



Examining the Efficacy of Laws Addressing Gender-Based Violence: A Critical Evaluation of the Indian Legal System

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OVERVIEW:

Gender Based Violence (GBV) refers to poor treatment to someone basing on gender identity. Anyone can be a victim of Gender-Based Violence. In India, women and children are the most affected victims of GBV followed by men. The concept of GBV has existed from time immemorial as a result of unbalanced power relations between different genders. Gender-Based Violence are of various types and forms.

ABSTRACT

Gender based violence (GBV) has been pestering the society since a long time. This growing nature of GBV has spurred research to understand the causes and factors leading to GBV. This would help to execute plans and policies to eliminate GBV. Researchers have claimed that one of the driving reasons of GBV is a country's culture which includes cultural and social norms, gender roles and social taboo. In this article, we look into cultural norms of a society that influences GBV, the psychology of culture which is capable enough to control the actions of an individual and finally the challenges that the legal system faces due to these cultural norms while enforcing law against GBV.

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INTRODUCTION

Gender based violence (GBV) is defined as violence that is committed against a particular gender or violence being committed against a person because of the gender⁵. Gender based violence has been widely acknowledged as violence against women and girls by men. The Department of Economics and Social Affairs talks in its Sustainable Development Goal (SDG) 5 about achieving gender equality and empowering all women and girls. Gender based violence violates the fundamental human rights that is stated under Article 21 of the Indian Constitution. Such violation is greatly influenced by the cultural and societal attitudes prevalent during that time as such attitudes are set by the people of the society themselves.

Research Question

- 1) How effective are existing laws in India in preventing and addressing various forms of gender-based violence?
- 2) To what extent do legal frameworks adequately account for intersectionality in addressing gender-based violence within the Indian context?
- 3) How do cultural and societal attitudes impact the enforcement and effectiveness of legal measures against gender-based violence in India?

Research Question 1

Existing laws in India aimed at preventing and addressing gender-based violence vary in effectiveness. While significant legal frameworks like the Protection of Women from Domestic Violence Act, 2005, and the Criminal Law (Amendment) Act, 2013, have been enacted, implementation and enforcement remain challenges. Factors such as societal norms, corruption, and lack of awareness hinder their efficacy. Additionally, gaps exist in legislation, leaving certain forms of gender-based violence inadequately addressed. Continuous monitoring, education, and reforms are essential to enhance the effectiveness of existing laws in combating gender-based violence comprehensively in India.

⁵ Shashi Manhas & Jabina Banoo (2013) A Study of Beliefs and Perceptions Related to Female Foeticide among Muslim Community in Jammu, Jammu and Kashmir, India, Studies on Home and Community Science, 7:2, 125-130, DOI: 10.1080/09737189.2013.11885402

EXISTING LAWS AND REGULATIONS:

The Indian Penal Code, 1860 (IPC)⁶:

In the Criminal Justice Delivery System, the IPC deals with various offenses including the offenses relating to GBV. Considering the necessity, the Parliament enacted the Criminal Law (Amendment) Act, 2013, and amended or introduced certain new provisions to the Indian Penal Code (IPC). Some of the important penal sections addressing Gender Based Violence are:

Dowry death (section 304-B):

This section prescribes the punishment for causing the death of a woman due to dowry torture and harassment with imprisonment ranging from seven years to life imprisonment.

SHANTI VS. STATE OF HARYANA⁷

In this case, the Supreme Court stated that it was not necessary to give direct evidence of causing death under section 304-B of IPC. The appellant was found guilty and was punished with an imprisonment for 10 years.

Acid attack (sections 326-A and 326-B):

By the Criminal Law Amendment Act, acid attack having been considered as a graver crime, recently inserted in the IPC under sections 326-A and 326-B of the Code and provides stringent punishment for the offenders.

LAXMI AGARWAL VS. UNION OF INDIA⁸

In this case, the Supreme Court directed all the 28 states and 8 union territories of India to follow the issued guidelines and to regulate the sale of acid.

Sexual offense/Rape (Section 375-377):

From defining the offense of rape to specifying the punishment for rape, these sections collectively contribute to addressing Gender Based Violence in India. Moreover, amendments and legal interpretations make it more sensitive toward the various forms of Gender Based Violence. These sections also include custodial violence and the prescribed punishment for rape is imprisonment up to seven years, life imprisonment, or even the death penalty.

In total, 31516 cases were registered in India in 2022, out of which Rajasthan is reported the highest in number accounting for 5399 cases, followed by Uttar Pradesh accounting for 3690 and Madhya Pradesh accounting for 3029 cases.⁹

TUKARAM AND ANOTHER VS. STATE OF MAHARASTRA.¹⁰

In this case, a police officer raped a 16-years old girl named Mathura inside a police station in which the Supreme Court held that the sexual intercourse in question was not proved and found the police officer not guilty. Which later caused public outrage and gave rise to an amendment in the laws.

⁶ THE INDIAN PENAL CODE,1860

⁷ AIR 1991 SC 1226

⁸ Writ petition no.129 of 2006, decided on 2015.

⁹ NATIONAL CRIME RECORDS BUREAU

¹⁰ AIR 1979 SC 185

Outraging Modesty (section 354):

This section deals with the criminal force or assault against a woman, intending to outrage her modesty. This section includes a penalty for assault or criminal force to a woman to outrage her modesty with imprisonment and/or fine.

In the year 2022, 18.7 cases were registered under 'assault on women to outrage her modesty' cases in India.¹¹

AMAN KUMAR AND ANR. VS. STATE OF HARAYANA¹²

In this case, the supreme court of India held that the accused was guilty of indecent assault, but not guilty of attempted rape.

Sexual Harassment (section 354-A):

This section prescribes punishment for sexual harassment with imprisonment or fine as specified by the provision depending upon the particular facts and circumstances of each case.

Stalking (section 354-D):

This section defines stalking as any man contacting or attempting to contact despite the disinterest of the woman, also laying down the punishment for such an offense.

DEU BAJU BODAKE VS. STATE OF MAHARASTRA.¹³

In this case, the victim was a woman who died due to the continuous stalking and harassment. The High Court held it imperative to record Section 354D along with abetment to suicide to punish the accused.

Kidnapping and Abduction (section 359-374):

These sections deal with the offence of kidnapping including its definition and punishment thereof.

A total of 1,07,588 kidnapping and abduction cases were registered in the year 2022, showing an increase of 5.8 percent, compared to 1,01,707 cases in 2021.¹⁴

S. VARDARAJAN VS. STATE OF MADRAS.¹⁵

The Supreme Court held that there was no evidence that the minor girl left the house at the appellant's request. Moreover, the appellant did not force the girl to marry him. As she was on the verge of attaining majority, she was quite capable of making decisions for herself.

4.1.1 Women trafficking (section 370):

This section addresses various forms of human trafficking including buying, selling, recruiting, transporting, or harboring trafficked persons for sexual exploitation or forced labor.

VISHAL JEET VS. UNION OF INDIA¹⁶

This case was filed by a social worker in 1990 to address the sexual exploitation of children, girls, and women. For which both the state and union territory governments were directed to take immediate action against child prostitution.

¹¹ NATIONAL CRIME RECORDS BUREAU

¹² AIR 2004 SC 82

¹³ AIR 2016 SC 15454

¹⁴ NATIONAL CRIME RECORDS BUREAU

¹⁵ AIR 1956 SC 942

¹⁶ AIR 1990 SC 1412

Cruelty by husband or relatives (section 498 A):

This section includes penalties for cruelty by husband or relatives with imprisonment extending up to three years and a fine.

In India, the majority of cases under crimes against women were registered under ‘cruelty by husband or his relatives’ at 31.4 percent in the year 2022.¹⁷

4.2 Protection of Women from Domestic Violence Act, 2005¹⁸

This act was enacted in India to provide legal protection and aid to the victims of various forms of abuse within the domestic circle. It safeguards the rights of women and offers various legal remedies such as monetary relief, protection orders, etc.

This act also lays down penalties for domestic violence including imprisonment for a year, fine or both, residence and protection orders, monetary relief, and many more.

SATISH CHANDRA AHUJA VS. SNEHA AHUJA¹⁹

In this case, the Supreme Court held that a wife is entitled to claim the right of residence in a shared household.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.²⁰

This act was targeted to address the sexual harassment that women usually face at their workplace. It ensures a safe working environment and addresses the incident if it occurs.

This act lays down penalties for sexual harassment at the workplace including warnings, written apologies, suspension, or even termination of employment.

VISHAKHA VS. STATE OF RAJASTHAN²¹

In this case, the Supreme Court held that sexual harassment in the workplace is a violation of the fundamental rights of women and hence businesses must prevent it by establishing systems for the same.

Dowry Prohibition Act, 1961.²²

This act aims to prohibit the dowry practice and dowry-related harassment against women criminalizes giving or receiving dowry and protects the dignity of brides.

PANDURANG SHIVRAM KAWATHKAR VS. STATE OF MAHARASTRA²³

The Supreme Court held that the testimony is sufficient to uphold a charge, and that evidence of a demand for dowry having been presented it is up to the defendant to prove that he did not participate in the demand.

Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.²⁴

This act helps in addressing the issue of female feticide especially in rural areas by misusing the sex-detection technology, promoting the birth of both the male and female child. This act also prohibits sex selection. This is one of the crucial acts in ensuring the prevention of Gender-based discrimination.

¹⁷ NATIONAL CRIME RECORDS BUREAU.

¹⁸ THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

¹⁹ AIR 2020 SC 784

²⁰ SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

²¹ AIR 1997 SC 3011

²² DOWRY PROHIBITION ACT, 1961

²³ 2001 CRILJ2792

²⁴ PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994

CEHAT AND OTHERS VS. UNION OF INDIA²⁵

This is a landmark judgment that criminalized prenatal sex determination to end female infanticide. The case was a public interest litigation filed by an NGO that works on health issues. The NGO challenged the government's failure to address anti-girl child sex selection and enforce laws prohibiting prenatal sex identification.

The Prohibition of Child Marriage Act, 1929.²⁶

This act prohibits the marriage of people under the legal age and sets a minimum age for marriage, keeping in view the well-being, education, health, and development of the children.

This act also has sanctions for those participating in such offenses. In December 2021, the Prohibition of Child Marriage (Amendment) Bill, 2021 was introduced in the Lok Sabha with provisions raising the marriageable age to 21.

Girl-child marriages declined from 49% in 1993 to 22% in 2021. Boy-child marriages reduced from 7% in 2006 to 2% in 2021, indicating an overall national decline.²⁷

LAJJA VS. STATE²⁸

The case Court on its motion deals with child marriage and the complexities it can entail, especially when the marriage is against the wishes of the parents.

The Protection of Children from Sexual Offences Act, 2012.²⁹

Also known as the POCSO Act, it aims to protect children from sexual abuse and exploitation. From defining various sexual offenses against children to prescribing sanctions for those involved in such crimes, the act aims to create a safe and secure environment for the children.

As many as 1,62,449 crimes against children were registered during 2022, showing an increase of 8.7% (1,49,404 cases) compared to 2021.³⁰

JARNAIL SINGH VS. STATE OF HARYANA³¹

The Supreme Court of India, in this case, observed that the procedure which is used to determine the age of a child who conflicts with the law as per the Juvenile Justice (Care and Protection of Children) Rules, 2007, can be followed in cases falling under the POCSO Act, 2012 as well. Applying this rule, the Court convicted the appellant, Jarnail Singh.

The Maternity Benefit Act, 1961³²

This act ensures the overall well-being of women during pregnancy or maternity by providing certain benefits such as maternity leaves, maternity benefits, and many more. Keeping in view the health of both the mother and child, this act helps promote gender equality as well as women's participation in the workplace.

²⁵ (2003) 8 SCC 412

²⁶ THE PROHIBITION OF CHILD MARRIAGE ACT, 1929

²⁷ THE NATIONAL CRIME RECORDS BUREAU

²⁸ 2012 Cri. LJ 3458

²⁹ THE PROTECTION OF CHILDREN FROM SEXUAL OFFENSES ACT, 2012

³⁰ THE NATIONAL CRIME RECORDS BUREAU

³¹ AIR 2013 SC 3467

³² THE MATERNITY BENEFIT ACT, 1961

DR. MANDEEP KAUR VS. UNION OF INDIA³³

The High Court of Himachal Pradesh held that contractual employees are also entitled to maternity benefits, along with all consequential benefits, including continuity in service

The national commission for women Act, 1990.³⁴

This act aims to empower women and protect their rights, ensuring overall well-being by addressing various complaints related to women's rights, helping the government in policy matters regarding women as well as promoting gender equality.

BHATERI GANG RAPE CASE³⁵

The National Commission for Women (NCW) intervened in the Bhatari gang rape case in 1992, supporting the victim and providing protection. The victim was a "Sathin" associated with WDP in Rajasthan who was raped in retaliation for her intervention in a child marriage.

Immoral Traffic (Prevention) Act, 1956.³⁶

This act aims to prevent human trafficking for sexual exploitation or forced labor. It criminalizes and penalizes various activities related to trafficking such as prostitution for a living, running brothels, and many more.

ACCESS TO JUSTICE

- While the legal framework to address GBV in India exists, factors such as inadequate law enforcement, delays in legal proceedings, and lack of awareness hinder the effective application of these laws.
- Moreover, services under various schemes and as part of the legal framework are available only for women and children (including male children) who are the victims of TIP and/ or GBV. Although all genders are to be treated equally as per law, there are neither any laws nor any shelter services for men and other genders, except for compensation in certain cases.
- Deep-rooted societal norms and attitudes contribute to the prevalence of GBV. Cultural factors, gender stereotypes, and social expectations may perpetuate a culture of silence and inhibit the reporting of incidents.
- Despite the legal recognition of Transgender individuals in India including those identifying as third gender in the case of *National Legal Services Authority Act vs. Union of India*, these sections of people, continue to face various forms of violence and discrimination such as economic marginalization, physical violence, lack of legal protection, social stigma and discrimination and access to healthcare.
- While many countries have criminalized marital rape, honour killing, cyberstalking, reproductive coercion, female genital mutilation, and economic abuse as forms of Gender Based Violence, our Indian legal framework is yet to recognize and make effective laws for the same.

³³ (2018) CPW NO. OF 1400 OF 2018.

³⁴ THE NATIONAL COMMISSION FOR WOMEN ACT,1990

³⁵ <http://ncw.nic.in/ncw-cells/legal-cell//important-court-interventions-inquiries>

³⁶ IMMORAL TRAFFIC (PREVENTION) ACT,1956

37 6. BARRIERS TO JUSTICE:

The victims of Gender-based violence often faces several barriers while attempting to access justice. Some of the key barriers include:

- a. Social Stigma: The fear of judgment and societal stigma often discourages the victims from reporting an incident
- b. Lack of Awareness: Many victims don't usually seek justice due to the lack of awareness of the legal rights and supports available to them.
- c. Economic Dependence: Financial dependence on the perpetrator makes it difficult for the victims to leave such an abusive situation and take legal action independently.
- d. Fear of Retaliation: Fear of retaliation on them or their family members by the perpetrator may prevent victims from coming forward and reporting the incident.
- e. Insensitive law Enforcement: Insensitivity, victim blaming, or biased attitudes among law enforcement personnel may discourage the victims from approaching the police.
- f. Legal Complexity: The complexity of the legal system might create ambiguity posing a challenge for the victims.
- g. Lack of Support Services: Inadequate support services such as counseling, shelter, and aid make it difficult for the victims to heal from their traumas and pursue legal action.
- h. Lacking trust in the judicial system: Lack of trust in the judicial system discourages victims from seeking legal help.
- i. Community Pressures: Victims also usually face pressure within their community not to pursue legal action.
- j. Geographical Challenges: Victims from rural areas often face challenges in accessing support services due to distance and limited infrastructure.

The flow chat of available services for TIP and GBV victims in India can be shown in the following manner:

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Some of the organizations providing support services include:

National Helplines:

The help line numbers provided for the support services as available for the GBV victims are:

National Commission for Women Helpline: 1091

Women Helpline: 181

Child Helpline: 1098

³⁷ Shashi Manhas & Jabina Banoo (2013) A Study of Beliefs and Perceptions Related to Female Foeticide among Muslim Community in Jammu, Jammu and Kashmir, India, Studies on Home and Community Science, 7:2, 125-130, DOI: 10.1080/09737189.2013.11885402

³⁸ <https://asiafoundation.org/publication/optimizing-screening-and-support-services-of-gender-based-violence-and-trafficking-in-person-victims-in-india/>

Sakhi one-stop centers:

Sakhi one-stop centers provide support services to victims of GBV including medical aid, counseling, legal support, and shelter.

Legal Aid and Assistance:

District legal services authorities offer legal aid and assistance to victims of Gender-based violence.

NGO Initiatives

- (a). Majlis Legal Center: It provides legal and counseling services to women.
- (b). Break through: NGO working on violence against women or girls.
- (c). HAQ Center for Child Rights: focuses on child rights and protection.

STATE WOMEN'S COMMISSION:

These are state-level commissions providing support and guidance to women facing violence.

RECOMMENDATION FOR IMPROVEMENT:

Strategies to address gender-based violence (GBV):

1. Education and Awareness: Promoting gender equality and raising awareness about GBV.
2. Legal Reforms and Implementation: Periodically reviewing laws and ensuring proper enforcement.
3. Community Engagement: Challenging harmful cultural norms and fostering supportive environments.
4. Support Services: Allocating resources for healthcare, counseling, legal aid, and shelter.
5. Economic Empowerment: Implementing programs for women's economic independence.
6. Police Sensitization and Training: Providing comprehensive training for handling GBV cases.
7. Data Collection and Research: Annual data collection to understand GBV scope and trends.
8. International Collaboration: Partnering with international organizations to share best practices.
9. Awareness on Cyber Crime: Raising awareness about cyber safety and strengthening IT laws.
10. Collective Efforts: Emphasizing the importance of collective action and utilizing multiple approaches to address GBV.

Research Question 2

: In India, gender-based violence, or GBV, is still a major issue that affects women and girls in all societal classes. GBV refers to the wide range of harmful acts/violence directed at an individual or group based on their gender identity or expression. It could be broken down mainly into:

❖ Physical Violence: it includes

- *Physical assault:* Hitting, kicking, slapping, choking, burning, or any other form of physical harm inflicted on a person.

- Sexual assault: Any non-consensual sexual act, including rape, attempted rape, unwanted touching, and sexual coercion.
- Forced marriage: Marrying someone against their will or through manipulation.
- Female genital mutilation (FGM): Cutting or altering female genital organs for non-medical reasons.
- Honor killings: Killing a family member, typically a woman, who is deemed to have brought dishonor to the family.

❖ **Psychological and Emotional Violence:**

- Verbal abuse: Insults, threats, humiliation, and other forms of verbal aggression.
- Stalking: Repeatedly following, harassing, or threatening another person.
- Cyberbullying: Using electronic communication to bully, harass, or intimidate someone.
- Gaslighting: Manipulating someone into questioning their own sanity or reality.
- Deprivation of liberty: Confining someone against their will or restricting their freedom of movement.

❖ **Economic and Social Violence:**

- Denial of resources: Preventing access to financial resources, education, healthcare, or other basic necessities.
- Exploitation: Forced labor, human trafficking, and other forms of economic exploitation.
- Social exclusion: Isolating someone from their family, friends, or community.
- Child marriage: Marrying someone before they reach legal adulthood, often with negative consequences for their education and health.

❖ **Others :**

- Harmful traditional practices: These are culturally specific practices that can be harmful to women and girls, such as child marriage, virginity testing, and widow inheritance.
- Violence against LGBTQ+ individuals: This includes any form of violence based on a person's sexual orientation or gender identity.

India has made great strides in combating gender-based violence (GBV) via the enactment of historic laws like the **Criminal Law Amendment Act (2013)** and the **Protection of Women from Domestic Violence Act**

(2005).³⁹ But it's evident from an intersectional perspective that current legal frameworks frequently fail to sufficiently take into consideration the variety of experiences that GBV victims have. This paper will examine the shortcomings of the present methodology and make the case for a more complex, intersectionality-focused understanding of GBV.

Intersectionality highlights the interconnectedness of social identities like race, class, gender, sexuality, and disability, leading to overlapping discrimination. For instance, a Dalit woman facing domestic abuse may encounter additional prejudice due to her caste when seeking help from law enforcement. Similarly, a Muslim woman experiencing sexual harassment may face bias based on her religion in court. These intertwined biases hinder the effectiveness of legal systems in addressing gender-based violence (GBV) and worsen women's vulnerabilities. Law enforcement biases, judicial prejudices, and insufficient support services further exacerbate the challenges faced by marginalized women. Dalit women often face victim-blaming and delayed investigations, while caste prejudices influence credibility assessments and sentencing decisions in court. Additionally, culturally insensitive support services and inadequate resources compound the difficulties for disadvantaged women.

Solution:

A multifaceted strategy is needed to break the triple bound of caste and gender-based violence:

- **Sensitization Training⁴⁰:** In order to eliminate discriminatory practices in the legal system, it is essential to educate judges, police officers, and other legal professionals on intersectionality and caste prejudices.
- **Community-Based Interventions:** It is crucial to support community-based groups that assist underprivileged women. These groups can give culturally competent support, create awareness, and provide safe spaces as well as legal aid.
- **Affirmative Action and Economic Empowerment:** By addressing the root causes of economic disparities, vulnerable women may be given more autonomy and independence, which reduces their susceptibility to gender-based violence.

³⁹ Gender Based Violence in India:

An Analysis of National Level Data for Theory, Research and Prevention

A Thesis Presented in Partial Fulfillment of the Requirements for the

Master of Arts in International Crime and Justice

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⁴⁰ Shashi Manhas & Jabina Banoo (2013) A Study of Beliefs and Perceptions Related to Female Foeticide among Muslim Community in Jammu, Jammu and Kashmir, India, *Studies on Home and Community Science*, 7:2, 125-130, DOI: 10.1080/09737189.2013.11885402

Data-Driven Policymaking: Understanding the unique difficulties encountered by various populations and developing successful interventions depend on the gathering of disaggregated data on GBV by caste, class, and other social markers.

- **Bridging the Gap: Exploring Economic Barriers to Legal Recourse for Women in GBV Cases:**

Access to justice in cases of gender-based violence (GBV) is a fundamental right, yet for working-class women and women from rural areas, economic limitations often erect insurmountable barriers. This analysis delves into the interplay of financial resource constraints, dependence on perpetrators, and limited legal awareness, hindering their ability to seek legal recourse and justice.

Financial Precariousness and Legal Costs:

Court Fees and Lawyer Charges: Navigating the legal system involves court fees, lawyer charges, and expenses for evidence gathering and travel. These costs can be crippling for working-class women and their families, often living paycheck to paycheck.

In India, legal fees for gender-based violence (GBV) cases range from INR 5,000 to INR 15,000, posing a significant burden for women with minimal incomes. Pursuing legal action can lead to lost wages and economic hardship due to missed work hours. Many victims, especially in rural areas, are financially dependent on their abusers, hindering their ability to report abuse or leave abusive situations. Exploitation and debt bondage further trap marginalized women, impeding their access to legal remedies. Lack of awareness about legal rights and limited availability of legal aid services in rural areas exacerbate the problem. Social stigma surrounding GBV discourages women from seeking help, fearing isolation and harm to their reputation. These barriers hinder women's ability to access justice and perpetuate cycles of abuse and exploitation.

Policy Initiatives and Challenges:

Legal Aid Programs: Initiatives such as India's Legal Services Authorities Act, 1987, strive to offer free legal aid to disadvantaged individuals, including GBV victims. Nonetheless, insufficient funding, low awareness, and restricted outreach impede their efficacy in rural locales.

Victim Compensation Funds: Schemes like the *Nirbhaya Fund* in India offer financial assistance to GBV victims. Yet, difficulties in accessing the funds, lengthy bureaucratic procedures, and inadequate awareness limit their impact.

Livelihood Programs: Empowering women economically through livelihood training and microfinance programs can offer them greater independence and confidence to break free from abusive situations and seek

legal recourse. However, these programs often require significant investment and face sustainability challenges.

Breaking the Cycle (solution) :

Strengthening Legal Aid Systems: Increased funding, capacity building, and community outreach are crucial to ensure accessible and culturally sensitive legal aid services for women in rural areas.

Financial Empowerment Programs: Investing in women's livelihood opportunities can provide them with economic independence and bargaining power, reducing their dependence on perpetrators and empowering them to seek legal action.

Awareness Campaigns: Targeted awareness campaigns in rural areas, leveraging local languages and community leaders, can educate women about their legal rights, available support systems, and encourage them to report GBV.

Sensitization of Law Enforcement: Training police officers and judicial personnel on GBV and issues of economic vulnerability can prevent victim-blaming, ensure sensitive handling of cases, and improve access to justice.

Data-Driven Policymaking: Disaggregated data on GBV cases by economic status and geographic location is crucial for understanding the specific challenges faced by women in different contexts and informing effective policy interventions.

Even though girls, women or any other female is burnt by the wrath of gvb, boys and males in India also have complex relationship with this issue:

Boys and Males in the Context of GBV in India:

While women and girls often take center stage in discussions about GBV, boys and males in India also have complex relationships with the issue:

As Victims:

Sexual violence: While less prevalent than against girls, boys and men can experience sexual assault, harassment, and exploitation, particularly in institutions like boarding schools or within vulnerable communities.

⁴¹**Domestic violence:** Witnessing or experiencing domestic violence as boys can have lasting psychological and emotional consequences and also forcefully child labour is more likely to be imposed on a male child.

⁴¹ Sharma, B. R. and Gupta, Manisha (2004). Gender Based Violence in India: A Never-ending Phenomenon. Journal of International Women's Studies, 6(1), 114-123.

Honor killings: Boys perceived as not conforming to traditional masculinity norms can be targeted in honor killings.

Bullying and violence based on gender expression: Boys who express themselves in ways deemed feminine may face bullying and violence.

As Perpetrators:

Institutional structures: Gender biases within institutions like schools and law enforcement can perpetuate harmful norms and make it difficult for boys and men to report or challenge GBV.

⁴² **Legal Frameworks and Intersectionality:**

India's legal framework primarily addresses GBV through a gender-binary lens, focusing on protecting women and girls from men. This limits its ability to adequately account for the intersectionality of GBV:

Forced marginalization: Traditional communities often ostracize transgender individuals, pushing them towards vulnerable social and economic situations, increasing their risk of exploitation and violence.

Inadequacy of Legal Frameworks:

Limited recognition of transgender identity: The legal framework for GBV primarily operates within a binary gender system, leaving transgender individuals with inadequate legal protection and recourse for violence they face.

Lack of specific laws addressing GBV against transgender individuals: While the *Transgender Persons (Protection of Rights) Act, 2019*, recognizes their rights, it lacks specific provisions addressing GBV, leaving them vulnerable to legal loopholes and discriminatory interpretations.

Insensitive law enforcement and judicial system: Police officers and judicial personnel often lack understanding of transgender experiences and may exhibit bias in handling GBV cases involving transgender individuals, leading to inadequate investigations and unfair judgments.

Research Question 3

CULTURAL NORMS AND VICTIM STIGMA

The application of culture revolves around its core attributes: values and beliefs. Values dictate societal behavior, while beliefs, shaped by past experiences, mold individual worldviews and actions. Varied gender cultures stem

⁴² Sharma, B. R. and Gupta, Manisha (2004). Gender Based Violence in India: A Never-ending Phenomenon. Journal of International Women's Studies, 6(1), 114-123.

from societal histories, influencing roles of men and women, contributing to the global issue of gender-based violence (GBV). Research underscores the influence of cultural norms on GBV prevalence, exemplified by practices like polygamy and dowry in Malawi and India. India's patriarchal society perpetuates inequality, economic dependency, and harmful practices like dowry, leading to tragedies such as starvation deaths and female foeticide. Gender roles, reinforced by cultural norms and notions of honor, confine women to domestic spheres and deter reporting of violence. Thus, cultural factors deeply entrench GBV, necessitating comprehensive societal change to combat it effectively.

Many a times families start treating violence as a norm and expects the women of the family to make all the adjustments and compromises. It all comes from the family, a girl who in her childhood has seen her mother endure all the humiliations would naturally copy her mother's behaviour when she grows up. If the girl or the female of the family fails to compromise, then her role to maintain peace in family is questioned such is the impact of victim stigma. Even in most of the cases of sexual abuses and rapes the victim is blamed for her condition and not the abuser.

CULTURAL BARRIERS TO REPORTING A CRIME

Most of the victims facing domestic abuse often reveal their abuse to someone, but they do it in an informal manner, most likely to friend or family.⁴³ They are often hesitant to report the abuse because they are often unable to understand the reason of abuse, feeling shame and may be due to past bitter experiences with the criminal justice system.

Often the victims choose not to report because they are troubled with the thought whether they fit the image of ideal victim. Such perception is influenced by the societal image of victim and how the society considers the experience of victimization. Even in case of a relationship, society has normalized and accepted relationship violence on a woman due to which they lack the support they need, and they feel the pressure or blame from the community since women are always taught to maintain peace in their family even at their own cost.

The biggest barrier is the patriarchal nature of a family. A girl who is born and brought up in a patriarchal family and married to a similar kind of family is quite hesitant to report any sort of violence as she easily accepts her fate or is taught from her childhood to accept her fate. They view punishment from the head of the family as a form of life education.

LEGAL SYSTEM CHALLENGES DUE TO CULTURAL NORMS

There is conflict between law and culture regarding gender equality in society, particularly focusing on women's rights in India. It highlights how cultural traditions such as Sati and dowry practices perpetuate gender inequality

⁴³ Perrin, N., Marsh, M., Clough, A. *et al.* Social norms and beliefs about gender based violence scale: a measure for use with gender based violence prevention programs in low-resource and humanitarian settings. *Confl Health* **13**, 6 (2019). <https://doi.org/10.1186/s13031-019-0189-x>

despite legal interventions. The example of domestic violence and female foeticide illustrates the ongoing challenges in implementing laws aimed at protecting women. Despite international directives like CEDAW advocating for cultural change, entrenched biases persist, as seen in the treatment of rape victims in courts. The paragraph underscores the gap between legal mandates and societal practices, indicating the need for more effective implementation and cultural transformation to achieve gender equality.

This can be substantiated in the case of *Tukaram vs. State of Maharashtra (1979)* where the minor rape victim had to face character assassination because according to the court she was “habituated to sexual intercourse”.

CULTURAL NORMS AND VICTIM STIGMA

Culture, shaped by values and beliefs, influences societal behavior, including gender roles. Varying cultural norms worldwide contribute to different manifestations of gender-based violence (GBV). For instance, Malawi's acceptance of polygamy and dowry perpetuates GBV. In India, a patriarchal society, women face economic dependency and restricted choices due to ingrained gender biases. Dowry practices exemplify this, with extreme cases leading to tragic outcomes like starvation and female foeticide. Gender roles are reinforced through cultural expectations, where women's behavior reflects family honor. This pressure often silences victims and normalizes violence, perpetuating a cycle of abuse. Victims are frequently blamed, perpetuating victim stigma. Ultimately, cultural norms shape societal attitudes towards GBV, impacting reporting rates and perpetuating cycles of abuse and inequality. Understanding these cultural dynamics is crucial for addressing and combating GBV globally.

PSYCHOLOGY OF CULTURE

Before understanding why culture is honoured and has so much impact on an individual's life we need to understand what culture is, how it develops and what makes culture an excuse. Cultural psychology seeks to determine how culture influences the actions of a person. When an individual is born into his culture, he is expected to follow its rules and behaves as his culture allows him to behave.

While using this psychology in the courtroom it is important to establish when the defendant acted, whether he was aware of the cultural norms that were in conformity to his actions. It is also important to examine how the prevalent cultural norms of the particular society has made its contribution in provoking the heat of passion. The actions of the victim are also to be looked into if they were sufficient enough for provocation.

CONCLUSION

The paper investigates how the cultural norm influences GBV. Exploring through various incidents and cases we can conclude that widely accepted cultural and social norms are one of the major contributors of GBV. The article delves deeper into how culture works in a society and how culture can even be used as defence in court. Since we have already identified the cause of the problem, as our future work of research we would like to come up with all the possible solutions for the problem.

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