

**GENDER- BASED VIOLENCE AND THE TRANSFORMATIVE ROLE
OF LAW IN INDIA**- Divya G Nair¹**Abstract**

Gender-based violence (GBV) remains one of the most pervasive and deeply ingrained abusive forms of human rights violations despite constitutional guarantees of equality, dignity, and non-discrimination. In India, GBV takes its form forms including domestic violence, sexual assault, workplace harassment, trafficking, acid attacks, and structural economic discrimination. Over the past decades, significant legislative and judicial developments—particularly the Criminal Law (Amendment) Act, 2013, the Protection of Women from Domestic Violence Act, 2005, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and recent reforms under the Bharatiya Nyaya Sanhita, 2023—have sought to strengthen the legal response to such violence. Yet, the persistence of gender-based crimes raises fundamental questions the law’s transformative power.

This Article critically examines gender-based violence through the framework of constitutional morality and social transformation. The study adopts a doctrinal and socio-legal methodology, drawing upon statutory analysis, judicial precedents, policy developments, and international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UDHR etc.

The study in this article concludes that law has the potential to function as a catalyst for gender justice, but its transformative promise can only be realized through a rights-based, victim-centric, and structurally responsive approach that bridges the gap between constitutional ideals and lived realities.

Keywords: *Gender-Based Violence; Social Transformation; Constitutional Morality; Criminal Law Reform; Victim- Centric Justice.*

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Introduction

Gender-Based Violence (GBV) is one of the most pervasive violations of human rights across the world. It refers to violence directed against a person because of their gender, or violence that disproportionately affects persons of a particular gender, primarily women and girls. GBV is not merely a private or individual issue; it is deeply rooted in unequal power relations, patriarchal social structures, and historically constructed gender roles. GBV is recognized as an obstacle to social transformation, equality, and justice. Gender-Based Violence is not just physical violence; it also includes psychological, sexual, emotional, and economic abuse that keeps gender hierarchy in place. It stems from socially constructed concepts of masculinity and femininity, which sustain inequitable power dynamics between genders. Feminist legal academics contend that gender-based violence (GBV) should be perceived as a structural phenomenon ingrained in cultural, theological, and economic frameworks, rather than as discrete criminal occurrences.

Nonetheless, the mere existence of legislation does not provide adequate protection. Deficiencies in execution, procedural procrastination, societal opposition, and insufficient awareness persist in obstructing substantial access to justice. Consequently, comprehending gender-based violence necessitates an analysis of both legal frameworks and the socio-cultural context in which they function.

Concept and Nature of Gender-Based Violence

“All Human Beings are Born Free and Equal in Dignity and Rights”.²

The expression Gender Justice simply denotes equality between the genders, Genders can be male, female and also transgender. Gender justice simply refers to equality between the sexes.

It is defined as the ending of inequalities between women and men that result in women subordination to men.

Gender-Based Violence encompasses a wide range of acts that result in physical, sexual, psychological, or economic harm.

A major focus is on violence based on sex, beginning even before birth. Practices such as

²*Universal Declaration of Human Rights, Article 1*

sex-selective abortion, female infanticide, and early or forced marriage reflect deep-rooted gender bias. Girls are often subjected to harmful traditional practices that cause lifelong physical and psychological harm. Physical Gender based violence like sex crimes, including rape, incest, domestic violence, and sexual violence during armed conflict. Rape is described not only as a personal crime but also as a weapon of war used to terrorize and control communities.

In patriarchal system it is believed that

Pitārakṣatikaumāre³

bhartārakṣatīyau vane

putrāḥrakṣantivārdhakyē

nastrīsvātantryamarhati

English meaning

In childhood, a woman is protected by her father;

in youth, by her husband;

in old age, by her sons;

Women had no autonomous legal personality. There was no concept of women empowerment and lack of a gender justice law that works, Laws were designed mainly for the protection of males.

2.1 Forms of Gender-Based Violence

a) Cultural and Social Violence

b) Emotional and Psychological Violence

(c) Violence in the Economy and Structure

³Manu smṛiti (verse 9.3)

(d) Denial of Legal Rights -

(e) Gender Inequality as a Persistent Type of Violence

Sometime traditional practices are harmful to women, notably female genital mutilation⁴ (FGM). Recognized by the World Health Organization as a serious violation of human rights, girls worldwide, particularly in parts of Africa and Asia. Some countries have criminalized the practice, and fear of FGM has even been accepted as grounds for asylum in certain jurisdictions.

2.2 Dowry-Related Violence and Early Marriage

Dowry-related violence is identified as a major cause of abuse against women, particularly in India. Although dowry is legally prohibited, disputes over dowry often lead to physical violence, harassment, and even death of women.

2.3 Violence in the Community

Rape is a widespread crime occurring not only in public spaces but also within families, refugee camps, and during armed conflicts. Rape is a violation of bodily autonomy and dignity and can take forms such as marital rape and incest. Justice Krishna Iyer in the case of *Rafiq v State of Uttar Pradesh*⁵ remarked that “A Murderer kills the body but a rapist kills the soul”.

2.4 Violence Against Women at the Workplace

Sexual harassment at the workplace is identified as a growing concern that undermines women’s right to equality and safe working conditions. Sexual harassment is a form of sex discrimination and economic oppression that restricts women’s professional growth⁶. It emphasizes the need for legal mechanisms and employer responsibility to prevent and address workplace harassment.

2.5 Khap Panchayats and Honor Killings

⁴*Dr.G.P. Tripathi, Law and Social Transformation (ICentral Law Publications, 2019)307*

⁵*Rafiq vs State of Uttar Pradesh, 1980*

⁶*Shakti vahini vs Union of India, (2018) 7 SCC192*

Honor killings are extreme forms of violence justified in the name of family or community honor. Practices enforced by informal bodies such as Khap Panchayats often result in lynching, forced suicides, social boycotts, and public humiliation. One of the most controversial outcomes of Khap Panchayat orders was the practice of honourkilling. Honour killing occurs when a person (usually a woman) is killed by family or community members for bringing dishonour to the family.

2.6 Prostitution and Trafficking

Poverty, lack of education, unemployment, and gender inequality push many women and girls into prostitution and trafficking. Many victims are deceived by false promises of employment or marriage and later forced into exploitative and abusive conditions.

2.7 Violence Against Women Migrant Workers

Female migrant workers often migrate in search of better economic opportunities but face severe exploitation in host countries. Many work as domestic servants under unregulated conditions, making them vulnerable to physical abuse, sexual assault, and denial of basic rights.

2.8 Pornography and Sexual Exploitation

Pornography is a form of exploitation that objectifies women and reinforces harmful stereotypes. It promotes the subordination of women and normalizes violence and coercion; such representations contribute to gender discrimination and perpetuate sexual violence in society.

2.9 Violence Against Women by State Authorities

There is violence inflicted by law enforcement agencies and state actors. Women in police custody, prisons, and detention centers are subjected to sexual abuse, torture, and humiliation.

2.10 Violence Against Women in Armed Conflict

Rape is described as a weapon of war used systematically during armed conflicts to terrorize communities, destroy social fabric, and assert dominance. Women and girls are particularly vulnerable in conflict zones, refugee camps, and occupied territories.

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The term “comfort women” comes from a Japanese term “ianfu” during World War II is an example of institutionalized sexual slavery. Young women from colonized and occupied territories were forced into sexual servitude for military personnel.

2.11 Kidnapping and Abduction of Women⁸

Offences relating to kidnapping and abduction also coming under the violence affected under criminal law. Kidnapping includes taking a woman or minor from lawful guardianship without consent, while abduction involves compelling a woman by force or deceit to move from one place to another

2.12 Marital Rape

A contentious issue among feminist groups in India that Marital rape is still not criminalized in India, if the wife is above 18 years old which is an exception to section 375 Of Indian Penal Code ⁹(BNS Counter part Section 63).

Private Member's Bill to Criminalize Marital Rape In late 2025, Congress MP Shashi Tharoor introduced a bill in the Lok Sabha to criminalize marital rape by removing the exemption from law and adopting a “yes means yes” consent standard but Central Government has opposed criminalization, arguing it could affect the “institution of marriage”, even while conceding that violation of consent within marriage is wrong, which violates the fundamental rights Art.14,21.

In *State of Punjab v. Gurmit Singh* (1996), the Supreme Court emphasized the need for in-camera trials in rape cases to protect the dignity of survivors.

14 Gender-Based Violence as a Human Rights Violation

Internationally, GBV is recognized as a violation of fundamental human rights, including the right to life, dignity, equality, and freedom from torture and cruel treatment. The United

⁷ *United Nations Human Rights Report*

⁸ *National Crime Records Bureau, Crime in India 2022*

⁹ *The Indian Penal Code, 1860, s.375*

Nations Declaration on the Elimination of Violence against Women (1993) defines violence against women as a manifestation of historically unequal power relations between men and women. According to UN, one of their key goals is to achieve gender justice. Gender justice refers to the process of eliminating inequalities between women and men that are perpetuated through various social structures such as the family, community, market, and the State. It aims to ensure equal rights, opportunities, and dignity for all genders in social, economic, political, and legal spheres.

India's Reasons for Gender Injustice

- Unequal employment possibilities and unequal access to education
- Workplace and occupational segregation
- Poor access to healthcare and medical facilities, insufficient legal protection, and lax law enforcement
- Religious freedom restrictions,
- Lack of political representation,

Statutory Framework Addressing Gender-Based Violence

Under government commitments, states are urged to enact and enforce legislation to eliminate violence against women. These commitments include providing shelters, legal aid, counseling, rehabilitation services, and education aimed at transforming discriminatory social and cultural norms.

3.1. Constitutional Framework in India

The Indian Constitution provides a strong normative foundation for combating gender-based violence.

3.1.1 Fundamental Rights

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Article 14¹⁰ guarantees equality before law, while Article 15 prohibits discrimination on the grounds of sex. Article 15(3)¹¹ empowers the State to make special provisions for women and children. Article 16 is concerned with equal opportunity in matters relating to public employment or appointment to any office. Article 16 of the Constitution of India explicitly mentions equality of opportunities for all and prohibits discrimination against women..

Article 21 of the Constitution of India provides that no person shall be deprived of life or personal liberty except according to procedure established by law. According to Article 21A of the Constitution of India, the State shall provide free and compulsory education to all children between the ages of six and fourteen years. Article 23 of the Constitution of India prohibits traffic in human beings and forced labour.

Article 21, interpreted expansively by the judiciary, includes the right to live with dignity, bodily autonomy, and personal liberty.

3.1.2 Directive Principles of State Policy

Article 39(a) provides for securing the right to an equal means of livelihood for both men and women.

Article 39(d) states that both men and women have the right to equal pay for equal work.

Article 42 provides for securing just and humane conditions of work and for maternity relief.

Women's Quota in Panchayats & Municipalities

Reservation of seats for women in Panchayats and Municipalities has been provided under Articles 243-D and 243-T of the Constitution of India.

3.1.3 Fundamental Duties Towards Women

Article 51-A(e) directly relates to women.

It obligates citizens to reject customs, traditions, or practices that degrade women (for example, dowry, female foeticide, and domestic violence).

¹⁰Constitution of India, art. 14

¹¹ Ibid., art. 15(3)

3.2 Statutory Framework

India has enacted several legislations to address different forms of GBV:

3.2.1 Indian Penal Code, 1860

Provisions relating to rape (Section 375), cruelty by husband or relatives (Section 498A), outraging modesty (Section 354), and sexual harassment (Section 354A).

- **Sexual Harassment**

- IPC S 354A → BNS S 75, Bharatiya Nyaya Sanhita, 2023¹²

Acts covered: A person commits sexual harassment if he

- a. Makes physical contact and advances involving unwelcome sexual overtures, or
- b. Demands or requests sexual favours, or
- c. Shows pornographic material against the will of a woman, or
- d. Makes sexually colored remarks.

Punishment:

For acts (a)–(c): Rigorous imprisonment up to 3 years + fine

For act (d): Imprisonment up to 1 year + fine

- **Assault or Use of Criminal Force to Disrobe a Woman**

- IPC S 354B → BNS S 76

Punishment:

Imprisonment not less than 3 years, may extend to 7 years and fine, introduced after Nirbhaya case

¹²Bharatiya Nyaya Sanhita, 2023

to protect bodily dignity.

- **Voyeurism**

➤ IPC S 354C → BNS S 77

Offence includes:

Watching, capturing, or disseminating images of a woman engaged in a private act

Without her consent.

Punishment:

First conviction: 1–3 years + fine

Subsequent conviction: 3–7 years + fine

- **Stalking**

➤ IPC S 354D → BNS S78.

Stalking includes:

- Repeatedly following a woman
- Contacting or attempting to contact her despite clear disinterest
- Monitoring her use of internet, email, or electronic communication

Punishment:

First offence: Up to 3 years + fine

Second/subsequent offence: Up to 5 years + fine

- **Acid Attacks**

➤ IPC S 326A & 326B → BNS S 124

Section 124(1), BNS – Causing grievous hurt by acid

Punishment: Imprisonment not less than 10 years, which may extend to life imprisonment,

Plus fine (to be paid to victim for medical expenses)

Section 124(2), BNS – Throwing or attempting to throw acid

Punishment:

Imprisonment 5–10 years + fine

➤ **Latest Judicial Movement in India on acid attack compensation 2025**

The Supreme Court has recently taken a strong stance on ensuring that compensation actually reaches acid attack survivors instead of being “paper relief” that remains unpaid.

It has set deadlines (e.g., by March 10, 2026)¹³ for States/UTs to release pending compensation funds to survivors whose awards are already approved, highlighting persistent implementation gaps. Court suggests legislative reforms to ensure compensation

In *Laxmi v. Union of India* (2014), the Court issued guidelines regulating acid sales and provided compensation and rehabilitation for acid attack survivors, recognizing the long-term impact of such violence on dignity and life.

The Supreme Court suggested attaching and auctioning the personal property of acid attack convicts so that the proceeds can be used to compensate victims — an idea aimed at ensuring that perpetrators directly bear the financial cost of the harm they caused.

Adultery (Section 497): Struck down as unconstitutional and discriminatory in *Joseph*

¹³“S C sets deadline for payment of acid attack compensation”, *The Hindu*, January 28, 2026

3.2.2 Protection of Women in Criminal Procedure Code / Bharatiya Nyaya Samhitha

Maintenance(Section 125 CrPC / Section 144 BNSS):

Provides a remedy for wives, children, and parents unable to maintain themselves.

Magistrate's authority to issue maintenance orders based on the respondent's financial capability and claimant's needs.

Secular Principle: Shah Bano Begum (1985) and Daniel Latifi (2001) affirmed that even Muslim women are entitled to maintenance under this secular provision regardless of personal law.

3.2.3 Protection of Women from Domestic Violence Act, 2005:

A law that recognizes domestic violence in physical, sexual, emotional, and economic forms and provides immediate reliefs such as protection orders, residence orders, and maintenance. Domestic Violence Act is a legislation aimed at providing immediate relief and legal protection to women facing violence within a domestic relationship.

- Key Provisions of the DV Act
- Definition of Domestic Violence includes physical, sexual, verbal, emotional, and economic abuse.

Courts can issue Protection Orders (Section 18) to prevent the abuser from committing any further acts of violence. Residence Orders (Section 19): Protects a woman's right to reside in her shared household and can prevent her from being evicted.

Shared Household refers to a household where the aggrieved person lives or has lived in a domestic relationship, whether owned/tenanted jointly or singly by either party.

¹⁴Joseph Shine vs. Union of India(2018) 3 SCC 39

3.2.4 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:

Sexual harassment includes unwelcome sexual behavior—physical contact, advances, sexually coloured remarks, showing pornography, or any conduct of sexual nature. Even non-verbal or implied conduct can amount to harassment. Enacted to give statutory backing to the Vishaka guidelines¹⁵.

- Redressal Mechanism: The Act outlines detailed procedures for filing complaints, including mandated Internal Complaints Committees (ICC) and Local Complaints Committees (LCC). The ICC must complete an inquiry within 90 days, and the report must be submitted within 10 days of complaint

3.2.5 Criminal Law (Amendment) Act, 2013¹⁶:

Strengthened laws relating to sexual offences following the Nirbhaya incident, reflecting societal demand for accountability and reform.

- Criminal Law Reforms & The Justice Verma Commission

The Justice Verma Commission (2013) was established following the Nirbhaya¹⁷ case to review and recommend changes to laws related to sexual violence and women's safety. Criminal Law (Amendment) Act, 2013, enacted in response to the Commission, this Act amended the IPC, CrPC, and Indian Evidence Act.

Redefining Rape:

The Commission recommended a broader definition beyond penile penetration and a more comprehensive consideration of consent. *Mukesh & Ors v. State of NCT of Delhi* (2017) confirmed the death penalty for brutal gang rape.

3.3 Other Protective Legislations and Policy Measures for Women

In addition to laws directly addressing gender-based violence, India has enacted several

¹⁵*Vishaka & Others vs State of Rajasthan & Others* (1997) 6 SCC 241

¹⁶ *The Criminal Law (Amendment) Act, 2013, No. 13 of 2013*

¹⁷ *Mukesh & Anr. Vs State (NCT of Delhi)*, (2017) 6 SCC 1

protective and welfare-oriented legislations aimed at preventing systemic discrimination and vulnerability that often lead to violence.

3.3.1 **Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act)**

- This Act Addresses sex-selective abortion and entrenched son preference, which are root causes of gender violence and discrimination. Aims to prevent sex selection and female foeticide.

This Act requires mandatory registration of genetic clinics, counselling centres, Ultrasound machines.

Violating these provisions, the Offences will be cognizable, non-bailable, non-compoundable which includes strict penalties including imprisonment and fines.

3.3.2 **Dowry Prohibition Act, 1961** – Seeks to curb dowry practices that often culminate in domestic violence and dowry deaths.

- Dowry Death (Section 304B, IPC)¹⁸

Suspicious death within seven years of marriage due to dowry harassment carries a minimum of 7 years to life imprisonment. •An offense is registered if a woman dies from burns or bodily injury under abnormal circumstances within seven years of her marriage. It must be shown that she was subjected to cruelty or harassment by her husband or his relatives in connection with dowry demands shortly before her death.

3.3.3 **Prohibition of Child Marriage Act, 2006** – Protects minor girls from early marriage, sexual exploitation, and domestic abuse, this Act which replaced the older 1929 Act to more effectively prevent, protect, and penalize child marriage.

A child marriage involves any female under 18 or male under 21.

Voidable Marriages: Under Section 3, a child marriage is "voidable," meaning the person who was a minor can petition to annul the marriage within two years of reaching adulthood (by age 20 for women and 23 for men).

- Punishment: Anyone who performs, directs, or abets a child marriage (including parents and religious leaders) faces up to 2 years of rigorous imprisonment and a fine.

¹⁸ The Indian Penal Code, 1860, S 304B

- Independent Thought v. Union of India (2017):

In this landmark judgment, the Supreme Court read down the exception to marital rape under Section 375 of the Indian Penal Code, The court ruled that sexual intercourse with a wife below 18 years of age would amount to rape, thereby protecting girls married before attaining the age of majority.

- **3.3.4 Commission of Sati (Prevention) Act, 1987**

The enactment of this stricter legislation was primarily triggered by the Roop Kanwar incident in 1987.

- Context: The 1987 Roop Kanwar Case where A young widow force to do sati .The incident brought widows' inferior status to light and sparked widespread demonstrations demanding that those who support the practice face harsher legal punishments.

3.3.5 Immoral Traffic (Prevention) Act, 1956¹⁹

This Act Aims to prevent trafficking and sexual exploitation of women and girls. This legislation targets the suppression of commercial sexual exploitation and human trafficking. The police are the primary authority for conducting raids and making arrests, while Magistrates have the power to commit individuals to protective homes.

- Judicial Interpretation:

In Prerna v. State of Maharashtra (2003), the Bombay court ruled that forced detention of rescued women in protective homes against their will was unconstitutional, emphasizing dignity and autonomy.

Gaurav Jain vs. Union of India (1997) This case addressed the rights of children of sex workers. The Supreme Court ruled that these children should not be discriminated against and directed the government to establish welfare programs for their education and social integration.

Prostitution per se is not illegal, but commercial exploitation is criminalized.

Penalizes:

- Brothel keepers
- Pimps, traffickers, procurers
- Prohibits
- Trafficking for sexual exploitation

¹⁹ The immoral Traffic (Prevention) Act, 1956

- Soliciting in public places
- Focuses on:
- Rescue and rehabilitation of victims
 - Protection of children and minors

3.3.6 Indecent Representation of Women (Prohibition) Act, 1986

The Act prohibits the derogatory depiction of women in media and advertisements. Prohibits indecent depiction of women in:

- Advertisements, Publications, Writings, paintings, photographs, films, etc.
- Indecent representation includes depiction that is derogatory, obscene, or likely to corrupt public morality. But there are exceptions for religious purposes, ancient monuments.

Authorities can search, seize, and prosecute offenders, Violations are punishable under the Act and relevant IPC provisions.

Judicial Balancing:

In *Ajay Goswami v. Union of India* (2007), the Supreme Court upheld freedom of the press while acknowledging the need for guidelines to monitor the objectification of women.

Nandini Satpathy v. P.L. Dani (1978): Highlighted the need for clear guidelines on what constitutes "indecent representation".

3.3.7 Protection of Women in Prisons (Prisons Act, 1894)

Section 27 mandates the separation of female prisoners from men.

Female prisoners should be attended to only by female warders or matrons.

Judicial Interpretations:

Sheela Barse v. State of Maharashtra (1983): Ruled that women should not be kept in police lock-ups in the absence of female constables.

3.3.8 Right to Reproductive Choices

Constitutional Protection on reproductive rights, including decisions on contraception and abortion, are protected under Article 21 (Right to Life).

In *Suchita Srivastava v. Chandigarh Administration* (2009), the court upheld a woman's right to choose whether to continue or terminate a pregnancy.

3.3.9 Medical Termination of Pregnancy (MTP) Act, 1971

Legalizes abortion under specific conditions:

Up to 12 weeks: opinion of one registered medical practitioner.

Up to 20 weeks: opinion of two registered practitioners.

Permitted when:

Risk to life or physical/mental health of woman

Pregnancy due to rape

Foetal abnormalities

Emphasizes medical safety and consent.

3.3.9 Labour welfare Laws

Labour welfare laws in India are designed to ensure the health, safety, and economic security of women in the workforce, rooted in the constitutional mandate for gender equality.

1. Maternity Benefit Act, 1961 (Amended 2017)

This act ensures that motherhood does not lead to financial instability or job loss. This Act avails 26 weeks of paid maternity leave for the first two children. For the third child onwards, the leave is 12 weeks. After returning to work, women are entitled to two nursing breaks daily until the child reaches 15 months.

2. The Factories Act, 1948

This act mandates specific health, safety, and welfare standards specifically for women in industrial settings.

3. Equal Remuneration Act, 1976

This act targets economic discrimination to ensure a gender-neutral work environment.

Equal Pay: Employers must pay the same wages to men and women for the same work or work of a similar nature.

3.4 Law Commission Reports on Gender Justice

Multiple Law Commission reports have shaped the legal landscape for women's rights:

84th Report (1980): Recommended redefining rape and introducing harsher penalties following public outrage over the Mathura Rape Case.

172nd Report (2000): Recommended expanding the definition of rape to all forms of non-consensual sexual penetration and introduced the concept of custodial rape.

226th Report (2009): Proposed strict penalties for Honor Crimes, targeting perpetrators and those who instigate such crimes.

257th Report (2015): Advocated for reforming family laws to ensure equal rights to property and inheritance for women across all personal laws.

246th Report (2014): Focused on stricter enforcement of the Prohibition of Child Marriage Act and protection for married girls.

3.4 National Initiatives & Committees

- National Commission for Women (NCW)

Established in 1992 under the National Commission for Women Act, 1990 as a statutory body to protect and promote the rights of women in India. It serves as the apex national level institution for advising the government on all policy matters affecting women and ensuring that the legal and constitutional safeguards for women are effectively implemented. The Commission has powers similar to those of a civil court, enabling it to summon individuals, examine witnesses, and call for public records. It investigates complaints relating to violence against women.

- State Commissions for Women – Address region-specific issues and provide accessible grievance redressal.
- Legal Services Authorities – Provide free legal aid to women under the Legal Services Authorities Act, 1987.

3.5 International Framework:

CEDAW and Global Commitments

The most significant international instrument is the Convention on the Elimination of All

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Forms of Discrimination Against Women (CEDAW)²⁰, 1979 is widely regarded as the international bill of rights for women. Adopted by the United Nations General Assembly on 18 December 1979 and entering into force in September 1981, take affirmative measures to prevent gender-based violence.

- * UN Declaration on the Elimination of Violence against Women, 1993
- * Beijing Declaration and Platform for Action, 1995
- * Sustainable Development Goal 5 – Gender Equality

These instruments reinforce the idea that *gender-based violence is a global human rights issue*, and domestic law must align with international norms.

1. Universal Declaration of Human Rights²¹ (UDHR, 1948)

The UDHR is the foundational document of the modern human rights movement. It was the first time the world agreed that certain rights are inherent to every human being, regardless of gender.

Core Principle: "All human beings are born free and equal in dignity and rights."

2. International Covenant on Civil and Political Rights (ICCPR, 1966)

If the UDHR is the "vision," the ICCPR is the "law." It is a binding treaty that focuses on protecting individuals from the power of the state.

3. International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)

This treaty focuses on "bread and butter" issues—the conditions needed for humans to thrive.

Key Provisions:

Right to Work, Social Protection, Health and Education and the right to education.

Significance: It acknowledges that women cannot be truly "free" if they are trapped in poverty or denied education.

4. Beijing Declaration and Platform for Action (1995)

This is not a treaty, but it is considered the most progressive blueprint for advancing women's rights ever created. It was adopted at the Fourth World Conference on Women. It famously declared that "Women's rights are human rights."

²⁰ Conventions on the Elimination of All Forms of Discrimination Against Women, 1979, 1249 U.N.T.S.13

²¹ Universal Declaration of Human Rights, 1948, G.A.Res.217 A (111), U. N. Doc. A/810 (Dec.10)

However, law alone cannot transform society. Its effectiveness depends on implementation, social awareness, institutional sensitivity, and access to justice.

Challenges in Addressing Gender-Based Violence

4.1 “Law on paper and Law in practice”- Gap between Law and Implementation

India has enacted progressive legislations such as the Protection of Women from Domestic Violence Act, 2005, the Criminal Law (Amendment) Act, 2013, and the POCSO Act, 2012. However, the effectiveness of these laws depends not merely on their existence but on their enforcement.

4.2. Patriarchal Social Norms and Cultural Attitudes

Gender-based violence is deeply rooted in patriarchal social structures. Violence is often treated as a “private matter” rather than a public wrong. Thus, even progressive laws struggle against entrenched social mindsets.

4.3. Underreporting and Fear of Retaliation

A significant proportion of gender-based violence cases remain unreported due to fear of retaliation, economic dependence, lack of family support, social stigma, distrust in police machinery.

4.4. Institutional Insensitivity and Procedural Barriers

Despite legal reforms, survivors frequently encounter insensitive police behaviour, secondary victimization during medical examination, aggressive cross-examination in courts, long trial durations.

4.5. Delays in Judicial Process

Justice delayed is justice denied. Prolonged investigations, backlog of cases, adjournments, and shortage of judges contribute to delays in disposal of GBV cases. Fast-track courts were introduced to address this issue, yet delays persist due to infrastructural and administrative constraints.

4.6. Lack of Awareness and Legal Literacy

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Many victims, especially in rural and marginalized communities, are unaware of their legal rights and available remedies. Legal aid services are often inaccessible or ineffective. Without awareness, the transformative potential of law remains unrealized.

4.7. Weak Support Systems

Effective implementation of GBV laws requires shelter homes, protection officers, counselling services, and rehabilitation programs. In many states, these support systems are either understaffed, underfunded, or poorly monitored, reducing the practical impact of protective legislation.

4.9. Incomplete Legal Reform

Certain areas still lack comprehensive protection, such as criminalisation of marital rape, protection for LGBTQ+ survivors in certain contexts, recognition of cyber-based gender violence.

Conclusion and Suggestions

Gender-Based Violence is a complex social problem that requires a multidimensional legal response. Law plays a crucial role in social transformation by recognizing GBV as a violation of rights, imposing State accountability, and empowering survivors.

For meaningful transformation, the following measures are suggested:

- Strengthening implementation mechanisms and monitoring bodies
- Gender-sensitization of police, judiciary, and legal professionals
- Expanding access to legal aid and victim support services
- Incorporating gender justice education in academic and social institutions
- Law as an Instrument of Social Transformation

In conclusion, while law alone cannot eliminate gender-based violence, it remains a powerful instrument for challenging inequality and fostering a more just and inclusive society. The study of GBV under the framework of law and social transformation highlights the transformative potential of legal systems when aligned with constitutional morality and human rights principles.

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