

EMPOWERING JUSTICE: LEGAL STRATEGIES AGAINST GENDER -BASED VIOLENCE

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KEYWORDS <i>Gender violence, legal strategies, Legal reforms, Legal acts</i>	ABSTRACT Women are the oppressed group, and centuries of male dominance and discrimination over them has created a need for empowerment. Men all across the world target them with a variety of violent and discriminatory acts. India is not an exception. There are a lot of factors that contribute to this kind of behaviour against women, but the patriarchal social structure and the male superiority complex rank first. Even though there are many constitutional and legal rights to end these unfair practices and discrimination against women, there is still much that needs to be done. Numerous non-governmental organizations and self-help groups are pursuing this goal; in addition, women are shattering social barriers and attaining remarkable success in political, social, and economic spheres. However, crimes and abuses against women continue to rise, and society as a whole still does not accept women as equals to men. The long-standing, deeply ingrained mindset of the society must be altered through social conditioning and sensitization programmes for that to change.
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1. INTRODUCTION

India is a complicated nation. Over the course of centuries, we have developed a wide variety of customs, traditions, and practices. Both positive and negative customs and traditions have ingrained themselves into our society's collective consciousness. In addition to honouring our mothers, daughters, sisters, wives, and other female friends or relatives, we also worship female goddesses. However, Indians are also well known for mistreating their women both within and outside of their homes.

Nearly every type of religious belief is represented in Indian society. Every religion accord woman a special place and teaches us to treat women with dignity and respect. However, society has progressed to the point where many forms of mistreatment, both physical and psychological, of women have long since become the standard. Examples of discriminatory practices include sati, female infanticide, sexual violence, sexual harassment at work, domestic abuse, and other practices that involve both mental and physical elements.

Therefore, the idea of women's empowerment emphasizes not only providing women with the tools and courage to escape their terrible circumstances, but also the importance of educating men about women's issues and instilling in them a sense of duty and respect for women as equals. We will attempt to explain and comprehend the idea of women's empowerment in India in all of its facets in this article.

Gender Based Violence (GBV)

Gender-based violence (GBV) is a widespread issue with deep roots that stems from discrimination and inequality against women. It includes a broad spectrum of detrimental acts and behaviours that target someone effects the people of that particular gender. GBV can take many different forms, affecting individuals of all genders, though women and girls are the most frequently impacted. It can involve physical, sexual, psychological, or financial abuse.¹

Types Of Gender Based Violence

Physical Violence: Physical violence is harmful application of physical entity based the different gender. Physical aggression such as hitting, punching, slapping, kicking, or other similar actions could be involved.

Sexual Violence: Any type of unwanted sexual contact, including rape, sexual assault, harassment, and other non-consensual sexual acts, is considered sexual violence. It goes against a person's autonomy and permission.

Psychological or Emotional Abuse: The goal of psychological abuse is to harm a person's sense of self-worth, self-esteem, and emotional stability through verbal threats, control techniques, and emotional intimidation. This may entail ongoing humiliation, isolation, or belittling.

Economic Abuse: This refers to the manipulation of someone's financial resources, the restriction of their financial options, or the use of economic force as a means of control. It may make it difficult for someone to become financially independent or to take advantage of business opportunities.

Reproductive Coercion: This type of GBV includes methods to manipulate or control a person's reproductive decisions, like coerced sterilization, sabotaged contraceptives, or pressure to have or not have children.

Stalking: A pattern of unwanted, continuous attention that frequently includes intimidation and threats is known as stalking. It is a type of psychological and emotional abuse that can happen in person or online.

Honor-Based Violence: This type of violence is carried out to defend or uphold the honour of a family, community, or group. It usually targets women as a result of perceived transgressions of cultural or religious standards.

Human trafficking: The recruitment, transfer, harbouring, receiving, or moving of people under duress, through force or deception, with the intention to exploiting something them, is treated as human trafficking. It mostly affects women and girls and can take the form of forced labour or sexual exploitation.

Forced marriage: Coercing someone into marriage against their will is known as forced marriage. It is more frequently experienced by and constitutes a breach of personal autonomy and consent.

Online Harassment: Since the development of the internet, GBV has spread online. Cyberbullying, the sharing of explicit images without consent (revenge porn), and other online abuses that disproportionately target women are examples of online harassment.

Female Genital Mutilation/Cutting (FGM/C): is the act of removing a woman's or girl's external genitalia or causing other non-medical injuries to the female genital organs. It's a detrimental custom that exists in some societies.

Sexual exploitation: A subset of human trafficking focuses on the forced prostitution and other forms of sex work that force women and girls into sexual exploitation.

Child Marriage: Child marriage is a type of gender-based violence in which young girls are married off without their consent, frequently with detrimental physical, emotional, and social consequences.²

The severity and circumstances of these GBV types differ, but they are all characterized by gender-based discrimination and power disparities that inflict harm on others. It is imperative to acknowledge and tackle these types of violence in order to advance gender parity and break the cycle of abuse.

Root Cause of GBV

The core causes of gender-based violence (GBV) are complex and multidimensional, intricately entwined with societal, cultural, and personal elements. In order to effectively prevent and combat GBV, it is imperative that these root causes be understood. The following are a few of the main underlying causes:

Gender inequality: The belief that one gender is superior to the other in terms of status, power, and control is the fundamental component of gender-based violence (GBV). This inequality is exacerbated by societal norms, attitudes, and stereotypes that devalue women and elevate men.

Patriarchy: GBV is sustained by patriarchal systems that place a high value on men's dominance and control. This includes the idea that men ought to be in positions of authority in both public and private settings, leaving women and people who identify as gender non-conforming at risk of violence.

Cultural Norms and Traditional Practices: Certain cultural norms and traditional practices have the potential to normalize and legitimize gender-based violence. Customs that support viciousness on women as well as girls, such as early child marriages, intentionally female genital mutilation, and honor-based violence, have their roots in cultural traditions.

Economic Disparities: Gender-based economic differences can lead to power imbalances, which make it more difficult for women to escape abusive relationships or obtain support services. Reliance on abusers for financial support can put survivors in dangerous circumstances.

Social Media Influence: Negative stereotypes about women are reinforced by the frequent objectification or subordination of women in the media, which includes entertainment and advertising. The objectification and devaluation of women may be aided by these depictions.

Lack of Education: Women and girls in particular may be more vulnerable to GBV due to a lack of education since it may restrict their access to information, economic opportunities, and sense of their rights.

Access to Justice and Legal Protection: Inadequate access to justice, lax application of the law, and weak legal frameworks can deter survivors from obtaining assistance and pursuing legal action against offenders.

Lack of Education and Awareness: GBV can continue to exist if there is a general lack of knowledge or acceptance of its harm and frequency. Campaigns for awareness and education can aid in refuting this.

Community and Family Dynamics: It can be challenging for survivors to seek assistance without fear of retaliation because social pressure, community expectations, and family dynamics can occasionally enable or conceal GBV.

Substance Abuse: Abuse of drugs or alcohol can make relationships more violent and aggressive, which raises the possibility of GBV incidents.

Conflict and Post-Conflict Settings: GBV is more common in these settings because it can be used as a weapon of war and because breakdowns in law enforcement and social structures can foster a violent environment.

Lack of Resources and Support Services: Victims may be unable to obtain the help they need to leave abusive situations if there is a dearth of resources and support services for survivors, such as shelters, counselling, and legal aid.³

GBV And the Need for Continuous Legal Reforms

Three historic court cases the 1972 Mathura rape case⁴, the 1997 Vishaka case⁵, and the 2012 Delhi gang rape case (Nirbhaya case)⁶ led to modifications in Indian law pertaining to sexual violence. Following the Mathura custodial rape case in 1972, In the 1983 new phase in india for recognising women rights marked as new Criminal Amendment Act. It made amendments to the Indian Evidence Act (1872), the Code of Criminal Procedure (CrPC, 1973), and the Indian Penal Code 1860. IPC Sections 376B and 228A, in order to prevent public character assassinations, respectively, made custodial rape a criminal offence and forbade disclosing the identity of the victim. But according to the Armed Forces (Special Powers) Act, the military was shielded from prosecution for rape committed while under custody and is still not subject to punishment. The Indian Evidence Act's Section 114A established a rebuttable presumption supporting a survivor's claim that they did not provide consent. When a married woman commits suicide, police are required by Section 174(3) of the CrPC to assemble an inquest report (with judicious cause to trust or upon appeal from a relation).

In bhanvari rape case, the Rajasthan high court discharge and it was challegend in 1997, its first time The "Vaisakha Guidelines"⁷were established by the Supreme Court to provide guidance to employers regarding sexual harassment complaints. Nevertheless, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressed) Act was only passed by parliament in 2013. According to the Act, in cases of alleged harassment, employers must form an Internal Complaints Committee to investigate instead of using a civil court. Along with providing compensation for the harmed women, it also mandates that the committee be led by a woman and have half of its members be female. In accordance with the Act, employers are also required to take certain steps to establish a secure and gender-sensitive workplace.

A 22-year-old woman was tortured, beaten, and gang raped in a private bus in Delhi in December 2012 while she was traveling with a male friend. Following intense public outcry and widespread media coverage of the case, the Verma Committee was established to suggest amendments to the criminal code pertaining to sexual assault. Within three months of the incident, in February 2013, a Presidential Ordinance was promulgated that included many of the committee's recommendations⁸. The Act broadened the definition of sexual assault and added new offenses to the IPC, including stalking and voyeurism, as well as acid attacks and even attempts at them. The Act also changed the Indian Evidence Act. Section 54A declared that a victim's past sexual history or character was not relevant in rape cases, and Section 114A assumed that consent was not given unless proven otherwise. This was a crucial legal move to safeguard the interests of survivors in a culture where the "character" of the victimized woman is frequently invoked to defend the actions of the abusers.

Certain laws that aim to provide redress to women who have experienced gender-based violence are merely symbolic and are not enforced by the State or its agents, such as public health and law enforcement. When the Protection of Women from Domestic Violence Act of 2005 was first enacted, it was a significant piece of legislation. Its classification of abuse is ambitious, especially in identifying financial abuse and abuse that occurs in the face of danger or injury.

Its execution, meanwhile, who lack sufficient training to assist victims of domestic abuse. The Act creates protection officers to expedite the redress process, but it is unclear what kind of training and specialization they receive.

Only the girl child who was married off has the authority to declare the marriage null and void, and she is only given two years (i.e., until she turns 20) after reaching adulthood to do so. The Act overlooks social factors, such as family pressure, that contribute to the continuation of child marriage and cannot be addressed by legislation alone. The practice of child marriages persists because of on their families, as well as a lack of knowledge about the rights and remedies available to victims, the to raise the two year statute of limitations for annulments to five years. However, the focus has shifted to raising the legal age of marriage for girls from 18 to 21 years old. The latter is a wholly unrealistic step that would have no bearing on ending child marriage and harm the relationships of consenting adults.

Moreover, the topic of marital rape is not covered by either the Act or the amendment. Section 375's exception (ii) declares that "a man having sexual relations with his wife is not committing rape, unless the wife is under the age of fifteen." It is time to remove this exception. Furthermore, Section 376 (B) stipulates that "Anyone who engages in sexual activity with their own separated wife, regardless of whether they are living apart or not. "The same punishment as that specified in Section 376 of the IPC should be applied for this offense.

Consensual sex with girls under the age of 18 is deemed statutory rape under IPC Section 376. Nevertheless, the age of consent drops to 15 years if the girl is "married." This leaves children open to abuse and exploitation since it means that an adult man who engages in sexual activity with his "wife" after the age of 15 is not subject to consequences. This is a compelling argument in favor of legalizing marital rape.

The Muslim Personal Law's instantaneous "triple talaq" provision was eliminated by the Supreme Court in 2017¹⁰. A Muslim man could file for divorce from his wife by merely saying "talaq" (divorce) three times thanks to the triple talaq provision. Triple talaq draws attention to a different aspect of India's nonuniform civil code that contributes to GBV.

Digital space regulations are becoming more and more necessary as cyberspace quickly permeates people's personal, professional, and social lives. The ability to remain anonymous has encouraged mistreatment, Online abuse is common for female journalists and women's rights activists, for instance.¹¹

Cyberstalking was added to the definition of stalking by that is mentioned when discussing GBV that is spread online. While the IT Act addresses privacy violations and the to recognize women's unique vulnerability. In order to include the digital sphere under the existing provision, which stipulates simple imprisonment for anyone "intending to insult the modesty of any woman," the Chhattisgarh government added Section 509B to the IPC in 2015.

Although India has passed a number of laws to provide relief to women who have experienced gender-based violence, many of these laws are merely symbolic and are not upheld by the government or its representatives.

Effective Strategy to End GBV

One of the major priorities is to prevent GBV being detached and treated as a distinct issue. Therefore, the following are preventive tactics.

Initiatives to strengthen the political voice and involvement of women in times of peace, Women are overwhelmingly underrepresented in politics and frequently left out of official peace talks in many nations. The potential for achieving sustainable development, peace, and human security is severely impacted by this.

Considering the intimate association between GBV and, are promoted and protected by these initiatives.

Gender inequality and the prevention of GBV can be addressed and normative change can occur in both formal and non-formal education.

Some of the gender-based violence prevention projects are:

SASA (Start, Awareness, Support, and Action): SASA is a ground-breaking community mobilization strategy created by Raising Voices to stop HIV transmission and violence against women. The SASA Approach was "founded on the presumption that it is possible to prevent violence against women and reduce risk behaviours around HIV infection by engaging and transforming the root causes of the problems – unequal gender power relations" and aimed to change attitudes toward HIV by bringing up the topic of power. The findings indicate lower incidence of males physically abusing their partners who are female, better societal perceptions of women's autonomy to refuse, and a rise in female sisterhood. The effective SASA approach has been implemented in 13 African nations by Raising Voices and the Uganda Centre for Domestic Violence Prevention.

Program H: Promundo's Program H aims to provoke critical thinking about inflexible standards of manhood among young men and their communities. In order to evaluate the program's effect on gender-related attitudes, the GEM scale is used as an evaluation model in conjunction with community campaigns and group educational activities. After being created and tested in the Caribbean and Latin America, Program H has since been modified and implemented in various settings worldwide.

Rwamwanja Refugee Settlement (RSS): the Church of Sweden is expanding access to protection services for Congolese women, girls, and boys who are refugees, as well as fortifying local capacity to prevent and respond to GBV.

The program's main goals are to strengthen the ability of RSS duty bearers to prevent GBV and offer survivors psychosocial support, as well as to empower GBV survivors to attain economic independence and sustainable livelihoods.

Accountability For Gender-Based Violence: Strengthening Legal and Policy Frameworks

Strengthening current GBV-related laws: Women's rights organizations around the world have consistently and strategically advocated for laws and policies that address various forms of gender-based violence, which has resulted in the historic number of laws and policies that exist today. Studies have indicated a connection between robust and autonomous feminist movements and all-encompassing legislation shielding women from violence.¹⁵

Encouraging current laws that are indirectly related to GBV: Legislative improvement initiatives should therefore consider and aim for improved legislation in other areas as well as laws directly related to GVB.

Establishing a link between practice and law: Although enacting strong laws that recognize the rights of GBV survivors is essential, putting such frameworks into place can be quite difficult. Because of this, the focus should be on closing the gap between the law and practice by bolstering accountability systems to monitor and assess the application of legislation pertaining to GBV prevention and response.

Recognizing the critical and strong connections between response and prevention: Multidisciplinary services (such as psychological and medical support) can assist both GBV perpetrators and survivors in putting an end to additional violence. A survivor might not have the fortitude to seek justice if they lack the inner fortitude due to the stress and traumas brought on by GBV. In order to reduce future acts of violence, services must also target those who commit violent crimes, a practice known as secondary prevention.

Conclusion

Gender-based violence is a pervasive problem that necessitates immediate attention and group effort. Such violence is so common place that it not only violates people's rights but also exposes a larger social breakdown in ensuring the equality, safety, and dignity of all its members.

Combating gender-based violence necessitates a diverse strategy that incorporates legislative changes, educational programs, and alterations in societal perceptions. Establishing a society in which gender equality, empathy, and respect are deeply rooted values is imperative. We can work toward a world where every person, regardless of gender, can live without fear or violence by confronting stereotypes, tearing down patriarchal norms, and fostering inclusivity. It is our collective duty to build a future in which gender-based violence is not only denounced but also completely eliminated, opening the door to a more fair and just society for all.

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