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Theme- **Violence Against Women in India**

Editor – in – Chief: Prof.K.Manimekalai

Editors:

Dr.P. Veeramani
Dr. S. Poul Punitha
Dr.N.K.Bhuvaneswari

Dr. I. Siva Kumar
Dr. T. Murugesan
Mrs.P.Sindhuja

Editor’s Desk

“Violence against women is perhaps the most shameful human rights violation, and it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace”.

- Kofi Annan

Women in India have always been issues of concern. The folks and society at large consider women as second class citizens. Though we admire and preach them in the name of Durga, Saraswati, Parvati and Kali, we also abuse her in the form of Child-marriage, Female infanticide, Sati, Sexual harassment, Dowry and so on. The status of women in India has been subject to many great alterations over the past few millenniums. From a largely unknown status in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been lively. The status of women has varied in different time periods. Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or

emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result. These expressions of violence take place in a man-woman relationship within the family, state and society. Usually, domestic aggression towards women and girls, due to various reasons remain hidden. Cultural and social factors are interlinked with the development and propagation of violent behaviour. Despite rising levels of education, and stringent pro-women laws, change has been slow and violence against women is increasing. Awareness-raising and community mobilization, including through media and social media, is an important component of an effective prevention strategy and also in promoting gender equality.

VIOLENCE AGAINST WOMEN AND GIRLS - A CRITICAL ISSUE

The United Nations defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." Gender based violence is often used interchangeably with violence against women. Both these definitions point at violence against women as a result of gender inequality. This inequality can be described as discrimination in opportunities and responsibilities and in access to and control of resources that is rooted in the socio culturally ascribed notion of masculinity as superior to femininity.

Violence against women and girls is one of the most systematic and widespread human rights violations. It is rooted in gendered social structures rather than individual and random acts; it cuts across age, socio-economic, educational and geographic boundaries; affects all societies; and is a major obstacle to end gender inequality and discrimination globally. (UN General Assembly, 2006)

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The terms ‘gender-based violence’ and ‘violence against women’ are frequently used interchangeably in literature and by advocates, however, the term gender-based violence refers to violence directed against a person because of his or her gender and expectations of his or her role in a society or culture. Gender-based violence highlights the gender dimension of these types of acts; in other words, the relationship between females’ subordinate status in society and their increased vulnerability to violence. It is important to note, however, that men and boys may also be victims of gender-based violence, especially sexual violence.

Violence against women throughout the life cycle

Phase	Type of violence
Pre-birth	Sex-selective abortion, battering during pregnancy
Infancy	Female infanticide, physical, sexual and psychological abuse
Girlhood	Child marriage, female genital mutilation, physical, sexual and psychological abuse, child prostitution and pornography
Adolescence and adulthood	Dating and courtship violence (e.g. acid throwing and date rape), economically coerced sex (e.g. school girls having sex with “sugar daddies” in return for school fees), sexual abuse in the workplace; rape, sexual harassment; forced prostitution and pornography, trafficking in women, partner violence, marital rape, dowry abuse and murders, partner homicide, psychological abuse, abuse of women with disabilities, forced pregnancy
Elderly	Forced “suicide” or homicide of widows for economic reasons, sexual, physical and psychological abuse

FACTS AND FIGURES: ENDING VIOLENCE AGAINST WOMEN

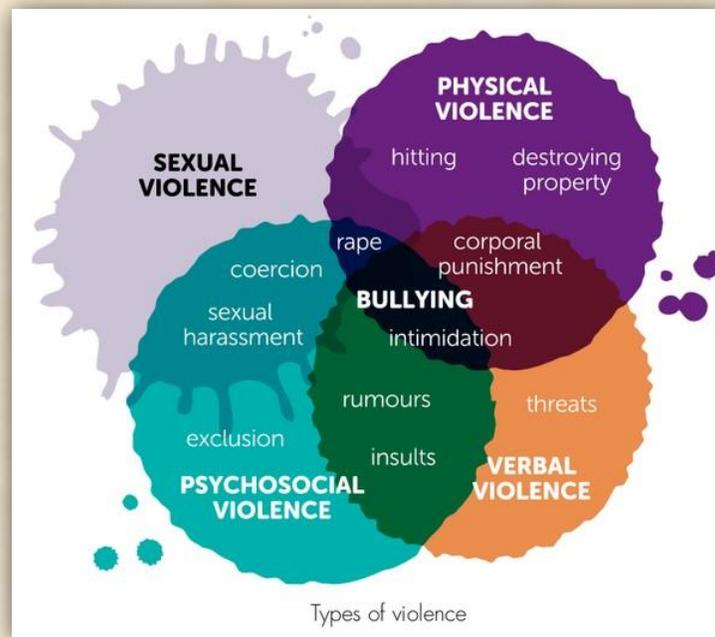
- It is estimated that 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner at some point in their lives. However, some national studies show that up to 70 per cent of women have experienced physical and/or sexual violence from an intimate partner in their lifetime .
- Women who have been physically or sexually abused by their partners are more than twice as likely to have an abortion, almost twice as likely to experience depression, and in some regions, 1.5 times more likely to acquire HIV, as compared to women who have not experienced partner violence.
- It is estimated that of all women who were the victims of homicide globally in 2012, almost half were killed by intimate partners or family members, compared to less than six per cent of men killed in the same year.
- Worldwide, almost 750 million women and girls alive today were married before their 18th birthday. Child marriage is more common in West and Central Africa, where over 4 in 10 girls were married before age 18. Child marriage often results in early pregnancy and social isolation, interrupts schooling, limits the girl's opportunities and increases her risk of experiencing domestic violence.
- Around 120 million girls worldwide (slightly more than 1 in 10) have experienced forced intercourse or other forced sexual acts at some point in their lives. By far the most common perpetrators of sexual violence against girls are current or former husbands, partners or boyfriends.
- At least 200 million women and girls alive today have undergone female genital mutilation in the 30 countries with representative data on prevalence. In most of these countries, the majority of girls were cut before age 5.
- Adult women account for 51 per cent of all human trafficking victims detected globally. Women and girls together account for 71 per cent, with girls representing nearly three out of every four child trafficking victims. Nearly three out of every four trafficked women and girls are trafficked for the purpose of sexual exploitation.
- An estimation of 246 million girls and boys experience school-related violence every year and one in four girls say that they never feel comfortable using school latrines, according to a survey on youth conducted across four regions. The extent and forms of school-related violence that girls and boys experience differ, but evidence suggests that

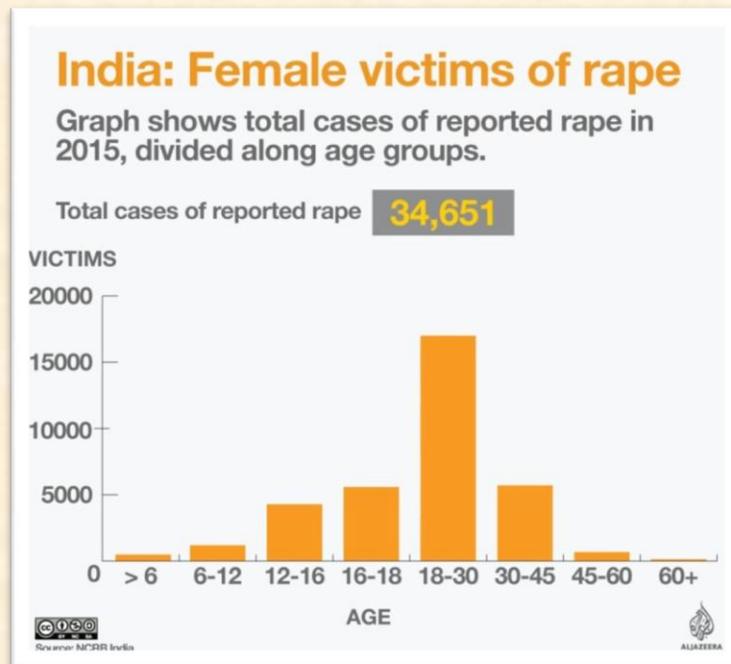
girls are at greater risk of sexual violence, harassment and exploitation. In addition to the resulting adverse psychological, sexual and reproductive health consequences, school-related gender-based violence is a major obstacle to universal schooling and the right to education for girls.

- Eighty-two per cent of women parliamentarians who participated in a study conducted by the Inter-parliamentary Union in 39 countries across 5 regions reported having experienced some form of psychological violence while serving their terms. Psychological violence was defined as remarks, gestures and images of a sexist or humiliating sexual nature made against them or threats and/or mobbing to which they might have been subjected. They cited social media as the main channel through which such psychological violence is perpetrated; nearly half of those surveyed (44 per cent) reported having received death, rape, assault or abduction threats towards them or their families.

Source: <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> accessed on 2..02. 2018

TYPES OF VIOLENCE





CLASSIFICATION OF CRIME UNDER LAW

A. Crimes Identified under the Indians Penal Code IPC

1. Rape (Section 376 IPC)
2. Kidnapping and abduction (Section 363 and 373)
3. Dowry Homicides (Section 302 and 304B)
4. Torture-Physical and mental (Section 498-A)
5. Molestation (Section 354)
6. Eve-teasing or sexual harassment. (Section 509)
7. Importation of girls (Section 366-B)
8. Murder (Other than dowry homicides (Section 302)

B. Crimes Identified under the Special Laws (SL)

1. Immoral Trafficking (1956 Act)
2. Demanding Dowry (1961 Act)
3. Commission of Sati (1987 Act)
4. Indecent representation of women (1986 Act)

PREVENTION AND PROHIBITION

One Stop Centres (OSC)

Ministry of Finance, Government of India has established 'Nirbhaya Fund' with an initial corpus of Rs. 1000 cr. (as per the announcement in Budget 2013-14) for women safety pertaining to the strategic areas of prevention, protection and rehabilitation. For subsequent financial years of 2014-15 and 2015-16 an amount of Rs. 1000 cr. (each financial year) have been provided under the Nirbhaya Fund. The 12th Plan Working Group on Women's Agency and Empowerment had recommended setting up of One Stop Crisis Centres, on pilot basis, for providing shelter, police desk, legal, medical and counselling services to victims of violence under one roof integrated with a 24 hour Helpline. Justice (Retd.) Usha Mehra Commission, set up to suggest measures to improve women's safety had recommended in its report submitted on 22.02.2013, that there is need for establishment of a "one-stop centre" at a notified hospital to help victims of sexual assault and ensure speedy punishment to culprits. In light of the above, Ministry of Women and Child Development (MWCD), has formulated a Centrally Sponsored Scheme for setting up One Stop Centre, a sub scheme of Umbrella Scheme for National Mission for Empowerment of women including Indira Gandhi Matritrav Sahyaog Yojana opinion.

Internal complaint committee (ICC)

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 provides two kinds of complaints mechanisms: Internal Complaints Committee (ICC) and Local Complaints Committee (LCC). All Complaints Committees must have 50 per cent representation of women.

1. Internal Complaints Committee (ICC)

Every employer is obliged to constitute an ICC through a written order. The ICC will be composed of the following members:

S.No.	Member	Eligibility
1.	Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/ department/ workplace of the same employer
2.	2Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work
3.	Member	From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office.

The Madras High Court awarded Rs.1.68 crores in damages to an employee for the non constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (CrI.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012

2) Local Complaints Committee (LCC)

The District Officer will constitute an LCC in every district so as to enable women in the unorganized sector or small establishments to work in an environment free of sexual harassment.

The LCC receive complaints:

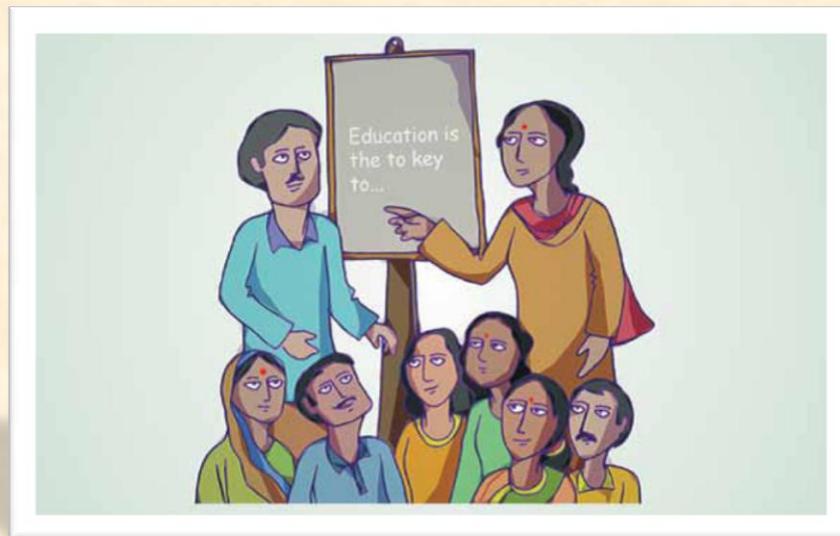
1. From women working in an organisation having less than 10 workers;
2. When the complaint is against the employer himself;
3. From domestic workers.

No.	Member	Eligibility
1.	Chairperson	Nominated from amongst the Eminent Women in the Field of Social Work and committed to the cause of women
2	Members	Nominated from amongst the Women working in the Block, Taluka or Tashil or Ward or Municipality in the District
3.	2 Members	Nominated from amongst such NGO/Associations/Persons committed to the cause of Women or familiar with the Issues relating to Sexual Harassment, provided that: <ul style="list-style-type: none"> • <i>At least one must be a woman</i> • <i>At least one must have a background of law or legal knowledge</i>
4.	Ex Officio member	The concerned officer dealing with social welfare or women and child development in the district

SHe-Box

The Ministry of Women and Child Development launched an online complaint management system titled Sexual Harassment electronic-Box (SHe-Box) on July, 2017 for registering complaints related to sexual harassment at workplace. The SHe-Box is an initiative to provide a platform to the women working or visiting any officer of Central Government (Central Ministries, Departments, Public Sector Undertakings, Autonomous Bodies and Institutions etc.) to file complaints related to sexual harassment at workplace under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013. Once a complaint is submitted to SHe-Box, it will be directly sent to the Internal Complaint Committee (ICC) of the concerned Ministry/Department/ PSU/ Autonomous Body etc. having jurisdiction to inquire into the complaint. The SHe-Box also provides an opportunity to both the complainant and nodal administrative authority to monitor the progress of inquiry conducted by the ICCs.

Policy on Prevention of Sexual Harassment at Workplace



Employers are responsible for complying with prohibition, prevention and redress of workplace sexual harassment. In practice, it means having a policy that: (1) prohibits unwelcome behaviour that constitutes workplace sexual harassment; (2) prevents workplace sexual harassment through orientation, awareness and sensitization sessions; and (3) provides a detailed framework for redress.

BENCHMARK CASE LAWS

Tuka Ram And Anr Vs State of Maharashtra, 1979 AIR 185,1979 SCR (1) 810

Popularly known as the Mathura rape case was an incident of custodial rape. Mathura, a young tribal girl, was allegedly raped by two policemen on the compound of police station. But the Supreme Court acquitted the accused, and the decision resulted the big public outcry and protest, which eventually led to amendments in Indian rape law via The Criminal Law (Second Amendment Act 1983 (N0.46).

Air India Vs Nargesh Meerza (1981) 4 SCC 335

This case deals with the women's right to equality. In this case the Supreme Court struck down the clause of retirement of air hostess on attaining 35 years of age or on marriage within first 4 year of service or on first pregnancy as being arbitrary and unreasonable and clearly violative of article 14 of Indian Constitution.

Mohammad Ahmed Khan Vs Shah Bano Begum, 1985 AIR 945, 1985 SCR (3) 844

Popularly known as the Shah Bano case, a penurious Muslim woman claimed for maintenance from her husband under section 125 of the code of the criminal procedure after she was given Triple Talaq from him. The Supreme Court held that the Muslim women have a right to get maintenance from her husband under section 125. After the decision, nationwide discussions, meetings and agitations were held. Then Rajiv Gandhi led government overturned the Shah Bano case decision by way of Muslim women (Right to protection on divorce) act, 1986, which curtailed the right of a Muslim women for maintenance under section 125 of the code of criminal procedure.

Mackinnon Mackenzie Vs Audrey D' Costa, 1987AIR 1281

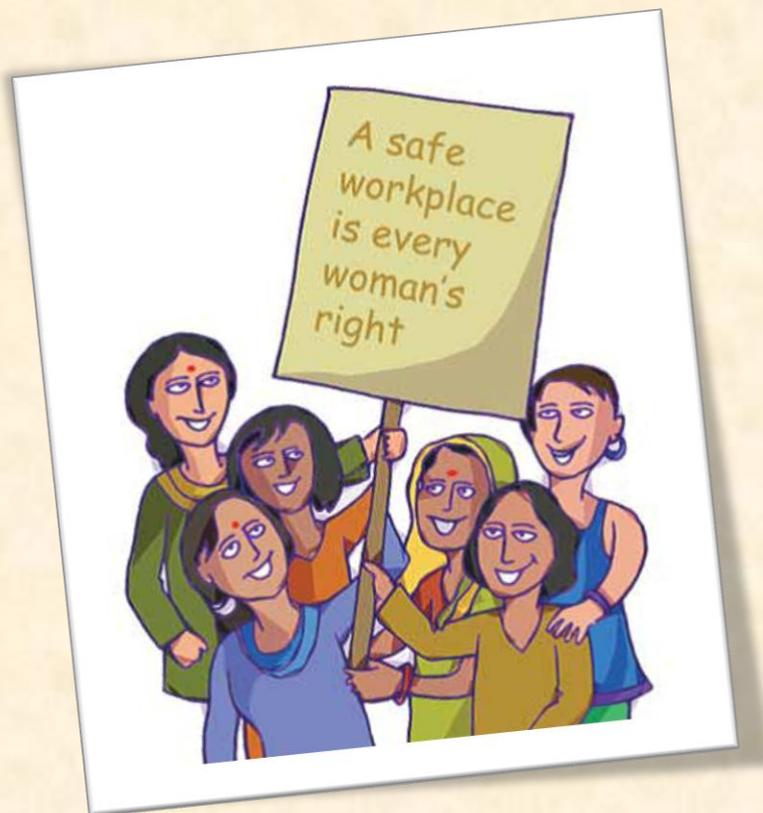
The first major judgment on the Equal Remuneration act had been delivered by the Supreme Court in this case. In this case Audrey a lady stenographer sued her company under equal remuneration act as she was paid less than the male stenographer.

Sarla Mudgal Vs Union of India 1995, AIR 1531, 1995 SCC (3) 635

This case brought to lime light, the gross exploitation of personal laws of women. On this instance, a Hindu male, married under the Hindu law, desirous of taking on a second wife, converted to Islam. After the second marriage he reverted to Hinduism. Second wife pleaded that she had no protection under either of the personal law.

In view of this case the Supreme Court directed the union government to implement Uniform Civil Code.

Vishaka Sawhney Vs State of Rajasthan, AIR 1997 SC 3011 (1998)



This is very famous case and the alarm raiser for the need of such act which can prevent the women from sexual harassment at the work place.

In this landmark judgment the supreme case held that sexual harassment at work place is a violation of article 15 and 21 of the constitution and he laid down the exhaustive guidelines to prevent sexual harassment of working women in places of their work until a law is passed for this purpose. In 2013, The Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was passed by the parliament of India.
