religious Court. Three women chose not to file a lawsuit, seven women started the legal process, and the remaining seven elected to stay in their violent marriages. Despite the fact that separation from the spouse was and is still viewed as the best option, becoming plaintiffs has demonstrated their willingness to leave the abusive marriage. They did not want to be litigants, but family dynamics compelled them to file for divorce when they had access to the criminal justice system, which fell short of their expectations [9] . They are no longer just viewed as helpless, dependent, and passive individuals because of their decision to file for divorce.

The study showed that women who become plaintiffs suffered significant financial losses, especially in Indonesia's Religious Court. Successful women in court had no right to demand that their ex-husband support them financially after the divorce. On the other hand, when a husband did not "really" intend to divorce his wife, being a non-litigant also became a source of the woman's pain [10] .

The reasons why a spouse declined to make the talak were several. The most frequent justification was a husband's unwillingness to pay spousal support because of financial difficulties. The husband's wish to "hold onto" his marital status rather than having a sincere desire for reconciliation was another common motivation. He did this to punish the wife or keep her in a dependent position. A husband's goal in taking such action was often to escape his legal obligation to pay support, which is governed by the Compilation of Islamic law, as well as to exact "revenge" on his wife.

The right to a living/maintenance after divorce (as prescribed by the Marriage Act of 1974) is not, however, automatically awarded by judges to non-Muslim petitioners in the State Court if this is not specifically stated and sought in the legal action. According to research on the experiences of non-litigant women, if the expectations were not made clearly, they were less likely to be met in terms of living/maintenance and shared property. Judges uphold the standards and regulations that a court will not accept the litigant's demands beyond of what is mentioned in the lawsuit, whether in Religious Court or State Court. The rights of divorced women in the Religious Court are also misunderstood, which has caused women to believe that they will also be granted the same privileges [11] .

2.2.Unique Wedding Traditions in Indonesia

We all recognise that getting married is a big life milestone. Indonesia's numerous ethnic groups and diverse geographical regions have a significant effect on the country's wedding traditions. As a result, the traditions and practises alter. But some rituals are far more inventive than others.

Here is a list of distinctive wedding customs from Indonesia:

2.2.1. *Javanese Pingitan Tradition*

The bride is forbidden from leaving her house for a predetermined period of time according to the Central Javanese tradition of "pingitan," or "seclusion." During this time leading up to the wedding ceremony, they are not permitted to visit the groom. Since this time-honored custom is meant to protect the bride from any potential dangers, many people think it will be beneficial for both the bride and groom. It also makes the groom more dependent on his wife's presence. On many occasions, the bride may start thinking about self-care the night before the wedding. This includes fasting, sipping herbal teas when nearby close friends, relatives, or other close companions, and getting spa services at home.

2.2.2. *Minangkabau: Proposing to the Groom*

Unlike other wedding traditions, the Minangkabau bride's family makes the marriage proposal to the groom. Visit the bridegroom's family first. The two families will exchange heirlooms as presents, which serve as binding symbols, if the request is approved. Individuals bring a variety of foods and fruit arrangements to continue the parade afterwards. If you choose to wed in line with Minangkabau custom, there are a number of conditions you must fulfil. The gathering of Maresek's family, the proposal and hand signals of Maminang and Batimbang Tando, the request for authorization from Mahanta Siriah, and babako-babaki are the beginning elements (bringing various items). After that, the bride's nails will be polished for Bainai night, the husband will be picked up for Manjapuik Marapulai, and many other things happen in custom.

2.2.3. *Sinamot in Batak Culture*

The Batak ethnic group conducts a ceremony known as sinamot to talk about the wedding dowry. The quantity of the dowry is influenced by the woman's social standing, education, and career. Women with higher education, for instance, will be valued more highly than those who only have a high school diploma. The groom's education is the main deciding factor. A higher education degree is the standard for the guy since it will enable him to support his future family. Finally, Sinamot is not just about cash; it also aims to avoid failures or divorces following elaborate and expensive marriages.

2.2.4. *Sundanese Sawyer Tradition*

A sawer is a Sundanese name for the area where water drips from a roof's top. This custom is started by the bride and groom performing poetry that is special to them both spiritually. The couple then receives a bowl containing money, rice, candy, and turmeric in the following round of the rite. The brides' gifting of coins to the guests represents their aspiration for financial prosperity. Additionally, rice represents wealth, desserts the sweeter aspects of life, and turmeric splendour. The Sawyer is a significant event since it is when the bride and groom get blessings from their relatives. Additionally, it conveys the idea that parents will always value and cherish the pair.

2.2.5. *Lombok: Kidnapping the Bride*

The Sasak tribe on the island of Lombok is responsible for another distinctive wedding custom in Indonesia. The bride must be separated from her family prior to the wedding by the groom. Historically, those who get married outside of their families have referred to this as eloping. The groom should not deviate from this tradition since doing so might result in a fine even though the bride's parents have already given their consent to the marriage. The bride will first spend some time in the bridegroom's family home after being kidnapped. The female's parents will inform the district chief when they see that their daughter hasn't come

home. The groom will then visit her parents to tell them that their daughter "eloped" before. Details about the procession's ensuing stage.

2.2.6. *Nyantri Tradition from Yogyakarta*

Unlike the Javanese Pingitan ceremony, which calls for the groom to spend a few days at his bride's home before the wedding, the Yogyakarta Sultanate's Nyantri rite does. Previously, in arranged marriages, the bride and her husband were strangers; this is why it persists today. The decision to divorce the other can ultimately be made by one of the interested parties. The groom is frequently requested to remain close to his wife in order to prevent any other instances of such. This suggests that he won't stay the night at the bride's home, but rather that he'll reside with her neighbours or family [12].

Ideological Baggage and Orientations Of The Social Sciences In Indonesia

Knowledge does not develop freely or at random. It occurs in a social environment, where it helps to shape the social dynamics that push opposing viewpoints against one another. Social sciences have actively participated in the phenomena under investigation as well as conducted study on it. Despite being expressed in such broad, abstract terms, the statement is too universal for social scientists to challenge. Beyond the generalisation, there is, nevertheless, a great deal of room for discussion. For example, how specifically does ideology contribute to the development of the social sciences in a particular setting, and how do these processes relate to social interactions more generally?

Given that this relies on how the constraints are created, pinpointing the precise time that Indonesian social sciences started to develop may be challenging. It would be simpler to state that Indonesian social sciences underwent a lengthy and highly apparent growth that started in the 1960s as a systematic and formal academic activity in the subject of social studies carried out by Indonesians inside Indonesian society. By picking such a beginning point, the importance, value, or accomplishments of people who worked in this field in the years before to this are not diminished .

Studies on Indonesia have been produced and widely distributed for many years by foreign writers and in many other languages, largely outside the borders of the former Dutch Indies colony or the Republic of Indonesia. Some residents of the Dutch Indies colony, of Indonesia before it became independent, and afterwards of Indonesia itself have had formal social science education, frequently overseas, and have used a non-Indonesian language for work since the start of the 20th century. The research below examines social sciences as a part of societal change in Indonesia within a larger global context. Therefore, it is assumed that such a study would need to focus on the New Order's rule while referencing relevant earlier events.

Understanding the ideology and partisanship of social sciences and social scientists at this period does not need a challenging study because they openly backed the official interests of the ruling government at the time. This practice's political ramifications were likewise not openly acknowledged.

The concerns that need to be looked at are not the shape of the prevailing ideology or even if there was any ideological interest or baggage in Indonesia's social sciences. Instead, attention should be given to the problems related to the causes, processes, and scope of these changes. It would be more difficult to study ideology in the social sciences in a context where concepts like methodological neutrality, data objectivity, scientific deduction, the universality of values and meaning, or the autonomy of scientific institutions are respected, either as myths or in actions that are morally and legally sanctioned. In this setting, we can only make an

effort to dispel these fallacies while outlining the ideologies that underlie different organisations' and social scientific theories' methodologies [13] .

On Ideology in the Social Sciences

Whether or whether those expressing an ideology are aware of their partisanship, the term "ideology" here refers to a body of knowledge, viewpoints, awareness, preferences, and values that are in accordance with the specific interests of a social group. Under the stricter classic Marxist use of the term, ideology is restricted to that which expresses the interests of one of two important social groups, which are frequently in fundamental conflict with one another [14] . The word is employed widely in this chapter because, as will be seen later, this meaning is more appropriate for the information being analysed.

Since the 1970s, and possibly even earlier, it has been challenging to defend the widely held belief that a particular ideology can completely dominate or monopolise a system of knowledge, which is a scientific discipline . This belief reflects a total subordination to the interests of those in positions of power, whether they be the capitalist class, a political party with monopoly power over the government, or even a dictator and his family and allies.

At the commencement of the investigation that follows, a number of assumptions should be made. The first is that every scientific or academic endeavour has the freedom to accept or express several ideologies, and that these ideologies do not necessarily support one another. The learned mayor might not be aware of this. Every academic discipline is susceptible to the influence of a wide range of polar opposite opinions. This suggests that inside the confines of academics in every culture, we will find a synthesis of many beliefs.

The second assumption holds that at specific junctures in a society's history, one or more ideological streams may start to take centre stage. As a social order becomes more stable through time, there exists one strong and resilient ideology that is no longer perceived as "ideology" by the members of that social order, as can be seen in both industrial civilizations and pre-industrial and pre-colonial cultures in various areas of Asia. Ideology is only one of the many areas in which many civilizations are now undergoing major change. In such a context, several philosophies compete for supremacy. This struggle for domination may succeed if or when a number of changes or substantial conflicts are resolved either amicably or violently [15] .

Since its founding as a nation at the beginning of the 20th century, Indonesia has seen several revolutions and crises, spanning the sectors of economy, politics, morality, military affairs, and technology. This shows that there has never been an opportunity for a specific ideological type to take power. The longest period of generally peaceful time was under the rule of the New Order administration (1966–1998), yet this stability was sustained, ignited, and shattered by a series of violent incidents and crises. So it is possible to identify a single ideology that was rather common throughout New Order society.

Because of this, Indonesia's social sciences, regardless of their ideological orientation, have not had a particularly substantial or good impact on society. Alternative scientific and educational systems are not denied in any way by this.

These other systems are typically not recognised as parts of the formal, secular, current knowledge and scientific system that is inspired by Western intellectual traditions. These fields are referred to as "indigenous" sciences, tradition, belief systems, and mythology. The modern, formal social sciences, however, have not, and have not even been the main mechanism by which ideology has emerged in a nation like Indonesia [16].

3. CONCLUSION

The difficulties women had in expressing their legal rights were mostly caused by laws that discriminated against women. There were inconsistencies in the 1974 Marriage Act's provisions that guaranteed equal rights for husbands and wives in marriage and in public life, but in practise, discrimination against women persisted. These differences reveal the legislator's thought and concern on gender equality issues, the challenges of balancing the rights of men and women, and the conflicts that occur when attempting to accommodate everyone's preferences. Included in this are their rights to support for themselves (and their children), which is forfeited if the woman is a litigant, as well as their rights to divorce (particularly in situations of abuse). This prevents divorce and keeps women together. This prevents divorce and keeps women with children in abusive relationships that are harmful to both the adults and the children. Looking at the law's history and, in particular, how it has been applied up to this point, it is glaringly evident that there is discrimination against women in the law's current form and execution.

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