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CRUELTY AGAINST WOMEN IN INDIA: A SOCIO-LEGAL STUDY OF LEGISLATIVE FRAMEWORK AND GROUND REALITIES

Akanksha Tiwari

Amity Law School, Amity University, Madhya Pradesh

ABSTRACT

The phenomenon of cruelty against women in India remains a persistent and multifaceted issue, deeply rooted in patriarchal societal structures and gender inequalities. Despite the presence of comprehensive legal frameworks, including Section 498A of the Indian Penal Code, the Protection of Women from Domestic Violence Act, 2005, and various constitutional safeguards, the implementation of these laws continues to face serious challenges. This socio-legal study critically examines the efficacy of the existing legislative mechanisms in addressing cruelty against women while juxtaposing them with on-ground realities and lived experiences of victims. Through a multidisciplinary approach, the paper explores how cultural norms, institutional apathy, lack of awareness, and procedural hurdles dilute the intent of these laws. The study also analyses judicial interpretations and empirical data to highlight the gap between legal theory and practical enforcement. By presenting both qualitative and quantitative findings, this research aims to recommend pragmatic legal reforms and policy interventions to ensure justice, dignity, and protection for women facing cruelty in domestic and societal settings.

Keywords:

Cruelty Against Women, Domestic Violence, Women's Rights.

INTRODUCTION TO LAWS ON CRUELTY AGAINST WOMEN

Violence against women, especially within the domestic sphere, has been a persistent and widespread societal affliction in India. Notwithstanding considerable progress in women's rights and legal safeguards, occurrences of physical, mental, and psychological abuse within familial contexts persist alarmingly. The Indian legal system has established a unique framework to address the susceptibility of women to cruelty, aimed at preventing such behavior, offering restitution to victims, and penalizing offenders.

The Constitution of India establishes the moral framework for the safeguarding of women through its fundamental rights and directive principles. Articles 14, 15, and 21 ensure legal equality, ban sex-based discrimination, and affirm the rights to life and personal liberty, correspondingly. Moreover, Article 51A(e) mandates that every citizen renounce activities that undermine the dignity of women.

Nonetheless, constitutional assurances alone were unable to confront the intricate reality of domestic violence. Consequently, particular legislative measures were established to penalize and prosecute acts of cruelty towards women. Notable among these is Section 498A of the Indian Penal Code (IPC) now Section 85,86 of BNS, enacted by the Criminal Law (Second Amendment) Act of 1983. Section 498A of IPC or Section 85,86 of BNS constituted a key legal measure that, for the first time, acknowledged cruelty inflicted by a husband or his relatives upon a woman as a separate criminal offense.

In addition to Section 498A of IPC or Section 85,86 of BNS, supplementary legislative provisions such as the Dowry Prohibition Act of 1961, the Protection of Women from Domestic Violence Act of 2005, and several procedural safeguards under the Code of Criminal Procedure (CrPC) enhance the comprehensive framework against cruelty.

The definition of "cruelty" has changed through court interpretations, rendering it a dynamic and context-sensitive notion. Judicial bodies have acknowledged that cruelty can manifest not just physically but also mentally, emotionally, or economically. Notwithstanding its progressive aims, the legal framework addressing cruelty against women has encountered criticism throughout time, especially over claims of the misuse of Section 498A of IPC or Section 85,86 of BNS, prompting demands for change. Therefore, comprehending the legal environment of cruelty requires an examination of both statutory provisions and their judicial interpretations.

INDIAN PENAL CODE (IPC) PROVISIONS ON CRUELTY

The Indian Penal Code (IPC), established in 1860, constitutes the foundation of India's criminal law framework. In acknowledgment of the distinct vulnerability of women in marital households, the IPC was revised in the 1980s to incorporate special prohibitions targeting cruelty perpetrated by spouses or their relatives. Section 498A of IPC or Section 85,86 of BNS

is a significant provision aimed at addressing domestic violence, dowry harassment, and cruelty inside marital households.

Comprehending the legislative language of Section 498A of IPC or Section 85,86 of BNS and its judicial interpretation is essential for grasping the extent, advantages, obstacles, and current discussions on legal safeguards against cruelty towards women in India.

Section 498A of IPC or Section 85,86 of BNS: Matrimonial Cruelty by Spouse or Relatives

Section 498A of the Indian Penal Code or Section 85,86 of BNS states:

"Any individual, whether the husband or a relative of the husband of a woman, who inflicts cruelty upon her shall be subject to imprisonment for a duration of up to three years and may also incur a monetary penalty."

Clarification:

The law delineates "cruelty" as follows:

- (a) Any intentional behaviour that is likely to compel the woman to attempt suicide or to inflict serious harm or peril to her life, physical integrity, or health (whether mental or physical); or
- (b) The harassment of a woman aimed at coercing her or any associated individual to fulfill an unlawful demand for property or valued security, or due to the failure of her or any linked individual to satisfy such a demand.

Consequently, Section 498A IPC or Section 85,86 of BNS penalizes two principal types of cruelty:

- Severe physical or psychological abuse that endangers the woman's life or mental well-being.
- Harassment pertaining to dowry demands or financial extortion.

Historical Background of Section 498A of IPC or Section 85, 86 of BNS

The context for the enactment of Section 498A of IPC or Section 85,86 of BNS was the concerning increase in dowry-related fatalities and incidents of domestic violence in India

during the 1970s and early 1980s. Incidents of bride burning, suicides, and harassing of women for dowry incited public indignation, necessitating immediate legal intervention.¹

The Criminal Law (Second Amendment) Act, 1983 introduced Section 498A IPC or Section 85,86 of BNS as part of comprehensive reforms aimed at mitigating the vulnerabilities encountered by married women in their domestic environments. It signified a crucial transformation by acknowledging that the brutality inflicted by husbands and their families deserved distinct judicial consideration.

Characteristics of the Offense under Section 498A

Section 498A of IPC or Section 85,86 of BNS is categorized as:

- **Cognizable:** Law enforcement is authorized to file a First Information Report (FIR) and effectuate arrests without prior judicial consent.
- **Bail is non-bailable;** it is not an inherent right but rather contingent upon judicial discretion.
- **Non-compoundable:** At the outset, the offense could not be resolved extrajudicially, indicating the gravity assigned to the crime. (Subsequent modifications permitted certain flexibility under specific conditions.)

These attributes were designed to facilitate prompt police intervention and prevent abusive behavior.

Nonetheless, these procedural elements raised apprehensions over potential misuse, particularly with arrests predicated on trivial or exaggerated allegations, as subsequently noted by the courts.

Elements Required to Establish Offense under Section 498A of IPC or Section 85,86 of BNS

To secure a conviction under Section 498A IPC or Section 85,86 of BNS, the prosecution is required to demonstrate:

- a) The woman was wed.
- b) The defendant is the spouse or a related thereof.
- c) The woman endured mistreatment as detailed in the Explanation to Section 498A.

¹ Law Commission of India, 91st Report on Dowry Deaths and Law Reforms, 1983

- d) The brutality was intentional and of such severity as to potentially lead her to suicide, inflict serious harm, or entail harassment for illegal dowry demands.

The prosecution is required to establish these factors beyond a reasonable doubt, while courts acknowledge that direct evidence may frequently be inaccessible, permitting reliance on circumstantial evidence.

Issues and Objections

Notwithstanding its progressive objectives, Section 498A of IPC or Section 85,86 of BNS encountered criticism for purported misuse. Several concerns have been articulated, including:

- Submission of fraudulent or inflated allegations in the context of marital conflicts.
- Police apprehensions conducted without prior investigation.
- Intimidation of innocent relatives, encompassing elderly parents and distant kin.
- Protracted and distressing criminal proceedings.

In response, courts and legislators implemented reforms to reconcile victim protection with measures against abuse (elaborated more below under judicial interpretations).

However, empirical research indicates that although misuse occurs, it is not sufficiently widespread to diminish the importance of Section 498A, especially for authentic victims of domestic violence.²

JUDICIAL EXEGESIS OF CRUELTY

The Indian judiciary has significantly influenced the interpretation, expansion, and contextualization of "cruelty" as defined in Section 498A of the IPC. Judicial precedents have sought to reconcile the aims of the legislation with protections against its potential misuse.

² National Crime Records Bureau (NCRB), "Crime in India Report," 2022

Expanding the Definition of "Cruelty"

In **Shobha Rani v. Madhukar Reddy**,³ the Supreme Court underscored that cruelty encompasses mental brutality, not alone physical harm. Mental anguish, emotional maltreatment, and degradation may be sufficient to define cruelty.

In **V. Bhagat v. D. Bhagat**⁴, the Court noted that actions resulting in emotional distress, psychological breakdowns, and health decline constitute cruelty.

Consequently, courts acknowledged emotional and psychological injury as actionable manifestations of cruelty.

Contextual Approach

In **G.V. Siddaramesh v. State of Karnataka**⁵, the Court underscored that cruelty should be interpreted within the framework of socio-cultural circumstances. Minor misunderstandings or typical wear-and-tear in marriage cannot be classified as cruelty until the behavior surpasses the threshold of significant hurt or harassment. This method guarantees that Section 498A is not diminished by ordinary domestic conflicts.

Procedural Protections against Misappropriation

To mitigate concerns over misuse, the judiciary established significant procedural safeguards:

Arnesh Kumar v. State of Bihar⁶:

The Court ordered that:

- a) Law enforcement officials are required to perform a preliminary investigation before to making arrests in situations under Section 498A of IPC or Section 85,86 of BNS.
- b) Arrests must adhere to the stipulations outlined in Section 41 of the Criminal Procedure Code (necessity of arrest).
- c) Magistrates must examine police rationales prior to sanctioning detention.

³ (1988) 1 SCC 105

⁴ (1994) 1 SCC 337

⁵ (2010) 3 SCC 152

⁶ (2014) 8 SCC 273

This decision substantially transformed police tactics, prioritizing the safeguarding of the accused from capricious arrests.

- **Rajesh Sharma v. State of Uttar Pradesh:**⁷ The Court proposed the establishment of Family Welfare Committees to evaluate complaints prior to initiating criminal proceedings. Nonetheless, this was partially reversed in *Social Action Forum for Manav Adhikar v. Union of India* (2018), stressing that judicial intervention should not undermine legislative intent.

Consequently, despite implementing protections, the judiciary continually underscored that authentic victims must not be deprived of justice.

Dowry-Associated Abuse and Dowry Fatalities

Section 498A of the Indian Penal Code or Section 85,86 of BNS functions concurrently with other sections such as Section 304B of the Indian Penal Code, which pertains to Dowry Death. When cruelty coincides with death under dubious circumstances within seven years of marriage, a presumption of dowry death is established under Section 113B of the Indian Evidence Act, 1872 or Section 118 of BSA.

Judicial bodies have determined that previous maltreatment is a critical element in substantiating dowry death allegations.

Kans Raj v. State of Punjab⁸ stated that cruelty or harassment occurring shortly before death reinforces the presumption under Section 304B IPC or Section 80 of BNS.

- Section 498A of IPC or Section 85,86 of BNS: Cruelty by Husband or Relatives
- Judicial Interpretation of Cruelty

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Definition of Domestic Violence

Domestic violence refers to acts of violence occurring within the private domain, typically between individuals connected by intimacy, kinship, or legal ties. In a more restricted

⁷ (2017) 11 SCC 265

⁸ (2000) 5 SCC 207

definition, it pertains specifically to violence perpetrated by a male partner against a female partner, encompassing physical assaults and sexual violations, which may manifest as pushing, pinching, spitting, kicking, biting, punching, stabbing, scalding with boiling water or acid, and arson.

The term domestic violence encompasses unethical, immoral, or criminal acts perpetrated by a family member, involving physical harm, verbal threats, harassment, emotional abuse, or property destruction as methods of coercion, control, retribution, or punishment. Domestic violence encompasses any acts of violence occurring between individuals who share a personal relationship, whether currently or historically, within a familial context. It broadly includes various forms of abuse, such as physical, sexual, psychological, emotional, or economic, perpetrated among partners, household members, or relatives.

Black's Law Dictionary defines "domestic violence" as violence occurring between household members, typically spouses, involving an assault or other violent act perpetrated by one member against another. Merriam-Webster's Online Dictionary characterizes domestic violence as the infliction of physical injury by one family or household member upon another, encompassing a recurrent or habitual pattern of such behaviour. It refers to acts of violence directed at a member of one's immediate family, particularly within the home.

The Blackwell Encyclopedia of Sociology defines domestic violence as a systematic pattern of coercive behaviour aimed at establishing power and control over an individual in an intimate relationship through intimidating, threatening, harmful, or harassing actions. This comprehensive definition encompasses various forms of abuse, including physical, sexual, and emotional or psychological. Socialists argue that domestic violence is perpetuated by societal and cultural attitudes, institutions, and laws that fail to consistently condemn this violence as unacceptable.

The Royal College of Psychiatrists characterizes domestic violence as the physical, sexual, or emotional maltreatment perpetrated by a partner against an individual, regardless of gender. It involves one adult in a relationship exploiting power to dominate another, establishing control and instilling fear through violence and various forms of abuse. The victims of this phenomenon can include children, women, the elderly, individuals with disabilities, and men.

The term domestic violence is not defined as a category by itself under any civil or criminal law in India. However, the Indian Penal Code 1890, recognizes several offences relating to violence against women, some of which directly address the issue of domestic violence. They are in the form of culpable homicide, dowry death, female infanticide or forcing the wife to terminate pregnancy, abetment to commit suicide, hurt, grievous hurt's or means to extort property. Another category of specific offences that could be used to protect women from domestic violence are wrongful restraint or confinement, or use of force, or assault, etc. Apart from all these provisions, there are some specific legislations such as the Dowry Prohibition Act, 1961, the Commission of Sati (Prevention) Act, 1987, the Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1996, which cover some offences that are part of domestic violence. Our civil law also defines domestic violence in the terms of cruelty which enable a person to get divorce on the ground of domestic violence.

Domestic abuse is recognized as a breach of human rights under international law. Numerous international treaties like Convention on Elimination of all forms of Discrimination against Women 1979, the Beijing plan of action and the Declaration on the Elimination of Violence against Women, 1994, provide protection which is of particular significance to women. But most of them do not directly address the issue of domestic violence.³⁹ According to the United Nations Declaration on Elimination of Violence against Women, 1993 domestic violence may be defined as encompassing but not being limited to physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female or children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women.⁹ The United Nations Model Code on Domestic Violence should be defined to mean any act or omission or conduct which is of such a nature as to harm or injure or has the potential of harming or injuring the health, safety of the person aggrieved and include physical, sexual, verbal, mental or economic abuses.

In 1995, Radhika Coomaraswamy, the United Nations Special Rapporteur on violence against women, presented a report to the Commission of Human Rights that addressed domestic violence. In this report, she characterized domestic violence as violence occurring within the private sphere, typically between individuals connected by intimacy, kinship, or legal ties, and perpetrated by both private and state actors. She further noted that domestic violence is

⁹ Ambili, C. S., Domestic Violence: Problems and Perspectives, Cochin University Law Review, 2003, p. 133

frequently, albeit problematically, referred to as 'family violence,' making the actual structure of the family—whether nuclear, joint, or same-sex—an important subject of inquiry. The most intricate forms of domestic violence serve as a formidable instrument of oppression, utilized to exert control over women within the domestic sphere, an area historically governed by women.¹⁰

The term domestic violence lacked a comprehensive definition until the enactment of the Domestic Violence Act in 2005. The Protection of Women from Domestic Violence Act, 2005 provides an extensive definition of domestic violence. Section 3 of the Act stipulates that any act, omission, commission, or conduct of the respondent shall be deemed domestic violence if it-

1. Causes pain, injury, or risk to the health, safety, life, limb, or well-being, whether mental or physical, of the aggrieved individual, or has the potential to do so, encompassing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse; or
2. persecutes, damages, injures, or jeopardizes the aggrieved individual to compel her or any associated individual to fulfill any illicit demand for dowry or other assets or valuable securities; or
3. poses a threat to the aggrieved individual or any associated person by any actions specified in the clause (a) or clause (b); or
4. alternatively inflicts injury or harm, either bodily or psychological, upon the offended one.

TYPES OF ABUSE COVERED UNDER THE ACT

- i. **"Physical abuse"** refers to any action or behaviour that inflicts bodily pain, harm, or poses a threat to life, limb, or health, or adversely affects the health or development of the victim individual and encompasses assault, criminal intimidation, and the application of criminal force;
- ii. **"Sexual abuse"** encompasses any sexual conduct that demeans, humiliates, degrades, or otherwise infringes upon the dignity of a woman.
- iii. **"Verbal and emotional abuse"** encompasses-

¹⁰ Preeti Misra, Domestic Violence Against Women: Legal Control and Judicial Response, (2007), p. 62

- a. derision, mockery, degradation, disparagement, and invective, particularly concerning the absence of a child or a male offspring; and
 - b. recurrent threats to inflict bodily harm on any individual in whom the aggrieved party has an interest.
- iv. **"Economic abuse"** encompasses –
- a. the denial of all or any economic or financial resources to which the aggrieved individual is legally or customarily entitled, whether mandated by a court order or otherwise, or which are essential for the aggrieved individual and her children, if applicable, including but not limited to household necessities, streedhan, property owned jointly or individually by the aggrieved individual, payment of rent for the shared household, and maintenance;
 - b. disposition of household belongings, any transfer of assets, whether movable or immovable, valuable shares, securities, bonds, or other property in which the aggrieved individual has an interest or entitlement due to the domestic relationship, or which may be reasonably necessary for the aggrieved individual, her children, or her stridhein, or any other property held jointly or individually by the aggrieved individual; and
 - c. Prohibition or restriction on continuous access to resources or facilities to which the aggrieved individual is entitled by virtue of the domestic partnership, including access to the shared household.

OTHER RELEVANT LEGISLATIONS

Dowry Prohibition Act, 1961

The Dowry Prohibition Act of 1961 recognizes that domestic abuse is a violation of dowry laws through various specific provisions. Another form of violence that has been prevalent throughout history and has diminished in the recent century, particularly. No legislation can entirely prevent domestic violence. The 1994 regulation on preliminary reproduction and prenatal diagnostic techniques (Prohibition of Sex Selection) recognizes that domestic violence occurs through coerced termination of a woman's foetus, or through the burning or burial of a wife alongside her deceased husband (or another related individual).

Hindu Marriage Act, 1955

The Hindu Marriage Act of 1955 established the notion of divorce under specific conditions.¹¹ This framework operates under the fault theory of divorce, which posits that one party is culpable of a matrimonial offense while the other remains blameless. Cruelty significantly influences this culpability theory. Initially, under the Hindu Marriage Act of 1955, cruelty was not recognized as a basis for divorce but rather as a ground for judicial separation¹², wherein the defendant's treatment of the petitioner instils a reasonable apprehension that cohabitation would be detrimental or injurious to the petitioner.

In 1976, an amendment was enacted to the Act, establishing cruelty as a ground for divorce by incorporating section 13(1)(i-a). This section stipulates the dissolution of marriage in instances where one party has subjected the petitioner to cruelty subsequent to the solemnization of the marriage. Although the Hindu Marriage Act does not define cruelty¹³, Indian courts have clarified through various rulings that it encompasses physical abuse by the husband¹⁴, harassment related to dowry demands¹⁵, unnatural sexual practices against the wife, and rough, domineering behaviour.¹⁶ Conduct is encompassed within the term of cruelty as per the Hindu Marriage Act, 1955.

Special Marriage Act of 1954

The Special Marriage Act of 1954 facilitates civil marriages devoid of religious connotations. Individuals of any faith may marry under this law, provided they are not related within the prohibited degrees, are not currently married to another person through any religious ceremony, and have attained the age of majority. This Act was amended by the Amendment Act of 2001. Section 27(d) recognizes cruelty as a valid ground for divorce. Section 37 stipulates provisions for permanent alimony. The Civil Procedure Code applies to proceedings under this Act.¹⁷

¹¹ The Hindu Marriage Act of 1955, Section 13(1)(i)(a)

¹² Section 10(1)(b) of the Hindu Marriage Act, 1955

¹³ Tyagi, Anju, "Cruelty as a Ground for Divorce," AIR October 2006 (Vol. 93), p. 154

¹⁴ Kaushljra Devi v. Masat Ram, AIR 1981 HP 63

¹⁵ Shobha Rani v. Madhukar Reddy, AIR 1988 SC 121

¹⁶ Siddagangiah V. Lakshamma, AIR 1969 Mysore 115

¹⁷ The Special Marriage Act, 1954, Sec. 40

SUPREME COURT ON DOWRY VIOLENCE

A significant number of domestic violence instances reported in India stem from dowry demands. It is one of the most egregious forms of domestic violence. A significant characteristic of this crime leads to dowry deaths and various acts perpetrated within the confines of the home, predominantly by close relatives such as husbands, mothers-in-law, and sisters-in-law residing under the same roof.¹⁸ Despite the enforcement of the Dowry Prohibition Act of 1961 and subsequent amendments by various State Governments, along with numerous initiatives by both Central and State Governments aimed at effectively addressing these issues, statistics indicate a persistent occurrence of harassment, torture, murder, burning, and even coerced suicide among married women due to the detrimental effects of the dowry system.

The Criminal Law Amendment Act of 1983 included Chapter XX-A (section 498-A) to the IPC or Section 85,86 of BNS, criminalizing dowry and addressing cruelty inflicted by a husband, his relatives, or a woman subjected to such abuse.¹⁹ The Criminal Law Amendment Act of 1986 introduced Section 304-B, pertaining to dowry death, into the Penal Code to address the prevalence of dowry-related homicides, suicides, and bride-burning in the country. To simplify the evidence required for dowry death, a significant amendment to the Indian Evidence Act was enacted, transferring the burden of proof to the accused in instances of a wife's death occurring within seven years of marriage (Section 113-A of the Evidence Act). It is important to highlight that the Indian Judiciary, particularly the Supreme Court vehemently condemned the escalating trend of dowry-related domestic violence, which has become perilous and has led to fatalities among victims. It has embraced a positive and constructive methodology in interpreting the statutes concerning dowry offenses, moving away from the colonial literal approach. The following instances concerning dowry offenses are examined to illustrate the judicial tendency on the matter.

Dowry Demand is Inherently Punishable

In the event of **L. V. Jadhav v. Shankarao Pawar**²⁰ The Supreme Court expanded the definition of 'dowry' and determined that a unilateral demand for dowry is an offense under the Dowry Prohibition Act of 1961. In one instance, the father of the bridegroom requested Rs. 50,000 during pre-marital discussions, but the bride's father declined the request. The payment

¹⁸ Chakraborty, Nirmal Kanti, Domestic Violence and Crime Against Women in India, N&SGJ (10), p. 167

¹⁹ Refer to Section 498-A of the Indian Penal Code, 1860 for further information.

²⁰ AIR 1983 SC 1219; 1983 (4) SCC 231

for the airfare of the bride and father-in-law to join the husband in the USA was requested. The marriage occurred due to the assistance of a mutual family acquaintance of the individuals involved. The bride was not permitted to join her husband in the USA for one year post-marriage due to the non-payment of Rs. 50,000 requested by her father-in-law. In the lack of a payment arrangement, the Bombay High Court did not interpret this undisputed demand as dowry, so dismissing the complaint against the father-in-law. However, on appeal, the Supreme Court overturned the judgment of the Bombay High Court and determined that even a unilateral demand for act of dowry would constitute an offense under the Dowry Prohibition Act of 1961.

In **Shanker Prasad and others v. State**²¹, it was noted that while the word "dowry demand" is frequently employed in everyday language, the mere request for dowry under Section 4 and Section 2(1) does not constitute an offense unless it is either provided or consented to be provided. The Supreme Court disagreed, expanding the concept of dowry through its pragmatic rulings, asserting that the simple demand for a sum of money as a condition for marriage constitutes an offense, and that the consent of the bride's parents is not needed. Any obligation to be settled at a future date is likewise encompassed within the definition. Under the Dowry Prohibition Act of 1961, the approval of the bride's parents is requisite for the provision of property or any valued security to be classified as dowry.

The Supreme Court in **S. In Gopal Reddy v. State of Andhra Pradesh**²², it was stated that the definition of 'dowry' in section 2 of the Act cannot be limited solely to the 'demand' for money, property, or valuable security made at or after the marriage, as argued by Mr. Rao. The legislature, in its discretion, has clarified that any money, property, or valuable security provided as consideration for marriage, whether before or after the marriage, falls under the term 'dowry.' This definition in section 2 must be applied wherever 'dowry' appears in the Act. commonly used and understood is different than the peculiar definition thereof under the Act. Under section 4 of the Act, mere demand of dowry is sufficient to bring home the offence to an accused. Thus any demand of money, property or valuable security made from the bride or her parents or other relatives to the bridegroom or his parents or other relatives or vice versa would fall within the mischief of dowry under the Act where such demand is not properly referable to any legally recognized claim and is relatable only to the consideration of marriage. Marriage in this context would include a proposed marriage also more particularly where the

²¹ (1991) Criminal Law Journal 639

²² AIR 1996 Supreme Court 2184

non-fulfilment of the 'demand of dowry' leads to the ugly consequences of the marriage not taking place at all. The expression dowry under the Act must be interpreted in the sense which the statute wishes to attribute to it. The Act is a piece of social legislation which aims to check the growing menace of the social evil of dowry but also the very demand of dowry made before or at the time or after the marriage where such demand is preferable to the consideration of marriage. Dowry as a quid pro quo for marriage is prohibited and not the giving of traditional presents to the bride or the bridegroom by friends and relatives. Thus, voluntary presents given at or before or after the marriage to the bride or the bridegroom, as the case may be, of a traditional nature which are given not as a consideration for marriage but out of love, affection or regard, would not fall within the mischief of the expression 'dowry' made punishable under the Act. The court further said that, "It is well known rule of interpretation of statutes that the text and the context of the entire Act must be looked into while interpreting any of the expressions used in a statute. The Courts must consider the purpose that the statute aims to achieve should accomplish while elucidating any of the stipulations of the Act. A deliberate approach to interpreting the Act is essential. We are unable to persuade ourselves to agree with Mr. Rao that it is only the property"- or valuable security given at the time of marriage which would bring the same within the definition of 'dowry' punishable under the Act, as such an interpretation would be defeating the very object for which the Act was enacted. Keeping in view the object of the Act, "demand of dowry" as a consideration for a proposed marriage would also come within the meaning of the expression 'dowry' under the Act. If we were to agree with Mr. Rao that it is only the 'demand' made at or after marriage which is punishable under Section 4 of the Act, some serious consequences, which the Legislature wanted to avoid, are bound to follow. Take for example a case where the bridegroom or his parents or other relatives make a 'demand' of dowry during marriage negotiations and later on after bringing the bridal party to the bride's house find that the bride or her parents or relatives have not met the earlier 'demand' and call off the marriage and leave the bride's house should they escape the punishment under the Act. The answer has to be an emphatic 'no'. It would be adding insult to injury if we were to countenance that their action would not attract the provisions of Section 4 of the Act. Such an interpretation would frustrate the very object of the Act and would also run contrary to the accepted principles relating to the interpretation of statutes."²³

²³ S. Gopal Reddy v. State of Andhra Pradesh, AIR 1996 SC 2184

Expansion of anguish and astonishment at the frightening increase in dowry deaths

Courts have often conveyed distress and astonishment at the occurrence of fatalities among young brides. The Supreme Court pronounced that, "the alarming increase in cases relating to harassment, torture, abetted suicides the dowry deaths of young innocent brides have always sent shocks waves to the civilized society but unfortunately the evil has continued unabated. Awakening of the collective consciousness is the need of the day. A Change of heart and attitude is needed. A wider social movement not only of educating women of their rights but also of the men folk to respect and recognise the basic human values is essentially needed to bury this pernicious social evil. The role of the Courts, under the circumstances, assumes a great importance. The Courts are expected to deal with such cases in a realistic manner so as to further the object of the legislation. However, the Courts must not lose sight of the fact that the Act, though a piece of social legislation, is a penal statute. One of the cardinal rules of interpretation in such cases is that a penal statute must be strictly construed. The Courts have, thus, to be watchful to see that emotions or sentiments are not allowed to influence their judgment, one way or the other and that they do not ignore the golden thread passing through criminal jurisprudence that an accused is presumed to be innocent till proved guilty and that the guilt of an accused must be established beyond a reasonable doubt. They must carefully assess the evidence and not allow either suspicion or surmise or conjectures to take the place of proof in their zeal to stamp out the evil from the society while at the same time not adopting the easy course of letting technicalities or minor discrepancies in the evidence result in acquitting an accused. They must critically analyse the evidence and decide the case in a realistic manner."²⁴

Sentence ought to serve as a deterrent

In **Virbhan Singh v. State of Uttar Pradesh**²⁵. The Supreme Court stated that, given the rising incidence of bride killings, such heinous crimes necessitate stringent measures and severe punitive consequences whenever identified. In several instances, the Supreme Court expressed its apprehension regarding the acquittal of certain alleged offenders by the High Court but acknowledged its inability to intervene, as no appeal had been filed by the State against those acquittals.

²⁴ S. Gopal Reddy v. State of Andhra Pradesh, AIR 1996 SC 2184

²⁵ 1983 4 SCC 197; 1983 SCC (Cri) 781; AIR 1983 SC 1002

In cases where a bride is subjected to immolation for the purpose of dowry extraction, or where a young wife is brutally murdered through the heinous act of dousing her in kerosene and igniting her, the court must confront these instances with utmost severity and rigor. It is imperative that the maximum legal penalty be imposed to serve as a deterrent against such anti-social crimes, thereby discouraging others from engaging in similar acts.²⁶

The Supreme Court has underscored that in instances of a wife's murder by burning, the criminal justice system must adequately address societal concerns regarding dowry deaths. The investigative authorities should exhibit heightened vigilance, thoroughly scrutinizing every suspect and gathering all pertinent evidence. Furthermore, the court must demonstrate increased sensitivity to criminality and eschew leniency in its judgments.²⁷

Death sentence by public hanging would constitute a barbarous practice

In **Lichhama Devi v. State of Rajasthan**²⁸, the Supreme Court held that in case of bride burning death sentence might not be improper. The person who perpetrates such barbaric crime, without any human consideration, must be given extreme penalty. In this case the deceased was harassed and tortured in her matrimonial home in the name of dowry. One day the neighbour saw flames coming out of her kitchen. The neighbour who entered the room found the wife in flames. She was taken to the hospital. The doctor asked the in laws to arrange for some blood. But the appellant, i.e. the mother-in-law did not allow the husband to arrange blood. As a result she died. The accused was acquitted by the trial court in 1977. In 1985 on appeal the High Court reversed the acquittal and gave the extreme penalty of death after a gap of eight years. The High Court of Judicature at Rajasthan (Jaipur Bench) ordered for execution of death sentence by public hanging at the Stadium Ground or Ramlila Ground of Jaipur after giving wide publicity through mass media of date, time and place of such execution. This order was amended by the same Bench by its order dated 11.12.1985 directing that the execution order should be carried out in terms of the procedure provided in the Jail Manual unless by that time any amendment is made in the rules. The legality of the order was challenged before the Supreme Court by way of criminal writ petition and while disposing of the petition it was observed that the execution of death sentence by public hanging would be barbaric practice

²⁶ Kailash Kaur v. State of Punjab, AIR 1987 SC 1868

²⁷ K. B. Rajjippa v. State of Karnataka, AIR 1989 SCC 751

²⁸ AIR 1986 SC 467

clearly violative of the provisions of Article 21 of the Constitution. It is unequivocally evident that the accused have been adjudicated guilty of the crime. . . "It is barbaric and a disgraceful affront to any civilized society, which no community would condone; however, a barbaric crime need not be met with a barbaric punishment such as public hanging." The Supreme Court further asserted that when two courts present conflicting opinions regarding the accused's guilt, the appropriate sentence is typically life imprisonment rather than death. Judicial discretion must remain untainted by emotional influence, as the imposition of a death sentence may stem more from indignation than from rationality.

Function of Legislation in Addressing Social Maladies

The Supreme Court, in the case of **Soni Devrajibhai Babubhai v. State of Gujarat and others**²⁹, emphasized the significance of the Dowry Prohibition Act, 1961, along with sections 304(B) and 498(A) of the Indian Penal Code or Section 80 and Section 85,86 of BNS, stating that "Section 304-B of IPC or Section 80 of BNS and related provisions aim to eliminate the social malady of dowry, which has plagued Indian society and persists despite the advancement of women's rights and the women's liberation movement." This pervasive affliction in our society has only a few fortunate exceptions, despite equal treatment and opportunities for education and careers for both boys and girls. Society perpetuates the divide between them for the sake of marriage, and this differentiation sustains the dowry system. Although society can implement effective measures to eradicate this social evil and community sanctions can serve as a stronger deterrence, legal Sanctions, shown through ban and punitive measures, represent initial steps in that direction.

The Supreme Court in **Hem Chand v. State of Haryana**³⁰ addressed the fundamental elements of Section 304-B of the Indian Penal Code or Section 80 of BNS and Section 113-A of the Evidence Act or Section 117 of BSA. The Court noted that, "a. The interpretation of Sections 304-B, I.P.C. or Section 80 of BNS indicates that to establish whether an individual has perpetrated the crime of dowry death against a woman, it must be demonstrated that shortly prior to her unnatural demise, occurring within seven years of marriage, the deceased experienced cruelty or harassment from that individual in relation to a dowry demand. If demonstrated, the Court shall infer that the individual has perpetrated the dowry death. Consequently, it is evident that regardless of whether the individual is directly accountable for

²⁹ (1991) 4 sec 298

³⁰ (1994) 6 SEC 727; AIR 1994 SC 4150

the deceased's death, they are presumed to have perpetrated dowry death if there was cruelty or harassment, and if the unnatural death transpired within seven years of the marriage. Similarly, there exists a presumption under S. Section 113-B of the Evidence Act or Section 118 of BSA pertaining to dowry death. The provision stipulates that the Court shall infer that an individual who subjected the deceased wife to cruelty prior to her death is presumed to have caused the dowry death, provided it is demonstrated that the woman had experienced cruelty or harassment from the accused in relation to any dowry demand before her demise. This presumption has been integrated into Section 304-B of the Indian Penal Code or Section 80 of BNS as well.

In **Hira Lai and others v. State (Government of NCT Delhi)**³¹, the Supreme Court reaffirmed that Section 304-B of the Indian Penal Code or Section 80 of BNS and Section 113-B of the Evidence Act or Section 118 of BSA were enacted to address the escalating issue of dowry deaths. The legislations may be a result of popular sentiment and the extensive 91st report on "Dowry Deaths and Law Reform Amending the Hindu Marriage Act, 1955, the Indian Penal Code, 1860, and the Indian Evidence Act, 1872," submitted on August 10, 1993, by the Law Commission of India. The introductory portion of the report indicates a concerning rise in the number of incidents involving the mysterious deaths of married women in recent months. These fatalities are commonly linked to dowry, leading to their designation in public discourse as 'dowry deaths'. Despite the submission of the study over two decades ago and the passage of new regulations, incidences of dowry deaths continue to rise. The report expresses profound worry that once a severe crime occurs, detection becomes challenging, and successful prosecution of the culprits is even more arduous. Crimes resulting in dowry deaths are typically perpetrated within the secure confines of a domestic dwelling. The perpetrator is a family member, while other relatives are either culpable or complicit in the crime, or silent yet conspiratorial witnesses to it. The bonds of family are so formidable that truth may remain concealed inside the constraints. There would be no other eyewitnesses, aside than members of the kinship. To address this problem, the legislature adopted section 304(B) of the Indian Penal Code or Section 80 of BNS and section 113(B) of the Evidence Act or 118 of BSA.

³¹ (2003) 8 seconds 8

Death transpired within seven years of marriage - cannot be characterized as occurring under normal conditions

In **Kans Raj v. State of Punjab**³², an appeal was presented to the Supreme Court challenging the Punjab High Court's ruling. The High Court had acquitted the husband, mother-in-law, brother-in-law, and sister-in-law of the deceased in a dowry death case. The death, resulting from asphyxia, occurred within four years of marriage. The Apex Court was urged to consider that the High Court's judgment was legally flawed. Given that the death transpired within seven years of marriage and that harassment due to dowry demands was established, a legal presumption should be inferred against the husband and his relatives. The court noted that "soon before" is a relative term, assessed under the specific circumstances of each case, and no rigid formula can be established by imposing a time limit. Soon before is not equivalent to the term immediately before. A proximity assessment is conducted.

The Apex Court determined that the suicide in this case transpired within seven years of marriage and cannot be characterized as occurring under normal circumstances. The significance of closeness is crucial for establishing evidence of a dowry killing offense and for invoking a presumption under section 113-B of the Evidence Act. To ascertain the period that may occur inside the word 'Soon before' remains to be adjudicated by the courts based on the specific facts and circumstances of each case. The phrase 'soon before' typically suggests that the interval between the relevant cruelty or harassment and the subsequent death should be minimal. A strong correlation exists between dowry-related cruelty and associated fatalities. If the act of cruelty is sufficiently outdated and does not significantly disrupt the mental stability of the affected woman, it would be inconsequential. It was determined that Sunita Kumari's death by suicide transpired within seven years of her marriage, and this event could not be characterized as occurring under normal conditions. The phrase 'otherwise than under regular circumstances' signifies death occurring not in the usual manner, but perhaps under dubious conditions, unless attributable to burns or bodily injury.

Preceding her demise, instances of cruelty or harassment occurred

In **Hazjit Singh v. State of Punjab**³³, the Supreme Court noted that the phrase "soon before her death" in Section 304-B of the IPC and Section 113-B of the Evidence Act embodies

³² 2000 Criminal Law Journal 2993 Supreme Court

³³ AIR 2006 SC 680. A similar viewpoint was articulated in *Hint Lai and others V. State (Government of NCT) Delhi*, 2003 8 SCC 80; *Kaluya Perumal and another v. State of Tamil Nadu*, (2004) 9 SCC 157; *State of Andhra*

the concept of a proximity test. No specific duration is stipulated, and the term "soon before" remains undefined. The reference to "soon before" in Section 114 Illustration (a) of the Evidence Act is pertinent, indicating that a court may presume that an individual in possession of goods." Shortly after the theft, an individual is either the thief or has received the goods with knowledge of their stolen nature, unless they can justify their possession." The courts are tasked with determining the timeframe encompassed by the term "shortly before," based on the specific facts and circumstances of each case. It is sufficient to note that "shortly before" typically suggests that the interval should not be extensive between the acts of cruelty or harassment and the subsequent death. A direct and immediate connection must exist between the effects of cruelty related to dowry demands and the death in question. If the alleged acts of cruelty are temporally distant and have become sufficiently stale to no longer disrupt the mental stability of the woman involved, they will hold no significance.

Dying Declaration in Dowry-Related Fatalities

The premise behind the admissibility of dying declarations in evidence is founded on the legal maxim *nemo mariturus praesumitur mentire*, meaning that a person is presumed not to die with falsehood on their lips. Prior to depending on a dying declaration, the court must ascertain that the declaration is truthful, voluntary, and free from external influence; it may then base a conviction only on this declaration without additional confirmation. In **Padma Behn Shamlalbai v. State of Gujarat**³⁴, the Supreme Court determined that a deathbed declaration is adequate to establish a link. In this instance, the physician examined the deceased and attested that she was capable of making a declaration, notwithstanding her difficulty in articulating. The court dismissed the defendant's argument that his presence and strained relationship with his wife constituted provocation. The court additionally disregarded the absence of documentation in a question-and-answer format.

In **Ganpat Mahadeo Mane v. State of Maharashtra**³⁵, there were three dying declarations concerning the accused's involvement in a bride burning case. One account was

Pradesh v. R. Gopal Asawa and another, (2004) 4 SCC 470; and Kamesh Patyiar alias Kamesh Panjiyar v. State of Bihar, (2005) 2 SCC 388.

³⁴ (1991) 1 SCC 744

³⁵ AIR 1992 SCW 3442

documented by the physician, another by the police constable, and a third by the executive magistrate; these were deemed adequate to establish the offense and led to a conviction.

In case of **Paniben v. State of Gujarat**³⁶, the Supreme Court observed that, "though a dying declaration is entitled to great weight, it is worthwhile to note that the accused has no power of cross-examination. Such a power is essential for eliciting the truth as an obligation of oath could be. This is the reason the Court also insists that the dying declaration should be of such a nature as to inspire full confidence of the Court in its correctness. The Court has to be on guard that the statement of deceased was not as a result of either tutoring, prompting or a product of imagination. The Court must be further satisfied that the deceased was in a fit state of mind after a clear opportunity to observe and identify the assailants. Once the Court is satisfied that the declaration was true and voluntary, undoubtedly, it can base its conviction without any further corroboration. It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated."

In **Nijjam Faraghi v. State of West Bengal**³⁷, the court determined that the victim's statement, made 25 days before to his death, may be regarded as a dying declaration. A statement retains its significance, regardless of an individual's longevity exceeding expectations. This inquiry must be evaluated based on the specific facts and circumstances of each instance.

In **Kamla v. State of Punjab**³⁸, the Supreme Court noted that a dying statement must meet all requisite criteria, one of which is that if multiple death declarations exist, they must be consistent in essential details.

In **Kundanbala v. State of Andhra Pradesh**³⁹, an 18-year-old intermediate student was wed to a young man with a substantial dowry. The parents decided that the girl's father would provide a dowry consisting of Rs. 50,000 in cash, 50 sovereigns of gold, and six acres of land. The marriage was solemnized with the girl's father providing a monetary payment of Rs. 50,000 and 15 gold sovereigns. The father of the girl requested that the land be registered in his daughter's name, despite the possession of the land being granted. This resulted in the

³⁶ AIR 1992 Supreme Court 1817

³⁷ (1998) 2 SE 45

³⁸ AIR 1993 Supreme Court 374

³⁹ (1993) 2 SCC 684

harassment of the young bride. The husband and mother-in-law began to torment her, subjecting her to both verbal and physical violence. A stringent watch was maintained over her at her in-laws' residence, prohibiting her from meeting anyone and disallowing neighbours from visiting or conversing with her. She was prohibited from corresponding with her family; yet, surreptitiously, she composed several letters and arranged for them to be mailed by a neighbour. The contents of those letters reveal the magnitude of the harassment endured by the deceased at the hands of her mother-in-law and husband. On August 23, 1981, between 12:30 and 1:00 PM post meridiem Upon hearing the moans and tears of a young bride, some neighbours ran to the residence and discovered her husband and father-in-law swiftly exiting the kitchen, while the deceased lay on the floor engulfed in flames. Neither her spouse nor her father-in-law made any effort to save her. Neighbours endeavoured to assist her, but by that point, she had sustained critical burns and was transported to the hospital. The terminally ill wife issued two deathbed declarations. Initially, to the neighbours who came to her help, she stated that her mother-in-law Applied kerosene oil on her, which her spouse subsequently ignited. The second dying declaration was communicated to her brother with the same intent. The Supreme Court determined that it constituted a definitive instance of dowry death and affirmed the conviction. Dr. Anand J. It has been noted that there has been a concerning rise in incidents of harassment, torture, abetted suicides, and dowry-related fatalities among young brides. This escalating culture of violence and exploitation, while consistently shocking civilized society, persists without interruption. There is a continual decline in fundamental human values such as tolerance and the ethos of "live and let live."

The absence of education and the economic reliance of women have facilitated the avaricious offenders of this crime. It is particularly disheartening that, in numerous reported instances, the woman assumes a central role in the transgression against the younger female, while the husband either remains a passive observer or actively engages in the wrongdoing, demonstrating a complete disregard for his marital responsibilities. In many situations, it has been observed that the husband, even post-marriage, continues to be 'Mamma's baby,' suggesting that the umbilical cord remains unsevered at this juncture.

In **Mujeeb v. State of Kerala**⁴⁰, the Supreme Court noted that when a case relies on circumstantial evidence, such evidence must be convincingly and robustly shown. These

⁴⁰ AIR 2000 Supreme Court 591

circumstances must establish a chain indicating the accused's guilt, such that it is so comprehensive that there is no alternative conclusion than that, within all human possibility, the crime was committed by them perpetrated only by the accused. The absence of any link in the chain precludes the establishment of the accused's guilt.

In **Paniben v. State of Gujarat**⁴¹, the Supreme Court stated, "Each instance of dowry death reverberates within the conscience of this Court. Nothing is more barbaric or heinous than such a crime. The fundamental cause for the murder of a young bride or daughter-in-law is avarice and greed. All the tender emotions that render humanity noble vanish from the heart. Kindness, the hallmark of human culture, is obliterated. Even the minimal sympathy owed to women is entirely absent. The seedling, uprooted from its original soil and intended to flourish in a new environment, is ultimately crushed."

CONSTITUTIONAL PROVISIONS FOR WOMEN'S RIGHTS

Right to Equality and Non-Discrimination

The Constitution of India, enacted in 1950, establishes fundamental protections for human rights, encompassing the rights of women. The framers of the Constitution acknowledged the systemic difficulties and historical injustices experienced by women, incorporating particular provisions to ensure gender justice, equality, and protection against discrimination. The two fundamental constitutional guarantees — the right to equality and non-discrimination, and the right to life and personal liberty — are the foundation of women's rights jurisprudence in India.

Article 14 of the Constitution stipulates that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."⁴² This assurance of equality functions in two aspects: formal equality, wherever the law regards all individuals uniformly, and substantive equality, when the State is obligated to acknowledge and amend historical inequities to attain genuine equality. The Supreme Court has regularly underscored that Article 14 forbids both explicit discrimination and indirect or structural prejudice. In *Air India v. Nergesh Meerza*, the Supreme Court invalidated service conditions that discriminated against female air hostesses, saying that sex-based discrimination lacking substantial explanation contravenes Article 14.⁴³ Judicial statements have affirmed that the right of

⁴¹ AIR 1992 Supreme Court 1817

⁴² Constitution of India, Article 14

⁴³ *Air India v. Nergesh Meerza*, (1981) 4 SCC 335

equality under Article 14 mandates the State to implement proactive efforts to eradicate inequities experienced by women.

Article 15(1) of the Constitution explicitly forbids discrimination based on sex, so reinforcing the framework. It asserts that "the State shall not discriminate against any citizen solely on the basis of religion, race, caste, sex, place of birth, or any combination thereof"⁴⁴. Significantly, Article 15(3) establishes an exemption by authorizing the State to implement special regulations for women and children. This section acknowledges that achieving genuine equality requires more than formal equality; affirmative action is essential to address deeply rooted societal disparities. The State has utilized this enabling provision to execute various welfare initiatives, reservation policies, and protective legislation designed to empower women. The legal interpretation of Article 15(3) clarifies that affirmative action for women is not a deviation from the ideal of equality but an essential component of it. In *Anuj Garg v. Hotel Association of India*⁴⁵, the Supreme Court determined that protective measures should focus on genuine empowerment instead of reinforcing conventional prejudices regarding women's susceptibility. Consequently, the State's measures to rectify gender inequity get constitutional endorsement under Article 15.

Article 16 of the Constitution enhances these protections by ensuring equality of opportunity in public employment concerns. It stipulates that "there shall be equality of opportunity for all citizens in matters concerning employment or appointment to any office under the State."⁴⁶ The ban on sex-based discrimination guarantees that women cannot be excluded from or face disadvantages in public job prospects. The judiciary has decisively intervened to eliminate gender-based obstacles in employment. In *Charu Khurana v. Union of India*, the Court annulled discriminatory regulations that barred women from employment as professional makeup artists, holding that such exclusion contravened Articles 14 and 16. Consequently, these constitutional clauses collectively establish a mandate for gender equality, advocating for substantial efforts to eliminate obstacles and foster women's active engagement in all areas of public life.

⁴⁴ Constitution of India, Article 15(1) and (3)

⁴⁵ *Anuj Garg v. Hotel Association of India*, (2008) 3 SCC 1

⁴⁶ Constitution of India, Article 1

Right to Life and Personal Liberty

In addition to equality and non-discrimination, Article 21 of the Constitution ensures the right to life and personal liberty. While the Constitution explicitly asserts that "no person shall be deprived of his life or personal liberty except according to procedure established by law," judicial interpretations have significantly broadened its scope to encompass several positive rights vital for a dignified existence. Article 21 has been an essential instrument for women in obtaining safeguards against violence, abuse, and exploitation. The Supreme Court has frequently affirmed that the right to life include the right to exist with dignity, devoid of fear, violence, and tyranny. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*⁴⁷, the Court determined that the right to life includes not only survival but also the right to live with human dignity. Thus, acts of domestic violence, dowry harassment, sexual assault, and other forms of cruelty against women are recognized as infringements of Article 21.

The safeguards provided by Article 21 have been enhanced by acknowledging the rights to physical integrity, privacy, and autonomy. Judicial rulings, like *Vishaka v. State of Rajasthan*, established that sexual harassment in the workplace infringes upon women's fundamental rights to equality, life, and dignity as enshrined in Articles 14, 15, and 21.⁴⁸ The Vishaka Guidelines, established by the Supreme Court, served as a fundamental framework for workplace sexual harassment legislation until the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. In *Lillu v. State of Haryana*, the Court determined that dehumanizing medical procedures, such as the "two-finger test" performed on rape survivors, infringe upon their rights to privacy and dignity, as established in Article 21.

The most significant judicial advancement was the acknowledgment of the right to privacy as a basic right under Article 21 in *Justice K.S. Puttaswamy v. Union of India*⁴⁹. The nine-judge panel unanimously determined that privacy is fundamental to life and personal liberty, and hence requires constitutional protection. This assertion of the right to privacy is particularly significant for women. It strengthens the safeguarding of reproductive rights, physical autonomy, independent decision-making, and the liberty to select relationships and personal lifestyles without undue state or societal intrusion. The verdict fortifies women's rights

⁴⁷ Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608.

⁴⁸ Vishaka v. State of Rajasthan, (1997) 6 SCC 241

⁴⁹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

to get reproductive healthcare, oppose coercive medical practices, and maintain authority over their personal information in the digital domain.

Moreover, the right to live with dignity under Article 21 has been utilized to contest societal behaviours that are intrinsically demeaning to women. The judiciary has acknowledged that customs including honor killings, underage marriages, and forced labor infringe upon women's rights to dignity. Numerous High Courts and the Supreme Court have determined that a woman's freedom to marry her chosen partner is safeguarded by Article 21, and any interference from families or communities is a violation of constitutional rights.

The constitutional provisions for women's rights constitute a comprehensive and progressive framework designed to eradicate historical discrimination and promote authentic empowerment. The relationship between the right to equality (Articles 14, 15, and 16) and the right to life and liberty (Article 21) affirms that women are acknowledged as independent individuals entitled to complete engagement in social, economic, and political spheres. The legal interpretations of these clauses have continually adapted to address modern issues, including workplace harassment, reproductive rights, and digital privacy. The Constitution not only forbids explicit discrimination but also requires affirmative action to attain substantive equality, so establishing a lasting commitment to gender justice. In a country contending with entrenched patriarchal and socio-economic inequalities, these constitutional protections serve as essential tools for achieving the vision of an equitable and just India. Women's rights in India get both moral endorsement and robust constitutional safeguarding, ensuring that the principles of dignity, autonomy, and equality are integral to the nation's democratic framework.

BHARTIYA NYAYA SANHITA

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Article 15(1) of the Constitution explicitly forbids discrimination based on sex, so reinforcing the framework. It asserts that "the State shall not discriminate against any citizen solely on the basis of religion, race, caste, sex, place of birth, or any combination thereof".⁵² Significantly, Article 15(3) establishes an exemption by authorizing the State to implement special regulations for women and children. This section acknowledges that achieving genuine equality requires more than formal equality; affirmative action is essential to address deeply rooted societal disparities. The State has utilized this enabling provision to execute various welfare initiatives, reservation policies, and protective legislation designed to empower women. The legal interpretation of Article 15(3) clarifies that affirmative action for women is not a deviation from the ideal of equality but an essential component of it. In *Anuj Garg v. Hotel Association of India*, the Supreme Court determined that protective measures should focus on genuine empowerment instead of reinforcing conventional prejudices regarding women's susceptibility. Consequently, the State's measures to rectify gender inequity get constitutional endorsement under Article 15.

Article 16 of the Constitution enhances these protections by ensuring equality of opportunity in public employment concerns. It stipulates that "there shall be equality of opportunity for all citizens in matters concerning employment or appointment to any office under the State." [5] The ban on sex-based discrimination guarantees that women cannot be excluded from or face disadvantages in public job prospects. The judiciary has decisively intervened to eliminate

⁵⁰ *Independent Thought v. Union of India*, (2017) 10 SCC 800

⁵¹ *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

⁵² *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

gender-based obstacles in employment. In *Charu Khurana v. Union of India*, the Court annulled discriminatory regulations that barred women from employment as professional makeup artists, holding that such exclusion contravened Articles 14 and 16. Consequently, these constitutional clauses collectively establish a mandate for gender equality, advocating for substantial efforts to eliminate obstacles and foster women's active engagement in all areas of public life.

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The safeguards provided by Article 21 have been enhanced by acknowledging the rights to physical integrity, privacy, and autonomy. Judicial rulings, like *Vishaka v. State of Rajasthan*, established that sexual harassment in the workplace infringes upon women's fundamental rights to equality, life, and dignity as enshrined in Articles 14, 15, and 21. The Vishaka Guidelines, established by the Supreme Court, served as a fundamental framework for workplace sexual harassment legislation until the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. In *Lillu v. State of Haryana*, the Court determined that dehumanizing medical procedures, such as the "two-finger test" performed on rape survivors, infringe upon their rights to privacy and dignity, as established in Article 21.

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particularly significant for women. It strengthens the safeguarding of reproductive rights, physical autonomy, independent decision-making, and the liberty to select relationships and personal lifestyles without undue state or societal intrusion. The verdict fortifies women's rights to get reproductive healthcare, oppose coercive medical practices, and maintain authority over their personal information in the digital domain.

Moreover, the right to live with dignity under Article 21 has been utilized to contest societal behaviors that are intrinsically demeaning to women. The judiciary has acknowledged that customs including honor killings, underage marriages, and forced labor infringe upon women's rights to dignity. Numerous High Courts and the Supreme Court have determined that a woman's freedom to marry her chosen partner is safeguarded by Article 21, and any interference from families or communities is a violation of constitutional rights.

The constitutional provisions for women's rights constitute a comprehensive and progressive framework designed to eradicate historical discrimination and promote authentic empowerment. The relationship between the right to equality (Articles 14, 15, and 16) and the right to life and liberty (Article 21) affirms that women are acknowledged as independent individuals entitled to complete engagement in social, economic, and political spheres. The legal interpretations of these clauses have continually adapted to address modern issues, including workplace harassment, reproductive rights, and digital privacy. The Constitution not only forbids explicit discrimination but also requires affirmative action to attain substantive equality, so establishing a lasting commitment to gender justice. In a country contending with entrenched patriarchal and socio-economic inequalities, these constitutional protections serve as essential tools for achieving the vision of an equitable and just India. Women's rights in India get both moral endorsement and robust constitutional safeguarding, ensuring that the principles of dignity, autonomy, and equality are integral to the nation's democratic framework.

CONCLUSION

The issue of cruelty against women in India remains a deeply entrenched socio-legal challenge despite the existence of a comprehensive legislative framework. Laws such as Section 498A of the Indian Penal Code, the Dowry Prohibition Act, and the Protection of Women from Domestic Violence Act were enacted with the noble objective of protecting women from systemic abuse within familial and marital settings. However, the effectiveness of these laws

is often diluted by factors such as societal stigma, lack of legal awareness, patriarchal attitudes, and lapses in implementation by law enforcement agencies.

This socio-legal study highlights that while statutory provisions provide the necessary legal backing, they fall short when not supported by active enforcement, sensitized judiciary, and social reforms. Moreover, instances of misuse of these laws, though statistically less significant than genuine cases, have nonetheless led to a perception of imbalance that sometimes undermines the cause of justice for real victims.

The ground realities expose a dichotomy between the intention of the law and its application. Women, particularly in rural and economically backward regions, continue to suffer in silence due to fear, financial dependency, and social pressures. Conversely, overcriminalization or misapplication in select cases has led to calls for reform and safeguards for the accused.

Therefore, it is imperative to strike a judicious balance between protecting victims and preventing misuse. Legal reforms should focus on ensuring swift and fair trials, gender-sensitive policing, and comprehensive support mechanisms for survivors. Simultaneously, public education and community involvement are essential to shift societal attitudes that perpetuate gender-based violence. Only through an integrated socio-legal approach can the goal of eradicating cruelty against women in India be realized.