

WOMEN VICTIM

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ACKNOWLEDGEMENT

I have been assigned a burning and sensational topic of present-day world, the Women Victim. Gender equality has now been enshrined in almost all the Constitution of the world, International Human Rights Commission. National Human Rights Commission and Honourable Supreme Court of India, but sad plight of women continues all over the World. Dr.T.N. Prasad respected head of the department and Dean sir, as my guide, paved the way to give me courage and initiative to start this paper.

He guided me affectionately, gave broad guidelines about the contents, the way of organising and presenting the contents in systematic manner. Without his blessings and guidance, I could not have completed this dissertation.

I am highly indebted and obliged for his valuable support and blessings and shall always remain in my life.

Last but not the least, I express my sincere thanks and gratitude to respected Sir

Shyam Sunder

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8. Vishaka and others v. State of Rajasthan 1997 (6 SCC 241)

LIST OF ABBREVIATIONS

AIR	All India Reporter
BBA	Bachpan Bachao Andolan
CJI	Chief Justice of India
CWC	Child Welfare Committee
DAW	Division for the Advancement of Women
GBY	Gender Based Violence
HIV	Human Immune Deficiency Virus
IPS	Indian Police Service
IPTA	Immoral Traffic (Prevention) Act
IVF	In Vertigo Fertilization
MTP	Medical Termination of Pregnancy
NGO	Non-Governmental organization
NLU	National Law University
OSAGI	Office of the Special Advisor on Gender Issues
SC	Supreme Court
SC/ST	Schedule Caste/ Schedule Tribe
USA	United States of America
USSR	United States of Soviet Republic
UN	United Nations
UK	United Kingdom
UNO	United Nations Organization
UDHR	Universal Declaration of Human Rights
VAWG	Violence against Women and Girl

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Women Victims

CHAPTER 1 - INTRODUCTION

The victimization of women is a worldwide phenomenon and is prevalent from time immemorial. Women were and are considered a weaker section and therefore subjected to cruelty, inequality and were subject matter of gender discrimination, oppression, suppressions, cruelty, and victimization. In America violence against women is becoming one of the most crucial and burning problem and occurs in many parts. According to book, 'Gender and Crimes' in the U.K. most women live their lives in constant fear of being at risk of being their victims of the crime.¹ Throughout most of the world, women are usually the victims of violence, because of no fault on their part. The fact is that most of the men committing these crimes against women are not strangers to them. Mostly people working, living or in neighborhood of women, make them the target of criminal victimization. Generally, they are not the strangers to women and sometimes they are in relationship of and trusted in committing such crimes they breach the trust imposed by women. In relationship of trust, men want absolute control at all times on them and if for some reasons they fail to exercise control, they become violent against their women friend, associate, or partner. As a matter of fact, no female deserves to go through victimization whether the man is her associate at workplace, husband at home or a friend.

Centuries have come, and centuries have gone, but it is a fact that the plight of women is not changed. We have helplessly watched women suffering in discrimination, oppression, exploitation, degradation, humiliation, aggression from men as mook spectator and also as a participant's victims are not seen with respect in the society though they are not at fault. Sometimes society supposes that women were responsible and had contributed also to be a victim of a participants.

¹ Gender and Crime: A Human Rights Approach by Marisa Silvestri

Women around the world look feel and can be 'mook or brook' when it causes to achieving their rights. There can be places of love, care and fulfillment but, too often, there are also spaces where women and girls rights areviolated, their voices are stifled and where gender inequality prevails in today's changing world whatsoever may be advancement in the world but the fact remains the same that women never get they due rights in the society, and are victimized by man, known or unknown.

Victimization against women and girls is a major challenge in the Western Pacific. They were the greatest risk in the hands of someone whom they knew. Such violence is due to gender inequality. Unequal gender norms and attitude held by male make violence more common and it exists in every society. Gender based violence (GBV) or violence against women and girls (VAWG) is a global phenomenon& affects efficiency of girls and women all over the world. The one characteristics of gender-based victimization of women is that it does not know any social or economic boundaries and attacks.Women and girls from all socio-economic background, whether an under-developing, developing or developed country.

CHAPTER 2 – RESEARCH PROCESS

This research process contains four sub heads-

A. Research Questions

The research questions which are dealt in this dissertation are as follows

1. Why women are subjected to victimization.?
2. Why women are denied human rights?
3. Why Constitutional rights are denied to women?
4. Why women are not treated at par with men?
5. Why awareness is not being spread in men for equal rights of women?
6. What reforms are required?

B. Research Methodology

In this dissertation, the researcher has used different types of methodology like qualitative as well as quantitative one. Moreover, worldwide data collection and surveys has been used in this dissertation to know the status of women. Different tools for research have been used for the purpose of finding out the victimization of women in different times and in different manners.

C. Hypothesis

Researchers in the social and behavioral sciences, medicine, and public health have barely begun the process of delineating the nature of violence. Explanations for violence conceptualize the phenomenon in three very different ways — as embodied in (1) individuals, (2) social circumstances, and (3) social relationships. Data on violence and affection between heterosexual domestic partners support the first and third hypotheses, but not the second. These data also suggest that social relations powerfully condition individual behavioral predispositions and thus warrant two inferences: first, the most fruitful unit of analysis in violence studies is not the individual but specific individuals in specific social relationships or, perhaps, the social

relationships themselves; second, the most fruitful intervention efforts will be those which equalize gender power relations.

D. Literature review

1. President of U S A Giral Ford , while addressing the American congress said that the law had centered more to pay attention on the rights of the criminals and It was the right time that the things be reversed and New trend be given highest priority on victims and their rights.

2. In the year 1940, Mendelson, the jurist and philosopher, Non-hunting and Wolfhang defined the term victim in their literary works and books on Victimology for the first time in legal field.

3. FATTAH in 1966, wrote that a women victim must be specific such as physical woman or mortal woman.

4. QUINNEY in 1972, said a women victim that was a conception in reality as well as an object of the events.

5. CASTRO in 1976 has written that a woman victim is a certificate and crushable of the crime or an accident providing factor for others and herself also.

6. Lomborso has written in his book The criminal and the victim... has defined the woman victim as a women who has suffered physical or mental injury or harm, mental loss or danger or other social disadvantages as a result of her own conduct.

7. Von Honting in his book The Victim's and Crime.... that the study of the victim of a crime is a hard job and has given certain general features of victimization.

8. Meadows 2010 page 5 in his book, The rape a wild behavior... has stated the rape is one of the most unreported crime in India but other countries of the world.

9. Meadows in the book Victims of rape..... has sty that many date rape victims are reluctant to report the act for fear that that their own behavior shall be misunderstood and they be treated as consenting party by the society.

10. Report of Justice J.S Varma had recommended that the marital rape be made punishable, but the government did not agree.

11. The report of U.S Department of Justice says that only 31 percent cases are reported to police and authorities only
12. Scotts observations in Nirbhaya case has discussed the entire law on rape in long details
13. Tarana Burke, the founder of Me Too movement in 2006, wrote in her blog...ME Too was a catch photo to be used by Survivors to let the folks know that they were not alone and a movement for radical healing was happening and possible
14. Blog of Tanushri Dutta- Tanusha Dutta the Indian film actress had accused actor Nana Patekar for indecent touching and sexual behavior.
15. Blog of Vinta Nanda – Vinta Nanda the film writer and producer had accused the actor Alok Nath of committing rape on her after shooting of a film.
16. Book “ a literary history of Arab” written in 1966 written by RA-Nicholson has described the social and cultural status of Arab women.
17. Franklin Frank in her book “women, wonderful creation of god” has written that there is no beauty, life, pleasure, love and affection in the world without the presence of women.
18. Blog of Rohan Singh – Rohan Singh in his blog has written regarding love and care by a woman and value of her tears.
19. Napoleon Bonaparte has said “You give me good mothers and I shall give you a good nation”.
20. Thinker Aristotle has said that mothers are the founder of children because they are more certain that they are their own.
21. “Adisankhi.blogspot.com” states that there is beautiful narration between mother earth and god for creation of girls.
22. Report of Justice Malimath Committee – Justice Malimath committee has recommended in 2003 regarding amendment of section 498a IPC.
23. TUZUK-I-BABUR- written by Babur on the status of women during Mughal period.
24. HUMAYUNAMA by Gulbadan Begum on status of women during Mughal period.

25. Soma Mukherjee in her book “Royal Mughals and their contribution” has stated the references of Daulat Begum, the maternal grandmother of Babur, who guided Babur in his day-to-day administration.

26. Article by Pooja Mandal, a social worker and historian has stated that during Mughal period the substantial progress was made by women in education and employment.

27. John.L.esposito in his book “women in Muslim family law” had described the status of women in Muslim era.

28. W. Robertson and Smith Kinship in their book “Marriages in early Arabia” has described as to how undeveloped girls were married in Arabia.

29. Translation of Quran by Mohd. Hussan in 1981 – explains the status of women as shown in Quran.

CHAPTER 3 - WHO IS A WOMEN VICTIM? WHAT IS VICTIMIZATION

Women as opposed to men is a female symbol of with all the features of a female, having female reproductive organs. A women is a female human being, usually used for an adult girl. The origin of the word 'Female' is the Latin word 'FEMINA' which means a female in English. A women has two chromosomes and is capable of being pregnant after attaining the age of puberty which is menopause. The glyph is the biological symbol of a women.

Who is a Victim?

It is in many of the criminal justice system that is always proaccused & is not much concerned with the victims of the crime generally. The entire focus of criminal justice system is regarding the rights of offenders only. To punish against or rehabilitation or reform are the key sectors of criminal justice system all forcing an accused.

The victims of the crime, on the other hand are the forgotten people in the system. President of USA GERALD FORD while addressing the American Congress messaged as under :-

“For too long, the law has centered to attention more on the rights of criminals then on the victims of crime. It is high time we reversed thus trend & put the highest priority on the victims & potential victims”²

The concept of 'VICTIM' relates back to ancient civilization & culture its original meaning was rooted in law idea of sacrifice, the execution or casting out of a person or animal to satisfy a duty . The word victim came to have an additional meaning for over the victim. In 1940 Mendelson , Vonhenting & Wolfgang gave wide definition to term victims & victimology. They were of the view that a victim is a person as a helpless dues in stagnate their own victimizations³ . This was a motion that it was the victim who himself participated in his victimization. This concept, however met severe criticism & was subject to attack by feminist in 1980's & was replaced by the motion as victims as anyone caught in the asymmetric relationship or

² Speech of President of USA Gerald Ford addressing the American Congress.

³ First International Conference of the South Asian Society of Criminology and Victimology (SASCV), 15-17 January 2011, Jaipur, Rajasthan, India: SASCV 2011 Conference Proceedings

situation. Here, a symmetry means anything which is unbalanced, exploitative, parasitical, oppressive, destructive, alienating or having suffering. Today the concept of victim includes any person who suffers infuses, loss or hard ship due to any cause of other. The word victim is also used to in other references such as concern victim, accident victim, injury victim, decimation victim, victim of unequal treatment & crime victim. Here we are concerned with crime victim & particularly a girl or woman criticism. Thus, a women victim is one who has suffered injury & harm by criminal forces which were beyond her cornball.

The term "WOMEN CRIME VICTIM" generally means a women victim who has suffered injury or loss due to illegal activity of same one or even herself. As a matter in fact there are three types of women crime victims which are as under:-

1. Primary crime victims - First hand crime victims
2. Secondary crime victims - Second hand crime victims
3. Tertiary crime victims - Victims of crime i.e. victims such as through media.

The legal definition of women victims therefore can be defined in general as " A women who has suffered direct or threatened, physical, emotional or pecuniary harm as a result of the commission of a crime including hate crime " Generally the women criticism is over who:-

1. Has a direct result of crime suffered moral, physical, or medical damage.
2. Who suffered moral, physical, or external damage by an attempted offence.
3. Whose metered damage caused by the crime was made good after the crime, either by the criminal himself or by the state (Concept of U.S.S.R)

FATTAH (1966) is of the view that a women victim must be specific such as physical women or mortal women.⁴

QUINNEY (1972) has stated that a "Women Victim is a conception of reality as well as an object of events"⁵

⁴ International Handbook of Victimology, FATTAH (1966)

⁵ Who is the victim of crime?(1972) Article by Richard Quinney.

CASTRO (1979) " A women victim is a crushable of crime or is an accident producing factor for others & herself"⁶

LAMBORSON (1983-84) in his book 'The criminal & victim' has defined a ' women victim is a women who has suffered physical or mental injury or harm, mental loss or damage or other social disadvantages as result of his conduct'.⁷

VON HENTING has stated in the study of a victim in crime & hard found some general features which are as under in brief:-

1. The poor & ignorant immigrant women & those who are requisite or greedy are generally the victims of fraud.
2. Quite often the women victims of larceny (theft) are in the state of intoxication or sleepy women.
3. Warenter or sensed women may become victims due to situations perceived by universal fears.
4. A heartbroken or lonely women may be vulnerable to sensual offences .

The grievances of women victims can be shortlisted as under:-

1. Failure on the part of policies or law enforcing authorities & action & slow process of prosecution & less participation of a women victim.
2. Inadequacy of law in allowing women victim to proper & regular participation in the criminal case instituted in F.I.R.
3. Inconvenience during interrogation by the police & court proceedings.
4. Lack of medical help.
5. Lack of legal aid assistance.
6. Lack of police assistance / protection after the commission of crime.
7. Failure of restitution & rehabilitation.
8. Economic strains

⁶ Speech by Castro in 1979 in UN Assembly

⁷ The Criminal and Victim , book by Lomberson

9. Change in social rule
10. Frustration & feeling of helplessness.
11. Social stigma
12. Emergency of criminal behavior.

A women victim on the basis of her contribution / participation in the crime may be :-

1. A completely innocent victim.
2. Victim with minor guilt or victim of ignorance such as a pregnant women who goes to a quack for getting aborted.
3. Voluntary victim such as these women who commits suicide.
4. Women victims who her selves are micro guilty then the actual offender such as women who provide others to commit a crime.

The criminal type of women who commit offences against society & get killed or hurt by others in their self-defense.

Essentially a victim is inseparable part of the society as well as crime . Women crime victims being an integral part of the crime & a by actor, through mostly passive, in a criminal justice systems & better remained as forgotten entity as her status goes reduce only to reporting the crime police & appear as witness in the court. As a matter of fact, she routinely faces harassment , adjournments, delays rescheduling & other frustrations. This means loss of income /earnings, waste of valuable line expanses of transportation & other incidental expenses discomfort & discouragement along with painful felling against the prevalent system & society . We live in a welfare state & them we get so much agony for no fault of us.

CHAPTER 4 - STATUS OF WOMEN IN PRE -VEDIC PERIOD

Historical studies and scriptures indicate that Indian women enjoyed comparatively high status during the early vedic period (2000 BC to 1000 BC). The condition of pre-vedic women was good. Women enjoyed religious status like man. Early Vedic people wandered here and there in search of food and shelter and women accompanied them. As a matter of fact, they had a tribal life and then gradually shifted to aposture life. In early Vedic age women enjoyed women enjoyed the position of esteem and respect and there was a gradual decline in their status in later vedic period. The women however, had no right to property.

Status of women in Vedic-period

The Vedic age was an important phase in progress of modern civilization and culture, particularly then women. It has developed from a simple system of complex society around its evolution was gradual. There are main four religious trusts called Vedas. The early Vedic-period is from 1500-1000 B.Cscholars. Rig Veda tells that people were agro-pastoral and wealth was measured by the number of cows.

Later Vedic period became more complex as a result of transition to complex agro-grain community (during 1000 to 600 BC). Yajur Veda, Athar Veda and Sama Veda were rigid in rites. The status of women during Vedic period is a complex matter and it is supposed that women enjoyed a position of honor and respect and gradually decline stated in their status.

During Rig Ved, women occupied the same position as men in religious, intellectual, and spiritual field. Women like Vishwavara, Apala, And Ghosha composed the hymns and were equal to status of rishis.⁸

As far as marriage is concerned women/girls had freedom to choose their husbands (Swyambars) and were married only after attaining the age of puberty/maturity. There was no purdah system or seclusion for women, and they were free to move, were they wished. They were allowed to participate in public feast and festivals. No reference is found of Sati or Niyog practice.

⁸ Text from Rig Veda

At the culmination of Vedic period gradual decline in status of women started and priests began to perform many of the religious ceremonies which, women performed as wife. The participation of women in gathering at public places was also restricted later on. If a female child was born, mother was look down with disrespect and was never welcomed by the society.

Later Vedic text like MAITRYAYNI an ideal women was supposed to dine after her husband. Restrictions were imposed on education and inheritance of women.⁹

These factors subsequently led to the decline in the status of women during later period and consequently the women became victimized as a result became victim of the crime also.

Status of Women in Pre-Islamic Period

To get a true sense of the Arab Society before Islam we have to scrutinize legends, proverbs, and poems of this era. The oldest recorded poem was composed in 500 AD. "In these days poetry rooted in the life of the people was no luxury for the cultured people, but the soul medium of expression"¹⁰. These poems were recorded say about after four years later on so addition/subtraction, modification of subject-matter cannot be ruled out, there was diversity of Arabian society prior to Islam. As the cultural and Social norms varied from place to place so did women right and status.

Arab peninsula was divided into two regions.

1. Arid area of north &
2. Rain fed area of south

Southern area was heavily populated due to climatic conditions, condition of women cannot be understood without understanding the tribal system. It was the tribal structure and culture which has great impact on the rights of women. A tribe consists of a clan and clan consists of 'hay' and encampment of tents. "The clans claim upon its members was strong enough to make a husband give up his wife"¹¹. "Might was right, was the law, and consequently society would be subjected to

⁹ Text from Maitrayaniya Upanishad

¹⁰ (PHILIP HITTI, History of the Arabs, London, Mc Mellon & Co. 1961, p-72).

¹¹ Philip Khuri Hitti, History of the Arabs, 19-Nov-1970, Pg No. 27.

oppression of women and they had an inferior status. Female infanticide, divorce and inheritance, women were often deprived of their basic rights to choose their husbands freely, and to divorce. It was only physical beauty that got attribution and it has nothing to do with her moral beauty¹² committee infanticide before Islam young girls were usually the victims of crimes. In Arabia as among others, primitive people, “child murder was carried out in such a way that no blood was shed, the infant was buried alive. Often the grave was nearby the side of the bed on which the daughter was born.” Fathers felt shame that if war takes place their daughter may be made captive and victimized¹³.

As per the reason for girl infanticide was not the fear of being captive by enemy but scarcity of food grains and means for feeding as daughters were considered to be a burden and curse on the society.¹⁴

As far as marriages were concerned, the purpose was to increase the person of tribe by birth of males. Females marriages were done by¹⁵

1. Agreement of contract
2. By capture- after winning a war
3. By purchase
4. Marriage by inheritance heir of the deceased men also inherited wife
5. Temporary or mute marriage
6. Secret Co-habitation

Women were generally excluded from inheritance.

The advent of Islam

¹² R.A. Nicholson – A literary history of Arab s, 1966.

¹³ W. Robertson Smith, Kinship & Marriage in Early Arabia, 1st January 1973.

¹⁴ W. Robertson Smith, Kinship & Marriage in Early Arabia, 1st January 1973. Pg No. 294

¹⁵ John L. Esposito-women in Muslim Family Law 1982.

The advent of Islam brought profound changes to women in Arabians society. Islam reversed the cruel fraction and to some extent restored the social and economic rights of women, the general principles of equality, independence, freedom, and rights of women were not to be restricted.¹⁶

¹⁶ Quran's translation by Mohd. Asad- 1981.

CHAPTER 5 - STATUS OF WOMEN IN MUGHAL PERIOD

The position of women in Mughal period was not quite high. Women of higher classes did not move out of their houses or palaces except lower classes. 'Purdah' and child marriages were common. The Muslim women observed purdah more strictly than the women of Hindu clan. The birth of daughter was never welcome and considered to be inauspicious and was never rejoiced. Due to early marriage and difference of age between female and male was the cause of widowhood often. Girls & women in Mughal period were not allowed to remarry generally. Divorce was not common among Hindus but in Muslims its practice was common & prevalent. Polygamy was allowed in Hindus & Muslims, both without any rights to prior wives.

The brighter side of the social scenario was that the women exercised great influence at home and some of them helped their husbands also. Normally, men were responsible for looking after the economic affairs and outside matters. Women were responsible to maintain and look after the home affairs.

Though the overall status of women was low, unsatisfactory & disgraceful yet there were many Hindu & Muslim women of outstanding merits & ability. Hindu women like Rani Durgawati of Gondwana, Rani Karmawati, Mirabai & Tarawati were outstanding in merits.

As far as Muslim women are concerned, Salima Sultan Begum, Ruqaiya Sultan Begum, Mumtaz Mahal, Noorjahan, Chand Bibi and Zebun Nissa played important cultural and social roles.

Hindu women, after the death of their husbands either became Sati at the pyre of their husband or passed their lives as women hermits. Widows were either captured by Muslims for sex or molestation. Raja Ram Mohan Roy also opposed child marriage & purdah system. Likewise, Ishwarchandra Vidyasagar also made efforts for upliftment of the status of women. Widow Remarriage Act 1856 was passed.

Swami Vivekanand, Swami Dayananda Saraswati, Annie Besant and Mahatma Gandhi also took interest in the social, political and economic upliftment of women. Maternal movement also changed with the attitude towards women during Gandhian phase. Aparna Basu has said "Women would get in various kind of activities ranging from mass scale popular education, constructive work among Harijans and Aadiwasis, to formal institutional and electoral

politics.”¹⁷ The factors that influenced liberalization of women were intact of western education on the concept of complimenting sex roles and changing socio-economic conditions as a result of decreasing social philosophy of men and their hostility towards women was responsible for women’s independence taken to ground This resulted in purdah system.

However, the low castes were permitted to divorce or remarry. No purdah system was prevalent, and their movement were free.

Devdasi System

Among the Hindus, another evil the Devdasi system was prevalent. Hindu unmarried beautiful girls were offered to images of God in temples where they passed their lives as maid servant of god. This results in corruption and their victimization sexually and criminally.

In the course of time Hindus & Muslims intermingled with each other and consequently Hindu stated to accept the converts back to Hindu religion. There was change in food habits, culture and dresses of Hindu women also and vice-versa. As regards Muslim women they did not enjoy respect in the society. Polygamy was prevalent and the male Muslim had right to have four wives besides several made slaves. Purdah system was strictly observed Muslim women, though it was practically a compulsion and rather their victimization.¹⁸

Babur was the first Mughal emperor to rule India. From 1526 A.D. onwards Babar, Humayun, Akbar, Jahangir and Aurangzeb ruled India as Mughal emperors. In 1757, battle of Plassey gave Britishers a political control over India.¹⁹

The role of Mughal women in political area was magnificent. Mughal women contributed to Mughal empire, a noticed by male centric historians. Women were actively involved in ‘haram’ and court politics.

¹⁷Anandhi S. “Women's Struggle.” Social Scientist, vol. 19, no. 7, 1991, pg no. 62–64.

¹⁸ Tuzuk-i-Babur-Babur by Babar

¹⁹ Humayunnama by Gulbadan Begum.

1. **Aisan Daulat Begum-** She was the maternal grandmother of Babur. When Babur was only 11 years old his father died, and his own Kith & Kin were his enemy. Daulat Begum guided Babur in all sphere of life and was instrumental to make Babur as emperor.²⁰ Soma Mukherjee in her book “Royal Mughal And Their Contributions” has made above references.
2. **Maham-Amanga-** She was the chief nurse of Akbar and helped him from his childhood and gave love, care and pushed Akbar to take several strong political decisions. She was opposed to Bairam-Khan.
3. **Mah Chunchak Begum-** was one of the widows of the Humayun. She was stepmother of Akbar and was ambitious about her son Mirza Mohammad Hakim. She even defined the authority of Akbar.
4. **Noor-Jahan-** She was wife of Jahangir. She was highly educated and intelligent lady. It is said that gradually she took the reign of empire and started appearing with emperor in Jharoka Darshan.

Mughal emperors had ‘Haram’ or ‘Janana’ in which all facilities and royal food was available to women, but purdah system was strict. Conditions of royal women was otherwise that of respect. The condition of women of middle and lower class was however not very much satisfactory and they were all treated by men and were only an article of luxury and sex for men.

Status of women in British India:

British came to India in 1600 A.D. as a trading company. Subsequently they felt that Indian princes were engaged in fighting with one another and there was not a strong ruler to control

²⁰Soma Mukherjee ,Royal Mughal Ladies and Their Contributions, January 1st, 2011

India. Taking advantage of the situation gradually they started entering into politics at Calcutta, Bombay and Madras and often the Battle of Plassey 1757 A.D. and Battle of Buxar in 1764 A.D. Now British came to actual power. In an article by Pooja Mandal she has narrated the status of women as under: “During the British rule, several changes were made in the socio-economic structure of the society. During this period, some substantial progress was made in eliminating inequalities between men & women in matter of education, employment, social and political rights. Further industrialization, urbanization, spread of education and social movements were some of the important aspects of change which effected the status of women in many ways.”

“Education which has been identified as a major instrument for raising the status of women was stated during British period.”

For the first time in 1849 a girl’s school was started in Bombay. In 1882 Hunter Commission also laid emphasis on education of female.²¹

During British period two major movements were responsible for uplifting the status of women viz:

1. Social Reforms Movement of 19th century
2. National Movement of 20th century.

The issues which were the Centre of focus in 19th century relating social reforms were widow remarriage, abolition of Sati system, child marriage, denial of property rights and education of women. Raja Ram Mohan Roy was instrumental to independence and hostile victimization against women.

Sati, infanticide, slavery, child marriage widow remarriage and lack of women's right was the cause of victimization of women and during British rule, women got rid of all these social crimes during British rule and their victimization, therefore decreased considerably and they got emancipation from these evils to some extent.

1. Bengal Regulation Act of 1795 and 1804
2. Prohibition of Female infanticide Act 1870
3. Abolition of Sati Prohibition Act 1829
4. Chartered Act of 1833- Abolition of Slavery and also IPC 1860
5. Native Marriage Act (Civil Marriage Act) 1872 Prohibition of child marriage

²¹ The Hunter Commission, 3rd February 1882

6. Child marriage Restraint Act 1929

Thus, during the British regime with the help of the several social legislations the position of Indian women improved considered and they were subjected to less victimization than earlier.

Manu the greatest victimizer of women-

Manu is said to be law giver and Manu Smriti is a great source of social and legal atmosphere in ancient India, when there was no codified law.²²

In an article by Nitisha a great deal of information of status of women is discussed in view of thoughts of Manu. Manu on the one hand accorded respect to women but in most of his writing he victimized the woman as source of evil. Under code of Manu some contradictory slokas regarding the status of women are found in Manu Smriti but great emphasis is laid on women as source of all the evils.

1. “Manu said for Virtuous woman nowhere a second husband is declared. A maiden can be given only once, and that marriage of a widow is nowhere prescribed in the Shastra.
2. Manu exhibited the poor status of women and also some slokas related to evils relating to sex. Women is duty bound to serve elders and her husband.
3. Manu kept woman under the domination of male. Slokas 3 of chapter 9 has described the unprotections and Defenselessness and easy vulnerability of women. It has been pointed out that woman was never independent. To quote Manu “In childhood the father protects her in youth, she is protected by her husband and in old age sons protect her.”
4. Manu further said a woman does not deserve to be independent, Manu has not recognized women's rights to strengthen herself by prayer for her deity and to purify herself by prayers she threatened the human hell the young women who shouted sacrifice to her.

²² Manusmriti by Sir William Jones, 1974

5. Manu further said women was fickle minded lascivious and a seducer of man. Her body was the gateway to hell. She was impure in her thoughts and desires.”
He advised a wise man not to be alone with a woman. He even prohibited a disciple to be with the wife of his Guru.
6. Manu taught women to treat their husband their God. To quote “Women should worship her husband even when he was devoid of all virtues. Husband is the lord and master of his wife, he must be worshipped and obeyed even if he is devoid of all virtues.”
7. Manu prescribed heavy penalties for an unfaithful women and the adulteress. He laid so much emphasis the dominator of husband on his wife that he said that even if a woman was sold by her husband and be got a son from new man, the husband should continue to relation his paternity of the child, so born.
8. Manu also made provisions of punishment for a wife who did not obey her husband. He said, “ By violating her duty towards her husband a wife is disgraced in this world and after death she enters the womb of a jackal and is terminated by diseases, the punishment of her sin.”
 - a. “Wise people should avoid sitting alone with one’s mother daughter or sister. Since desire of lust is always strong, it can lead to temptation.” This shows the mentality of Manu towards women.
 - b. “ One should not marry woman who have reddish hair , red spotted part of the body (such as six fingers), one who is often sick, one without hair or excessive hair and one who has red eyes.
 - c. “Wise men show not marry women who do not have brother and whose parents are not socially well known.
 - d. A Brahmin who marries a shurdra woman, degrades himself and his whole family, becomes morally degrow loses Brahmin status and his children to attain status of Sudras.

- e. Food offered and served by a menstruating women is not accepted by Gods and Brahmins after Shradha or any ritual.
- f. Women have no divine right to perform any religious ritual, not make values or observe a fast.

The critical examination of Manu Smriti shows that Manu was confused about the status of women. On the one hand he put women on highest place, to be worshiped and better half of a man but in most of the slokas he mentioned women as shudras, untouchable and at the lowest ebb of the social status. His slokas are regarded by Hindus as source of social & religious as well as legal knowledge & this let down the status of women & made them to subject of victimization even today.

Ordeal of Sita - The Victim

The episode of Rama exiling Sita Mata is one of the most disturbing and incomprehensible events in the Ramayana, particularly when she was five months pregnant. The Ramayana tells us that Sita Mata saw a golden deer in the forest and asked Lord Rama to kill it & bring its 'mirgcharm' to her. It is said that the deer was not someone else but devil (Rakchhas) Marich who look the shape of deer to attract Sita. Ram started chasing the deer with bow & arrows and took Rama to deep forests. Meanwhile Ravana, the king of Lanka with his evil plan to kidnap Sita took the shape of a hermit and came to the 'Panchvati' in the forest where Ram, Sita & Lachman were living in a hut. Ravana in the shape of hermit started begging for the food in front of Ram's hut.²³

Ramayana further narrates that Ram had left Lachman there to protect Sita behind him. Marich the so-called deer started shouting in the voice of Lord Rama "Save me, protect me" again and again & when Sita heard this voice of Rama, she directed Lachman to rush to forest to rescue Lord Rama. Lachman, however, was reluctant as he knew that no one are in this world was so potent & powerful to damage Lord Rama. It is further mentioned in Ramayana that Mata Sita scolded Lachman & said that he had bad eyes on her & compelled Lachman to go away from hut to save Lord Rama. Ravana, taking advantage of the situation kidnapped Sita & took her away to

²³ Ramcharitra Manas by Tulsi Das.

Sri Lanka where he kept her to 'Ashokvatika', under supervision of cruel lady 'Rachasas'. They tortured, abused and seduced Sita to marry Ravana on instigation of Ravana.

Rama with the help of Lord Hanuman traced the location & whereabouts of Mata Sita, attacked Sri Lanka, killed Ravana and rescued Mata Sita.

According to MADHUCARYA's Mahabharat Tatparya Nirnay the original Mula Ramayana consisted 100 crore slokas while present Valmiki Ramayana consist of only 24000 slokas. Vivid description of episode is found in the Medhevacharya's grantha.

The custom of Vedic civilization is that the king would have a vast espionage system in place to understand the news inside and outside the palace/kingdom. Lord Rama also was not an exception to this procedure. Lord Rama had his six main spies in the kingdom and these spies gathered the news/whispers of the kingdom. What was the opinion of citizens toward king was gathered by these spies & narrated to Lord Rama. Five of the spies heard the citizens glorifying Lord Rama with great love & affection. Six spy was entrusted to go to quarters of artisans for espionage & he overheard the following conversation of a washer-man:-

“A washerman, with his eyes red due to anger & full of anger kicked his wife who had stayed at another's house, and despised her: “From my house, go to the house of him where you stayed for a day. I shall not accept you who violate my command. However, his mother said to him, “Do not abandon her who has come back to our house, who has not committed any fault and who is free from bad acts.”²⁴

It is said that the washerman replied to his mother, “I am not as great as Rama as to accept my wife who stayed in another's house. Whatever that king does, might be lawful, but I will not accept my wife who has stayed another's house.” I am not king Rama who protected Sita who had stayed in another's house”²⁵

²⁴ Ramayan by Valmiki.

²⁵ PADMA PURANA

The spy was greatly angry but did not kill the washer-man as it was the command of his king that no subject should be killed. Other spies asked him not to disclose such a derogatory remark to Rama, but one of the six spies disclosed the same to Rama and he fainted. When he gained senses, he asked Bharata, "Should I abandon my pregnant wife or commit suicide." At this Bharata told Rama that even Lord Brahma was declared Sita as pure as pious but Rama insisted to exile Sita or asked Bharata to behead him (Ram) in order to avoid public criticism Chapter 57 of Padma Purana reveals that how Sita was exiled.

Sage Valmiki discovered Sita in exile & brought her to his hut.

There is another view that when Rama doubted fidelity of Sita, she decided to prove herself to be faithful to Rama & in order to prove it, she decided to give fire ordeal. In details at Emerald Buddha Temple of Thailand, Sita stands calmly in a gated area with flames burning around the lotus blossom platform. She prayed God that if she was pure & faithful to Ram, God may save her. Goddess Lakshmi protected her as she was a faithful woman, devoted to her husband & fire was like cool water & breeze for her and she did not get even a single burn and proved and passed her ordeal successful.

Now comes the part of victimization of Mata Sita. She was devoted, unchaste, loving and caring for her husband & voluntarily took the decision to go to forest with her husband. She suffered all the odds of the forest without any complaint and happily. Even at Ashokvatika when Ravana threatened to kill her in a month if she did not marry, she remained unmoved. Tulsidas in Ramcharitmanas in Sunder Kand has narrated that there was a lady 'Rachhasai' in the name of Trijata who had soft corner & love for Sita. Sita when got the threat of Ravana said to Trijata, "Mat vipati Sangani thi meri, tajiyaon dehan ker beg upaiye, dusah birah ab sahi nahi jai. Aaan Kath rachi chita banai, mat anal puni deh lagai."²⁶

She was ready to sacrifice her life, her devotion for Ram was unparalleled & even then she was asked to give ordeal by Ram and was exiled. This was the highest victimization of a pious lady. Even at that time Rama, who is said to be Maryada Purushottam victimized her devoted wife for no fault of her.

²⁶ Sunderkand, Ramcharitra Manas by Tulsi Das

Victimization prevailed in all the times against women & pious Sita also became the victim of crime which she never thought.

Victimization of Draupadi

1. Yudhisthira & his four brothers were the rulers of Indraprastha and were known as Pandavas. Duryodhana and his 99 brothers were the son of Dhritrashtra, the blind king. Thus, Kaurava and Pandavas descended from one branch but were rivals. Yudhisthira was the eldest of all the Pandavas and Draupadi was his queen. As a matter of fact, she was queen of all the five Pandavas.
Duryodhana, the prince of Hastinapur empire was jealous with the name of fame of Pandavas and Indraprastha.
2. In order to drag the Pandava's status from the king to poor Duryodhana took the help of his maternal uncle Shakuni, a wicked and shrewd player of gambling (CHAUSER). It is said that Shakuni was a skilled gambler and master of Chausar & all the pansas (dices) were slaves of Shakuni and obeyed the command of Shakuni and Shakuni knew this fact very well. Duryodhana, at the instance of Shakuni and with a sinister design in mind invited Pandavas to Hastinapur for gambling.
3. Yudhisthira accepted the challenge and as expected lost all his wealth, kingdom, brothers & himself in gambling and as a result Duryodhana became their master and Pandavas were reduced to the status of slaves and were bound to obey the commands of Duryodhana.
4. According to MAHABHARATA written by Vedvyas, Shakuni reminded Yudhisthira "You have not lost everything yet. You have Draupadi to put at stake and chance to win everything back.
5. As a matter of fact it was a trap which was laid down by Duryodhana & Yudhisthira became the victim of that trap and lost by bet Draupadi and lost her also. Bhishma Pitamah

&Dronacharya present there had opposed this betting as a woman was not the subject matter of gambling like other articles but no heed was paid to their opposition. As planned Shakuni won. He started the victimization of Draupadi. Firstly, it was Yudhisthira who made victim to Draupadi by putting her on bet and now her onslaught started. Dushasan was the younger brother of Duryodhana and was commanded to drag Draupadi, who rushed towards the living quarter of Draupadi, caught hold of her hair and started dragging towards the court. Yudhisthira had bet Draupadi without her consent as a commodity.²⁷

Draupadi repeatedly questioned about the legality of the right of Yudhisthira to put her at stake, who himself had lost himself and was in the position of slave. How a slave can bet a queen on stake? He had lost all his rights on Draupadi as a slave whereas her status still was that of a queen and she had not given her consent also. At this silence broke out in the courtroom and no one had answer to this legal question. The worst and saddest part of civilization was yet to come. Duryodhana ordered Dushasan to disrobe her before court. She repeatedly challenged the right of Yudhisthira, cried for help to save her modesty but none came to her rescue nor did anyone have an answer to Draupadi's legal query. Vidura and Vikrana, one of the Kaurava's objected to act of Dushasan and asked for the answer to Draupadi's legal question but in vain, Karna humiliated Draupadi and Duryodhana invited her to come and sit on his thighs. When all the great men present in the court did not come to rescue of Draupadi, she requested Lord Krishna to save her from being naked and Lord Krishna by her grace did not permit her to be undressed, by dropping her other clothes & by wrapping her by sari endlessly. This all happened in the presence of all the five Pandavas, who were bound by the so called 'Dharma'. They forgot that it was also their Dharma to protect their wedded wife from being victimized by their enemies publically. Draupadi was a pious, strong, virtuous and wife of Pandavas particularly brave Bhim and Arjuna but was subjected to be a victim of crime.

Women to subject matter of self-victimization

Though it is true that women are physically not much strong as compared to men. But in ancient time, Society made them mentally and psychologically weak in comparison to men. She

²⁷ Mahabharat by Ved Vyas.

considered herself inferior to men in education, logic, and religious preaching. This thinking of women was not true and as a matter of fact it was her self-victimization.

Gargi Vachaknari

She was in 7th century BCE and was a great philosopher in Vedic literature and renounced expounder of Vedas and is known as 'Bramavadini'(Gargi). She participated in brahma yajna; a philosophical debate organized by king Janaka of Vidisha. The subject matter of debate was at men or soul.

Yajnavalkya was one of the greatest vedic philosopher of that era and debate took place in between him and Gargi.

According to BrihadaranyakaUpanishad all the learned sages, Kings and philosophers were invited in the debate by Raja Janaka. Winner was to get 1000 cows. With 10 grams of gold embedded on cow. Yajanvalkya who was sure to be winner as had acquired Kundalini Yoga ordered his disciple to drive away the herd of cows to his house even before the beginning of debate. This infuriated the sages. Eight renounced sages including the only lady, Gargi challenged him. She had repeated arguments with her.²⁸

At the end of debate she conceded too Yajnavalkya though she was fully in command of the debate and was in position to reply the query of Yajnavalkya but she thought that being a lady if she wins, the name of male philosopher will be lowered and he will be seen with disrespect by sages present in court. By this thinking she conceded, and this was her self-victimization for which she herself was responsible. It was self-victimization of women even in that era.

²⁸Brihadaranyaka Upanishad by Yajnavalkya

CHAPTER 6- PRE NATAL-VICTIMIZATION

How cruel and immoral is our society as it did not allow a girl child to come in this world. To some communities the birth of a girl is never welcome. The process began in early 1990 when ultrasound techniques spread widely in our country. As a matter of fact, there was a tendency for families to continuously produce children until a male child was born. For that sex determination and sex selection, abortion by medical professionals has become a billion-dollar industry throughout the world. As a matter of fact, it is a social discretion and discrimination by men against a girl who is still unborn. It is said in Vedas that it is a sin who provides Mokcha to parents after their death. So, preference is given to birth of a son and girl if in womb is aborted.

Nowadays a new trend is also emerging as people want only one child or maximum of two and out of two one should be son as per their planning. As per the inputs of health department, many couples especially those from affluent section of the society and those who have plenty of money are flying abroad nowadays to get gender determination test and if required to get termination of pregnancy abroad Countries like Thailand&Singapore are the heaviness for such tests as it is legal there to do so. In Dubai sex determination is legally allowed but not the termination of the pregnancy. People avoid legal complications and also get rid of social system in India.

In India, parental gender determination and feticide are prohibited under Indian laws. More shocking is that the health mandarins as well as Government is also aware of this fact and grinding challenged to frustrate all efforts to check female feticide and boost sex rate. A report of Govt. of India published in its health bulletin says, “A Couple coming from rural areas or belonging to lower income groups pays anything between Rs.15000 to Rs.3000 to terminate pregnancy, illegally, in India.”²⁹ On the other hand, same procedure can be done abroad at almost same cost. The travelling cost is the only additional and in more hygiene conditions with proper medical back up. So those who can afford to go outto avoid legal hassle opt to go abroad. In an article in Times OfIndia it is written that though there is no confirmed official complaint to suggest the exact data.

Dr. Rakesh Gupta, an additional principal secretary to the CM and one of the Coordinator of ‘BETI BACHAO BETI PADHAO’ in Haryana said that there is no such law that could control this exercise. “If anybody goes, that says to Singapore and gets a sex determination list done and

²⁹ Health Bulletin, Government of India, 2019.

also aborts female fetus there is nothing we can do about it because they are not violating any law in India. But very few people can afford to travel abroad for this. Earlier, people were going to neighboring states, but we have already made this trend punishable.³⁰ This is the story of only one state, i.e. Haryana only.

Dr. Manasi Mishra, the head of research and knowledge management at Central for social research, has observed that rich couples often want only one or maximum of two kids. “And to ensure that there is a son to carry on the family lineage, they went to be sure about the gender of fetus. They somehow manage to evade legal action dispute being involved in both pre-natal sex determination and abortions.”³¹ Dr. Manshi Mishra is presently working in Gurgaon and working in this field.

PRE-CONCEPTION AND PRE-NATAL DIAGNOSTICS TECHNIQUES (PROHIBITION OF SEX SELECTION) Act 1994

Parliament of India passed this legislation to stop female infanticide in India and to the declining sex ratio is now banned pre-natal sex determination all over India. Now every genetic Counseling Centre, generic laboratories or genetic clinic engaged in counseling or conducting pre-natal diagnostic techniques like in-vitro fertilization (IVF) with potential of sex selection before and after the conception comes under the provisions of the PCP NDT Act, which are now banned. This Act was further amended by the Pre-Conception and Pre-Natal Diagnostic techniques (Prohibition of sex selection) Act, 2003³². Besides Medical Termination of Pregnancy (MTP) Act, 1971 as amendment in 2002 also prohibits termination of pregnancy except on medical grounds. The laws in India do not permit abortions. In some cases, the desire for a small family with a sex is also one of the causes of illegal termination of pregnancy after sex determination list.

Innovation of the latest technologies has had sex selection easier and illegally these technologies were misused by doctors for earning huge amount of money. A pregnancy caused as result of

³⁰ Speech by Dr. Rakesh Gupta, Additional Principle secretary to Chief Minister of Haryana and coordinator of BBBP.

³¹ Sex Selective abortions in Delhi and Haryana, Dr. Manasi Mishra, Head of research and knowledge management at center for social research.

³² Criminal law Amendment Act, 2003

rape is presumed to constitute a grave injury to the mental health of woman victim. Law permits termination of such pregnancy. Further if any device of family planning fails and the woman gets pregnant, even in this case also termination of pregnancy is permissible and in U.P. there is a provision of monetary health of Rs.30000 only if delivery takes place. It is a mockery of rules made by government as Rs.30000 is only a meager amount and this rule further causes the victimization of a woman or rather or insult to her status. Recently in certain cases, on the basis of deformity of child in womb, S.C. has permitted abortion even up to pregnancy of six month, or medical advice only.

In a landmark judgment of 2017 (28.2.17), the S.C. in a case of a 37-year-old mother, who requested abortion of her 26-week-old fetus detected with down syndrome at 22 weeks. According to Medical Termination of Pregnancy Act 1971, grounds for granting abortion include, but are not limited to, women facing the birth of a handicapped or mal formed child within 20-week gestational period under Sec. 3 of the MTP Act 1971³³. However abortion is allowed if continuation of the pregnancy could involve a risk to the life of involved women or caused grave injury to her physical or mental health, or there is a substantial risk that of the child was born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Thus, if the mother has not crossed 20 weeks of gestation, she would have been eligible for abortion under the MTP Act. In spite of the fact of such a clear cause, the S.C. denied the abortion. I think it was also a victimization of a woman. Though I have no right to make any comment on the judgment of SC, but constitution of India has given me the right of speech and expression with certain limitation. Supreme Court used thus like ‘Everybody knows’ rather than relying on scientific evidence of the equality of life of someone with down syndrome.” I think it is my fear comment. It is however a welcome news that S.C. recently had permitted an abortion at 26 weeks as a special case, thus paved of way for eradicating the victimization of women. MTP Act, 1971 now requires amendment in the light of this judgment.

³³ Section 3 of the Medical termination of pregnancy Act, 1971.

HIV AND VICTIMIZATION OF WOMEN-

There are numerous sex workers all over the world and hetero sexual HIV/AIDS transmission to women is a great victimization. Violent victimization is considered to woman's ability to protect against HIV and other Sexually Transmitted Infections (STI). As a matter of fact, it is an intersection of violence against women by intimate partners and risk for HIV infection is common in women. The prevalence of IPV & HIV infections among women varies globally but females remain at elevated risk of these infections. Use of condoms is a safe mode of sex to avoid HIV but men, even knowing that they are infected with HIV positive, for natural pleasure avoid use of it and thus knowingly and voluntarily transmit HIV to woman, a deadly victimization without any cure.

CHAPTER 7 - WOMEN THE VICTIM OF RAPE

No doubt sex is a biological need but forceful sex is not only the crime but also moral wrong. As a matter of fact Gender Based Violence (GBV) or violence against women & girls (VAWG) is a global pandemic. This issue is not only devastating for survivors of rape but also entails social and economic costs. Failure to address this issue also entails a significant cost for the future. Research has revealed that girls growing up with sexual violence become criminals themselves or perpetrators of violence in the future.

The most important factor of gender based violence is that it does not know social, moral or economical boundaries and women and girls of all sects, status or socio economic background became victims of rape crime. In order to reduce the crime of rape, it requires a community based educational and multipronged thinking and sustained engagement with all the stakeholders.

It is true that around the world the achievement of women is being elaborated on intentional woman's day i.e. 8th Mach every year which began back in 1911. But the day must also highlight the work that remains to be done in order to achieve gender equality. Just a week before international women's day, a new group of female leaders has voiced its fears that full gender parity may not be achieved and that it's actually being eroded. Signed by 26 women leaders including the former New Zealand Prime Minister 'Helen Clark' a letter was written letting that everyone in the world could suffer if women did not get true equality. As per the letter, "Above all, we seek to underscore that the risk posed by politics that seek to halt and erode gender equality is a risk not only to woman but also to all of humanity because half the population is prevented from contributing to its full potential."³⁴

³⁴ Letter by Helen Clark(then Prime Minister of New Zealand) to UNO.

The signatory to this letter were former Irish president & UNHR CR High Commissioner Mary Robinson, former Argentinean Foreign Minister Susana Malcorra and Margaret Chan the former Director General of W.H.O.

Rape as legally Defined

Before 3.2.13 Section 375 of the IPC defined rape as under:-

“A man is said to commit rape who, except case hereinafter excepted, has sexual intercourse with a woman in circumstances falling under only of the six following descriptions:-

Firstly- Against her will

Secondly –without her consent

Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or hurt.

Fourthly- With her consent, when the man knows that he is not her husband and that her consent is given because she believes that she is lawfully married to him.

Fifthly- When her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance of their nature and consequences of that to which she gives consent.

Sixthly- With or without her consent, when she is under sixteen years of age

Explanation- Penetration is sufficient to sexual intercourse necessary to the offence of rape.

Explanation- Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age is not a rape.

The above definition excluded the marital rape, some sex crimes are considered all sex with a minor below the sixteen years as a rape.”³⁵

³⁵ Section 375 Indian Penal Code, 1860

After 3013, the definition was revised/amended through the criminal law (Amendment) Act, 2013 which also raised the age of minor to eighteen. Now Section 375 shows as under:

“A man is said to commit rape if he-

- a. penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a women and makes her to do so with him or any other persons;
- or
- b. insert, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a women or makes her to do so with him or any other person or,
- c. manipulates any part of the body of a woman so as to course penetration into the vagina, urethra, anus or any part of the body of such women or makes her to do so with him or any other person or,
- d. applies his mouth to vagina, anus, urethra of a woman or makes her to do so with him or any other person under the circumstances falling under any of the following circumstances

Firstly- Against her will

Secondly- without her consent

Thirdly

Exp.-1: For the purposes of this section ‘vagina’ shall also include labia majore.

Exp.-2: Consent means an unequivocal voluntary agreement when the woman by words gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act.”³⁶

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exceptions:

1. A medical procedure or invention shall not constitute rape.
2. Sexual intercourse or sexual acts by a men with his own wife, the wife not being under the fifteen years of age is not rape.

³⁶ Criminal Law Amendment Act 2013.

No doubt the amendment of 2013, widened the definition of rape, yet marital rape when wife and husband live together continued not to be a crime in India.

Section 376B of the amended act of 2013, made free sexual intercourse by a man with his wife if she is living separately under a decree of judicial separation is a crime & is punishable with at least 2 years prison term.

Why rape is mostly unreported-

It is one of the most under reported crimes in India. The uniform crime report is an annual report that reveals that offences reported to law enforcement agencies at the cities, country and state levels³⁷. This report details the offences that are reported to authorities.

The National Crime Victimization Survey is also a source of data that recognized detailed report of crime victims. There are many reasons as to why rape is underreported. Rape victims also have to fear the embarrassment that a rape case victim when someone does report a rape and it goes to Court, the defense lawyer may try to prove that it was consensual or that the victim wanted to have sex. Also the police officer, interrogating the case may ask questions that appear to blame the victim herself. It is true that there are laws protecting the rape victims to certain extend but it is equally true that once raped, victim is again raped and raped by police & defense in the name of right of accused to defend himself.

Many date rape victims are reluctant to report the act for fear that their own behavior will be misinterpreted by others.³⁸ Rape victims also fear relations if they do report the victimization of rape by the attacker. Many rapists may even threaten the rape victims to prevent them from going to police. Victims take these threats seriously because the attacker had dared shown his violent nature at the time of committing the rape, so she may be capable of much worse. In the case of date rape, attacker may know where the victim lives and works and this makes the threatens more dangerous because they know how to find out the victim for further victimization.

³⁷ Incoming Freedom Chairman, Mark Meadows, U.S., pg.5.

³⁸ Incoming Freedom Chairman, Mark Meadows, U.S., pg.98.

Rape is profoundly different type of crime as attackers are using their bodies as a weapon. In fact instead of stealing some personal item that can be replaced the attackers take something which can never be replaced. This ordeal may only last few minutes or hours but its impact is deep and everlasting on the mind of victim. As per the report of U.S. Department of justice only “31% of all rapes are reported to the authorities.³⁹”. This creates a problem in the criminal justice system because it is difficult to put a stop to rape when most women do not report their victimization. As per the National victimization Survey ‘ The most common reason given by victims of violent crimes (including rape) for not reporting a rape was that it was a private or personal matter.’ Victims have their own reasons for not reporting rape like “fear of reprisal, embarrassment, or the belief that the victim may not be believed.” Meadow 2010 page 10. All these issues contribute to the under reporting of two rapes cases. Rape is also under reported because victims fear that they will not be believed. Many of the cases of rape end up being ‘he said, she said because there is no physical evidence of rape, particularly if the women are married and is habitual to sexual intercourse. If there are no bruises or cuts on the victim, it is difficult to prove rape in term of medical evidence, medical examination of a rape victim if conducted immediately it rape, may show bodily fluid present on the private part of the victim, but that only shows that there was a sexual inter course, it does not prove whether it was a con sensuous or forceful. If rape is committed by pulling the woman under fear of death or grievous injury, there are no chances of bruises or injury on the part of women. Clever rapists may use condoms so that no spermatozoa are seen or found in the slide of vaginal smear.

Date Rape-

There are different types of rape. One is rape by a stranger whereas in such cases violence is often being used. The most common type of rape, nowadays, is date rape. It is a rape by a person known to victim. It may be in a party or at romantic place. Date rape crime also include the use of alcohol or narcotic drugs intimate relations between rapist and victim encourages to men to move further to have sex may it be with consent or without consent.

³⁹ Book Review: Arrigo, B. A. (2006). Criminal Behavior: A Systems Approach. Upper Saddle River, NJ: Prentice Hall. pp. xxiii, 340, Pg. No. 108.

Drugs used in rape-

Sometimes men use the drugs which make women drowsy or unable to protest. These drugs in liquid form are colorless and odorless can easily be mixed in cold Rohypnol gamma hydro-oxybutyric acid (GHB) & Ketamine are few of the drugs that may be slipped into an unwilling participant drink. These drugs produce long sedation, a feels feeling of well-being and pleasure and loss of short term memory also. The effect of these drugs is that the victim does not remember what had happened with her and even feels feeling of pleasure when she gains consciousness. Thus though the rape is committed on a women, she becomes silent victim only.

Landmark judgments of Supreme Court on rape-

Hon'ble Supreme Court has expressed its views on rape in various judgments. Following are the landmark judgments of great significance, In spite of so many strict and stringent legislative for the safety of women to curb the vulnerable and deteriorating condition, the acts related to rape are increasing day by day at a very high space.

1. Tukaram and another Vs. State of Maharashtra AIR 1979 SC 185 (MATHURA Case)- A young tribal girl named Mathura was allegedly raped by two policemen while in custody on March 26, 1972.

Issues raised related to burden of Proof, two girls were used to sex and girls previous immoral character.

Sessions Court held that Mathura was a consenting party as she was habitual to sexual intercourse. Session Judge was of the view that there is major difference between rape and sexual intercourse.

In appeal by State of Maharashtra the High Court reversed the judgment of Sessions Court and observed that there is difference between 'consent' and passive submission and held that "Mere passive and helpless surrender of the body and its part to the others lust induced by threats or fear cannot be equated with the desire or will, nor can furnish an answer by the mere fact that sexual act was not in opposition to such desire or volition.

The policemen approached Supreme Court challenging the judgment of High Court where they were acquitted Supreme Court held that no marks of injury were found on the body of girl,

there were no sign of struggle, there was no evidence that girl was put in fear of death or hurt and so she was a consenting party to sex.⁴⁰

After this judgment protests and huge public outcry took place which led to amendments.

Criminal Law (Second Amendment 1953 inserted Section 114 (A) in India Evident Act, 1872 which states that in a prosecution of rape, where it has already proved that the sexual intercourse by accused did take place, if the victim says that she had not consented to the sex, the Court shall presume that she did not consent as a rebutted presumption of law.⁴¹

Further sections 376(A), 376(B), 376(C) and 376(D) were inserted. Under Section 376(2) of IPC 1860, offences in police custody were added. Under 376(2) minimum mandatory punishments of 10 years upto life imprisonment was laid down.⁴²

The idea of burden of proof was also changed. If sexual intercourse is proved, it is for the accused to prove his innocence Section 228 A in IPC was introduced regarding not disclosing the identity of victim.

2. Vishaka vs. State of Rajasthan & others JT 1997 S.C. 384 (Bhanwari Devi's case)

In the year 1992 a lower class / caste social worker for the women's development programme in Rajasthan named Bhanwari Devi was trying to stop a child marriage in her village. She was opposed by men of higher community. She was allegedly raped by 5 men of higher caste and when the victim lodged FIR no thorough investigation was carried out.

This is a case of sexual assault at workplace. Now the question arose as to whether an employer has any responsibility to save its employees from sexual assault at work place. Case was acquitted in trial Court for want of medical evidence. A PIL was filed by women organizations before Supreme Court. After long hearing Supreme Court held that sexual harassment of a woman at a workplace is violative of her fundamental rights of gender equality under Article 14, 15, 19 & 21 of Constitution. This verdict of Supreme Court laid down a new way for legislation to protect woman from sexual victimization at work place. Following guidelines were issued by Supreme Court:-

⁴⁰ Tukaram and another Vs. State of Maharashtra (AIR 1979 SC 185).

⁴¹ Criminal law Second amendment Act, 1953.

⁴² Section 376(2), Indian Penal Code, 1860.

1. For preventing the acts of sexual harassment at the work place employer is directly bound to prescribe the procedure and settlements.
2. Formation of Complaint Committee at all workplaces, may be private sector or government establishments.
3. Such Committee is to be headed by a women employee only with participation of women NGO.
4. Help of the members of this Committee must be woman.
5. All complaints regarding sexual harassment of a women employee would be dealt by the Committee only, and on the basis of report the Committee employer must like appropriate action of guilty, in accordance with the procedure established by the law.
6. This Committee would also advise the victim regarding future course of action.

Supreme Court held, “Uncoocline sexually determined behavior and demand by made employees at work place, such as any physical contacts and advance sexually colored remarks, showing pornography, passing indecent comments or gestures, sexual demand by any means, any rumors/ talk at workplace with sexually colored remarks about a working women or spreading rumors about a woman’s sexual relationship with anybody.”⁴³ This judgment harassment of women at workplace (Prevention, Prohibition and Redressal) Act 2013 which come and force on 9.12.13.

Mukesh and others vs. State for NCT of Delhi & others (Nirbhaya case).

The victim was a young trainee physio-therapist and was accompanies by her boyfriend in a bus. On 16.12.12, victim aged 23 years was repeatedly raped by 5 men including one juvenile in a moving bus in Delhi. She was also assaulted by rod of iron and her intestines were ruptured and in spite of best treatment in Singapore she died. One of the accused handed himself to death and rest four were awarded capital punishment.⁴⁴

After Math.- After this incident, a panel was set up under the Chairmanship of Justice J.S. Verma (former C.J. of India) to suggest death penalty of punishment for such type of brutal rape and murder. The panel submitted its report in one month and on the basis of its recommendations, amending Act 2013, amendment in IPC & Evidence Act were made.

⁴³ Vishaka vs. State of Rajasthan & others (JT 1997 S.C. 384).

⁴⁴ Mukesh and others vs. State for NCT of Delhi & others ((2017) 6 SCC 1).

Further, Protection of Children from Sexual Offences (POCSO) Act 2012 was also amended and death sentence was recommended in rape murder case. Section 354A to 354D were also introduced in IPC for minor offences relating to sexual offences.

It is mockery of criminal justice system that till date accused are not hanged to death on several legal flows in Indian laws. Now ultimately all the accused have been hanged till death. Their death warrants have been cancelled thrice on the ground of pending curative petitions, mercy petitions and again petition to L.C. of Delhi to reduce death sentence to life. 20 March is now fixed for hanging. Let us see that no other loophole of law is availed by accused. Here the Nirbhaya died but now actual victims are her parents who have fought a long legal battle without losing patience.

It is the high time that legislature should take notice of the fact that accused were taking advantage of legal flows and victim who is no more in this world is still waiting justice. Law should be amended in such a way that once capital sentence is confirmed by the apex court, there should be a time limit for curative and mercy petitions and if mercy petition is not disposed of in a month, it should be deemed to be rejected and hanging should take place.

Here it would not be out of place to mention that the recommendations of justice Verma panel recommended the amendment in Cr. P. C. and Indian Evidence Act. Following amendments were incorporated in Criminal Procedure Code:-

1. **Amendment in Section 26:-**Here as Under Section 376, 376A, to 376D shall be tried as far as possible and practicable by presided often by a woman.
2. **New Praise-**If any information is given by a woman against whom the offence has been committed U/S 326A, 326B, 354, 354A to E for 509 of I.P.C. shall be recorded by a woman police officer or any woman officer.

Amendment of Section 160:

If such person is temporarily or permanently mentally or physically disabled such information shall be recorded at person's residence or any other convenient places in the presence of an interpreter or a special educator. Such recording shall be video-graphed.

No sanction shall be required if any public servant is accused of the offence committed U/S 354, 354A to D, 376, 376A to D.

Juvenile justice (Care and Protection of children) Act 2015 was passed and age of a juvenile was reduced from 18 years to 16 years.

Important quotes by S.C in Nirbhaya case-

Hon'ble Supreme Court while upholding the death sentence made certain important quotes which are being narrated verbalism as under:

1. "The diabolical manner in which crime was committed leaves one startled as to the prevent mental state of the inflicts. On top of it after having failed to kill her on the spot by running the bus over her, the victim was thrown half naked in the wintery night with grievous injures.
2. "If at all there is a case warranting award of death sentence, it is the present case. If the dreadfulness displayed by the accused in committing the going rape."
3. "The present case clearly comes within the category of 'rarest of rare case', where the question of any other punishment in unquestionably foreclosed. If at all there is a case warranting the award of death sentence, it is present case."
4. "If the dreadfulness displays by the accused in committing the gang rape, unnatural sex, insertion of iron rod in the private part of the victim does not fall in the 'rarest of the rare' category, then, one may wonder what else would fall in that category."
5. By not imposing a death sentence such cases, the court may do injustice to the society at large.
6. We have a responsibility to set good values and guidance for posterity. In the words of Swami Vivekanand, the best thermometer to the progress of a nation is its treatment of its women."⁴⁵

Herli Murlidharan while replying to the question as to which is the worst crime in the world said "it is rape because it is the only crime where the victim gets the punishment."⁴⁶

It is true that law grows with the growth of society and it must change with time. Suitable legislations are enacted and are being enacted to save women from being rape victims but lot is still to be done.

⁴⁵ Ibid.

⁴⁶ Ibid.

Me Too

Community Organizer Tarana Burke founded the Me too movement. Me too means, me was also made victim of sexual assault sometimes, somewhere by someone. 'Me too' has large variety of related local or international names. As a matter of fact it is movement by women against sexual assault or harassment. Founder Tarana Burke is a civil rights activist from Bronx, New York, who started this movement in 2006. She began using this phrase on social media to raise awareness of the pervasiveness of sexual abuse of women and their victimization. Initially it was a movement to spread awareness and understanding about sexual assault under privileged communities of color.

The idea for this movement was spread in America by 'Alyssa Milano' an actress-cum-singer as a victim of addressing the prevalence of sexual assault and harassment of women. She on twitter requested women who had experienced sexual violence to reply "Me too" to her tweet. She wrote, "If all the women who have been sexually harassed or assaulted wrote "Me too" as a status, we might give people a sense of the magnitude of the problem."

Mrs. Burke the founder wrote, "Me too was a catch phrase to be used from survivor to survivor to let folks know that they were not alone and that a movement for radical healing was happening and possible."⁴⁷

Renowned American Film Producer Harvey Weinstein was publicly accused of sexually victimizing multiple women who had with him, but he said it was all consensual sex. Female celebrities like Gwyneth Paltro, Angelina Jolie, and Kate Beckinsale all Hollywood actresses about being victimized by Harvey sexually and demanded to sexual violence in film industry to female actresses from being sexually victimized. Actress Reese Witherspoon tweeted "I have just spoken to so many actresses and writers particularly women who have had similar experiences and many of them have bravely gone public with their stories. She was sexually assaulted by a director at the age of 16 years.

⁴⁷ Blog by the Tarana Burke(founder of MeToo Movement), 2006

She further said, “That truth is very encouraging to me and everyone out there in the world because you can only heal by telling the truth.”

2018: The year of Me too in India:

Inspired by a global movement against victimization of women sexually, women started sharing their stories of victimization. It may not be story of rape but also the demand of sexual favor of different kinds. Actresses, women professional, working women also shared their stories of sexual victimization at workplace. It all began in October, 2018 with actress Tanushri Dutta accused Nana Patekar of sexual victimization at the shooting of film “HORN OK PLEASE”, Tanushri said that as per the story she had to perform a solo dance but Nana decided to join her and perform an intimate dance steps that made her uncomfortable.⁴⁸

Likewise, Alok Nath was accused of rape by writer director Vinta Nanda. It was a tweet of rape done 19 years earlier.

Whatever may be truth behind these allegations of sexual victimization, there is always a question as to why allegations were raised after delay of several years. It may be said that woman tried to victimize male in all the cases clean chit was given to males by competent authorities for the purpose.

Harvey Weinstein Verdict

The verdict came two years after a dozen women accused him of rape and sexual assault. Harvey was convicted and sentenced 23 years prison on 11.3.20 by a New York Court on Court of a “Criminal sex act in the first degree ‘rape of Jessica Mann in a 6-year long trial. Weinstein was got registered as a sex offender.

Coming to Indian scenario, acquaintance and act by person in power is very important: As per the article on Live Law.in “It is difficult to ascertain the impact of the Weinstein verdict. As the movement in India as India and USA have very different legal systems the fact that sex matters at powerful position was held accountable for his sexual deeds was send out a powerful and necessary message.

⁴⁸ Tweet of Tanushree Datta in Accordance to Mee Too Movement, 2018.

Further, “The entire focus of the Me Too campaign has been to speak out and when someone in power is called out and what follows from such calling out is punishment across the globe.”

“It is also pertinent to mention that a number of people who were named in India had gone after the victims and filed defamation suits”. However, it is extremely important to keep in mind that since the tangibility of such impact can't be measured Me Too campaign has always been about being heard and to be vindicated.

To conclude this movement paved a way to expose men the authority who victimized women due to unequal relationship of power.

Women the victim of Dowry

We have ancient scriptures which tell about woman with the highest regards and respect in the earth. As a matter of fact, our earth (Dharti Ma), native (nation), knowledge (Saraswati ma), wealth (Lakshmi Ma) and power (Durga Ma) are all regarded as a woman deity.

In swayambar it was right of the bride to decide to whom she would marry. In ancient India, there was no ‘Swaymvar’, a beauty contest opportunity to a groom to see thousands of girls and then to decide whom he would marry. This was the importance given to woman in our traditional culture. Then gradually the evil of dowry entered in Indian society. History reveals that this system of dowry was in existence even before English period.

Development of Dowry Evil

In the ancient system the parents of bride, even her kith and kin, all gave wealth to her in form of valuable gifts. It was just like parents used to give a part of wealth to their sons so did they give to their daughters too, at the time of their marriage. It was never given to groom or his family. In other word the wealth given to bride by owned by her as ‘Stridhan’.

The system of dowry started with permanent settlement of Bengal in 1793 by British under Lord Cornwallis. This enabled the private ownership of land, which was unknown in India till then. Prior to it the land always belonged to government and people only settled in the government's land very few realize that the Zamindari system landlords who illiterate peasants was created by the British rule.

The most devastating rule which British Govt. introduced victimizing the woman was their property rights.

Women were prohibited from owning any property and this created the menace of dowry to give support to women. Dowry has its roots in medieval period also when a gift in cash or any kind was given to bride at the time of marriage by her family, relatives and friends to maintain her independence in her new house. In British period, dowry was almost compulsory to be given at the time of marriage of girl.

The trend in modern time in India with booming economy is now encouraging even higher bride prices among all socioeconomic strata. But the rise in bride price in shape of money and gift had increased the greed of groom and his family and in consequences, increase in demand and when this demand is not met out results in essential violence against women and their victimization for dowry. As a matter of fact, the demand of dowry is normally made by greedy groom and his parents in an attempt to extract a huge amount of dowry from one family of would be bride. The greed of husband and family members can grow ever after marriage. The thing which voluntary on the part of bride's family has turned to be compulsion nowadays. The non-payment of dowry gradually resulted in physical, mental, emotional and sexual violence against the bride and the violence reaches the peak and cases of slashing genitals or breasts, burning by pouring kerosene oil or petrol on her body.

Although seeking dowry has been banned by legislation since 1961 but legislation failed to check the dowry victimization of women. Commenting on this sad state Altar Joseph Pulitzer III(1913-1993) said, "We will illuminate deep sense of responsibility, interpret these troubled time."⁴⁹ His dream however remained a dream and never converted into the truth so far.

Dowry Laws in India-

Apart from Dowry prohibited Act (DPA) 1961, there are three sections of IPC which cover the subject.

1. **Section 406-** recovery of Stridhan
2. **498A-** cruelty on the basis of demand of dowry
3. **Section 304B-**Dowry Death

⁴⁹ Voices from India: Three Stories of Dowry Violence, Joseph Pulitzer III

Besides there are some major issues with these laws discussed as below:
G.K. Today, the online sight has discussed all these aspects well in detail.

The issue of differentiation between the Dowry & Streedhan

Usually FIR's are registered under Section 406 of IPC for the recovery of the Streedhan. It is a legal process of taking back the streedhan from husband and his family if divorce takes place. Offence under this section is non bailable and cognizable.

Streedhan

Streedhan is what a woman can claim as her own property within a marital household and may include her jewellery (gifted one by her family, relatives & friends) at the time of marriage a later on and the dowry articles she got at the time of marriage or later on.

Streedhan belongs to the bride whereas dowry is something given by family of bride to groom or his parents.

Section 498A IPC-

It is the most draconian provision of the IPC in relation to husband and his parents, relations who allegedly commit cruelty on a woman for demand of dowry. It is punishable with imprisonment of 3 years and fine also⁵⁰. It is non bailable and cognizable one. It is also non compoundable. These laws are often misused by family of the bride to victimize groom and his family.

In year 2002, the Law Commission of India suggested that Section 498A be made liberal and bride may be given the power to withdraw her complaint with the permission of the Court, provided she does it with her free will without any coercion or pressure. Likewise Justice Malimath Committee on reforms of Criminal Justice System 2003 made following amendment in law with immediate effects:-

1. "The less tolerant impressive women many lodge an FIR even on a trial act. As a result husband and his family may be immediately arrested and there may be a suspension on loss of job.

⁵⁰ Section 498(a) of Indian Penal Code, 1860.

2. The offence alleged being non bailable, innocent persons languish in custody. There may be a claim for maintenance adding fuel to fire, if the husband cannot pay.
3. The woman may change her mind and get into the mood to forget and forgive. The husband may realize the mistakes committed and come forward to turn a new man for a loving and cordial relationship. The woman may like to seek reconciliation. But this may not be possible due to the legal obstacles. Even if she wishes to make an amendment by withdrawing the complaint, she cannot do so as the offence is non-compoundable.
4. The dowry for returning to family life stands closed and she is left at the mercy of her natal family.
5. Some women are using their laws as a weapon to unleash personal vendetta on the husbands and innocent relatives. So far as the amendment of this law has been largely ignored.⁵¹

Supreme Court in ARNESH KUMAR Vs. State of Bihar Crim. Appeal No.1277/2014. 2014 (B) page 273

A wife alleged that her father-in-law & mother-in-law were demanding By glass, a car, and AC etc. as a dowry. She was threatened by her husband for second marriage when they failed to give dowry as demanded. She was driven away from husband's house.

Supreme Court observed "There were several frivolous complaints lodged by woman to falsely implicate their in-laws and thus laid down a checklist of nine criteria which must be complied with arresting a person under Section 498A IPC."⁵²

In Rajesh Sharma Vs. State of U.P.(201 (8) SCALE 313)-

A woman had lodged FIR of dowry demanded by her in-laws when she was dropped to her parental house. She had to go through trauma and subsequent miscarriage and in laws took away her Streedhan also. Supreme Court in this case set further stringent criteria for determination of case under Section 498A as under:-

⁵¹ Report of Justice Malimath Committee on reforms of Criminal Justice System 2003.

⁵² ARNESH KUMAR Vs. State of Bihar Crim. (Appeal No.1277/2014).

1. "It mandates the setting up of a family welfare committee in every district for scrutinizing the dowry harassment cases.
2. The members shall be paid an honorarium.
3. The police have to look into the recommendations of these committees before making any arrests."⁵³

The Supreme Court however modified this judgment and issued in Rajesh Sharma case in Manav Adhikar Action Forum Vs. Union of India Ministry of Law & Justice & others on September 2018.

Apex Court had held that creation of a body to decide and powers conferred on it were impermissible.⁵⁴

Petitions were filed before Supreme Court seeking directions to the respondents to create an enabling environment married women subjected to cruelty to make informed choices and to create a uniform system of monitoring and systematically reviewing the incidence of violence against women U/S 498A.

304B the three judge bench led by CJI Deepak Mishra whole holding that Supreme Court directions pertaining to family welfare committee to be constituted by the DLSA and the power conferred on the committee is impermissible and made the following observations:

1. That in Rajesh Sharma Case there is introduction of 3rd agency which has nothing to do with the Code and that apart, the committees have been empowered to suggest a report failing which no arrest can be made. Supreme Court held, "The direction to settle a case after it is registered is not a correct expression of law." Further S.C. observed that when settlement takes place then both the parties can file a petition U/S 482 Cr.P.C before High Court, considering the bona fide of the petition may quash the same.
2. The Court also noted that in several decision in furtherance of a fundamental right, the Court has issued directions in the absence of law in certain cases. However, there are situation, provisions and judgments in the field and therefore the directions pertaining to constitution of a committee and conferment of power on the said committee is erroneous.

⁵³ RAJESH SHARMA Vs. State of U.P. (201 (8) SCALE 313).

⁵⁴ Manav Adhikar Action Forum Vs. Union of India Ministry of Law & Justice & others ,Writ petition (civil) no. 73 of 2015

3. That when an application for bail is entertained proper conditions have to be imposed but recovery of disputed dowry items may not by itself be a ground while rejecting an application for grant of bail U/S 498A of IPC.
4. The Supreme Court has also directed the DGP of each State to ensure that I.O. who are in-charge of the investigations cases of offences U/S 498A of IPC should be imparted rigorous training with reference to the principles stated by the Court relating to dowry demands.

Dowry Prohibition Act 1961-

The dowry Prohibition Act was enacted on May 1st, 1961 with an intend to prevent the giving and receiving of a dowry. Here dowry includes property or goods or money given by either party to the marriage by parents.

Dowry Section (2)

“Dowry means any property or valuable security given or agreed to be given either directly or indirectly:

- (a) By one party to a marriage to the other party to the marriage; or
- (b) By the parents of either party to a marriage or by any other person, to either party to the marriage or by any other person; at a before or any time after the marriage in connection with the marriage of said parties but does not include dower or ‘Mehtar’ in the case of persons to whom the Muslim Personal Law ‘Shariat’ applies.”⁵⁵

Explanation-

The expression valuable security has the same meaning as in Section 30 of IPC (45 of 1860)

Sec. 3- Penalty for giving or taking dowry-

The Act envisages minimum punishment 5 years & fine not less than 15,000 rupees or the amount of the value of such dowry, whichever is given.

However presents, which are given to bride at the time of marriage without demands should not amount to dowry. However such girls should be entered in a list as per rules under the Act.

⁵⁵ Section 2 of Dowry Prohibition Act, 1961.

Moreover the gifts value should be as per the status of person who gives it and should not be excessive one. Sec. 5 makes an agreement to be void if it relates to giving or taking dowry.

Dowry laws have been misused by women and their parents often. As per the report of National Crime Record Bureau (NCRVB), in the last 11 years between 2006 to 2016 for every case that resulted in a conviction, five other cases resulted in acquitted and one case was withdrawn with the net result being that only one out of seven cases result in conviction.

Though it is true that women are being criminally victimized for demand of dowry but it is also a fact that in the garb of victimization none are also falsely implicated.⁵⁶

Section 304B IPC-

Dowry death has been defined U/S 304B IPC and its ingredients when analyzed are-

1. The death of bride must take place within seven years of marriage.
2. Death should be unnatural, suicide or burning or murder by any mode.
3. Cause of death must relate to demand of dowry and consequential cruelty and
4. The cruelty must have committed soon before the unnatural death.

The initial burden of proof lies on prosecution to establish above ingredients. If the prosecution successfully proves these ingredients, now the burden shift on accused to prove that he was innocent. This presumption is rebuttable and cannot be conclusive.

⁵⁶ Section 3, The Dowry Prohibition Act, 1961.

CHAPTER 8 – WOMAN THE VICTIM OF DOMESTIC VIOLENCE

Domestic violence is, as a matter of fact, an act of physical, mental, emotional & psychological abuse against a woman by intimate relatives or acquaintances particularly by husband, in-laws and other family members who are connected through marriage. Patriarchal set up in Hindu family is being considered as the cause of such violence. Women were considered to be a weaker sex since time immemorial and never had some freedom as a man has. They were subjected to inequality and were the easiest target of domestic violence. As per the United Nations Populations Fund Report, about 2.3 of Indian women are victimized by domestic violence.

Parliament of India passed Protection of woman from domestic “Domestic violence Act 2005.”

Objective of the Act-

This is a legislation to protect women from acts of domestic violence by husband and other family members. Domestic violence is a serious threat for many women. It is also called intimate partner violence as normally it occurs between people in so called intimate relationship. Abusive relationship involves an imbalance of power. An abuser may use intimidating, hurtful and cruel words to a woman.

It would not be easy to identify domestic violence in its mental stages. A woman might be experiencing domestic violence if her partner acts as under:

1. Call her names, insults or puts her down on small things/issues.
2. Prevents or discourages from going to workplace, school or parental house.
3. Tries to control and check in spending money, watch where wife goes and to whom she talks.
4. Acts jealous or over possessive or regularly accuses her to be unfaithful.
5. Girls are forced to consume liquor and humiliates.
6. Threatens for violence by showing a weapon.

7. Hits, kicks, shows steps, chokes or otherwise hurts and abuses before other person.
8. Forces for unnatural sex without the will of the woman.

There cannot be a list of such acts of domestic violence. Birth of a girl, not producing a child, not cooking good food, not entertaining the friends of husband are also some of the examples.

The Dowry Prohibition Act 1961 (Act No 28 of 1961)

It is an act which prohibits the giving and taking of dowry and extends to whole of India

Dowry under the Act-

‘Dowry’ means any property or valuable security given or agreed to be given either directly or indirectly;

- a. By one party to a marriage to the other party of marriage; or
- b. By the parents of either party to a marriage or by any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include down or mehar in the case of persons to whom the Muslim Personnel Law (Shariat) applies Sec of the Act provides for the penalty for giving or taking dowry.

1. If any person after the commencement of this Act, gives or takes or promises the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than 5 years and with the fine which shall be less than 15 thousands of rupees or the amount of value of such dowry whichever is more.⁵⁷

Sec. 4 provides for penalty for demanding dowry

2. If any person demands directly or indirectly from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not less than six months but which may extend to two years and fine which may extend to ten thousand rupees.

⁵⁷ Section 3 of the Dowry Prohibition Act, 1981 .

3.From an advertisement

If any person-

- a. Offers, through any advertisement in any newspaper, periodical, journal or through any other media in his property or of any business or other interest as consideration for the marriage of his son or daughter or any other relatives.
- b. Prints or publishes or calculates any advertisement referred to Cl. (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years or with fine which may extend to fifteen thousand rupees.

Agreement for giving or taking dowry to be void-

Any agreement for the giving or taking of dowry shall be void.

Legislation in the year 1985 enacted 'The Dowry Prohibition (maintenance of lists of person to the bride and bridegroom) Rule 1985 and rule 664 (E) for making a list of gifts.

To conclude, it is to be mentioned here that the dowry system puts a great financial burden on the bride's family. Generally it is the family of bride, who is supposed to give dowry to groom side. The dowry system, no doubt, lead to crime and victimization against women, all forms of emotional abuse, injuries and even the death. The dowry laws are being criticized as being ineffective.

STANLEY. J. TAMIA-

He was the professor at Harvard University in Australia, and said, "ancient code of Manu sanctioned dowry and bride's wealth in ancient India, but dowry was the most prestigious form

and associated with the Brahmanic code. Bride wealth was restricted to the lower castes, who were not allowed to give dowry. ”⁵⁸

Further he said, “two studies from the early 20th century with date to suggest that this pattern of dowry in upper castes and bride wealth in lower casts has persisted through the first half of the 20th century. However, it is more likely that marriages involved both reciprocal gifts between the two families.”⁵⁹

Michael Witzel in contrast, who is German-American philologist, a professor of Sanskrit in Harvard University, the editor of Harvard Oriental Services, has said, “ancient Indian Literature suggests that dowry practices were not significant in Vedic period.”⁶⁰

Whatever may be the view of authors and whatever may be the legal provisions, the fact remains the same that women/girls are victim of dowry demands and sometimes if parents are poor and unable to pay dowry, they even remain unmarried too. It is not only a legal crime against women but more a social and moral victimization of a women by men in general and society at large.

⁵⁸ Stanley. J. Tamla, Goody's co-author on the earlier "Bridewealth and Dowry"

⁵⁹ Ibid.

⁶⁰ The Origins of the World's Mythologies, 2012, Michael Witzel, ISBN-13: 978-0199812851.

CHAPTER 9 - VICTIMIZATION BY KIDNAPPING AND ABDUCTION

Sections 359 to 369 of the IPC have made kidnapping and abduction punishable with varying degree of severity according to nature and gravity of offence. The object for such an enactment is to secure the personal liberty of citizens and to give legal protection to children of tender age from being abducted or reduced for improper purposes and to serve the rights of parents and lawful guardians over their wards for custody or upbringing.

Kidnapping-

Literally it means stealing the child Section 359 of IPC says that the kidnapping is of two types-

1. Kidnapping from India and
2. Kidnapping from lawful guardianship.

Section 360 IPC defines kidnapping from India. Here the consent of person is the key factor of the offence.⁶¹

Section 361 IPC defines kidnapping from lawful guardianship-

Taking away or enticing to take away any minor (male) below 16 years & female under 18 years of age, out of keeping of lawful guardianship is punishable. Here we concentrate our sections regarding kidnapping of girls below 18 years of age from the custody of guardianship only.

According to Walker

Kidnapping is the common name for the common law offence of conveying away or secreting of any person against his will or against lawful guardians. It may be false imprisonment which is restraint of a person and his confinement without any lawful authority or justification.

Following ingredients are required to constitute an offence under the section 361 of IPC.

1. There must be taking or enticing of a minor or a person of unsound mind;
2. Such minor must be under 16 years of age if male and under 18 years of age if female.

⁶¹ Section 359-360 of the Indian Penal Code, 1860.

3. Taking or enticing must be out of the keeping of the lawful guardian of such minor or person of unsound mind and;
4. Taking or enticing must be without the consent of such guardian.

Further various pronouncement of S.C. have also laid down its essential ingredients which are as under:-

1. In the case of minor girls, this section is attracted in respective of the fact whether she is married or unmarried.
2. The consent of the minor is immaterial⁶².
3. The motive of the kidnapper is also immaterial⁶³.
4. If the kidnapped girl turns out to be under 18 years of age, the kidnapper will be held liable, even though he had a bona fide belief and reasonable ground for believing that she was over 18 years⁶⁴.
5. The defense that the girl was of easy virtue would not be sufficient to make accused not guilty.

‘Enticing’ is inducing a minor to go of her own accord to the kidnapper. There is a distinction between taking and enticing. The mental attitude of a girl is immaterial in the case of taking when the child is taken away. But the word ‘Entice’ involves the idea of inducement or allurement⁶⁵.

Abduction-

Section 362 defines the offence of abduction. Whoever forcefully compels or by deceitful means induces any person to move from one place to another, is said to have committed the crime of abduction.⁶⁶

Abduction, as a matter of fact is not a substantive offence but has been made criminal in the nature when it is done with the following intentions:-

1. Forcefully compelling or inducing by deceitful means-

⁶² State of Haryana v. Raja Ram (AIR 1973 SC 819).

⁶³ State vs. Sulekh Chand (AIR Pun. 83).

⁶⁴ Queen Vs. Prince (1875) LRZ.

⁶⁵ Biswanath Mallik Vs. State of Orissa, (1995 CrLJ 1416 (Ori)).

⁶⁶ Section 362 of Indian Penal Code, 1860.

If a person is forcefully compelled to move/go from one place to another. It implies lack of consent and will on the part of that person to move. The use of actual force is necessary and mere the threatening to use the force will not amount to abduction. Use of force is a must. There should be also may be fraud from a person so abducted.

2. Going of a person from any place-

When there is an application of force or fraud or any deceitful means which is used to compel a person to go from one place to another amount to abduction. For examples- a girl/women is being carried away by using force from one place to another against her will, it amounts to abduction legally ever if she is carried away to be restored back to home.

3. Continuation of offence-

It is a continuing offence and not only the person who first moved the abduction from one place to another and then another person or group of persons carried him/her to another place, all the persons involved in the process are abductors.

Girl abduction-

Basically the girl abduction means the taking away the girl from her parents by the way of persuasion but sometimes it can also be through violent means.

A girl can be abducted by her own parents or a stranger. In case of battle girl's custody, abduction of a girl is very common practice. A person generally abducted a girl when a divorce proceeding is going on or the divorce is granted.

Marriage by abduction-

Marriage of a girl may be a case of abduction. It refers to a situation where a bride has been abducted against the wishes of her parents against her will and it is not necessary that she wants to marry her. On the other hand when marriage is settled against the wishes of a girl, she may plan her abduction by her lover for the purpose of marriage.

Abduction for ransom-

In this type of abduction a girl is forcefully abducted and the abductor makes the demand of money for her release.

Kidnapping and abduction by BOKO HARAM-

Daniel Egiegba Aqbiboa of Harvard University has done a great work on victimization of girls/women in Africa the Islamic State of West. Africa is commonly known as Boko Haram. It is a Jihadist terrorist organization based in North Eastern Nigeria and is also active in Chad, Nigeria.

It is founded by Mohammad Yusuf in 2002. Its main aim was to purify Islam in Northern Nigeria. Boko Haram is a branch of the Islamic State of Iraq and the Levant and is active in Nigeria since 2009. The name means Western or Non-Islamic education is a sin. This group is active in north of Nigeria and wants to impose Islamic law as the only law in Nigeria. Boko Haram promotes a version of Islam which makes it 'Haram' or forbidden for Muslims to take part in any social activity, associated with western society. It opposed wearing of shirts and pants or going to educational institutions.

Boko haram, Nigeria Islamic insurgency hometown, whose name is Hausa roughly translates as "Western education is forbidden has abducted at least 500 women & girls from Northern Nigeria since 2009 and has perpetrated numerous human rights abuses against girls under custody. April 14, 2014 abduction of 276 girls from a secondary school in Chibok, which is a rural town in Borno State, focused a much need attention on this scourge."⁶⁷ As a matter of fact, very little is known about the horrific acts done against women and girls in captivity. Such victims are heard to find out.

From June to August 2014 Human Rights Watch interviewed 30 individual girls who were abducted. The victims, including 12 girls of Chibok School escaped from Haram Custody after then abduction narrated the details of the abuses they met. Women and girls described as to how and in what manner they were abducted from their home village while they were working on farms, fetching water or attending the school. The women were ranging from infancy to 65 years old. These girls and women told Human Rights Watch Unit when they refused to adopt Islam,

⁶⁷ BOKO HARAM : Inside Nigerian's unholy war by Smith.

they were subjected to physical and psychological abuse, forced labor, forced operation in militancy including carrying arms and ammunitions or luring men into ambush, forced marriage to their captors and sexual abuse including rape also. They were forced to cook, clean and other household work. Some served as porters, carrying the loot stolen by the insurgents from the villages and town they had attacked. Some of the girls and women seemed to have been taken arbitrarily the majority of them appeared to have been targeted for abduction because they were either students or Christians or both.

The girl victims were targeted because of their presumed religious affiliation as well as for attending western styled school prohibited by Islam. Some the women were threatened to death if they refused to convert to Islam. Whipping, beating and victimization by any cruel means was adopted Islamic dressing code and rules, wearing hijab also. As per the Human Rights Watch, one of the victim aged 15 years, complaint to a Boko Commander that she and the other girls were too young to be measured, the Boko Commander pointed to his 5 year old daughter and said “If she got married last year, and is just waiting till puberty for its consummation, how can you at your age be too young to marry.” Sadly the response of the Govt. was negative. Many of the rescued victims expressed their ongoing anguish from their ordeal and it included deep fear of re-abduction, sleeplessness and frustration. Only few were provided counseling and rest complained that they never provided with anything for their mental health by the government.

BOKO HARAMA’s Sick Ploy to turn girls into suicide Bombers-

Two recent studies published by the combating Terrorism Center at the U.S. Militancy Academy at West Point, New York, and authored by Elizabeth Pearson And Warner & Hilary Matfess respectively, we know that the kidnapping and abduction raid was the beginning of an Era of Evolution in Boko Haram’s use of girls and women it is terrorist squad. Prior to 2014, it used only male suicide bombers. Two months after the Chibok kidnapping, the group dispatched its first suicide female bomber, which proved to be the first state of a terrible trend. ⁶⁸

By the end of 2014, females have perpetrated the majority of all bombing that year in attacker where the bomber’s gender was ascertained.

⁶⁸ Boko Haram Beyond the Headlines: Analyses of Africa’s Enduring Insurgency, Combating terrorism center.

From June 2014 to the end of Feb next year, the group deployed 469 female suicide bombers who killed more than 1200 people and injured nearly about 300 others. That goes on to show that Boko Haram has used, by a significant margin, more female suicide bombers than any other terrorist group in the world in the global history.⁶⁹

The reason for using girls and women as suicide bombers is that women are generally viewed with less suspicion than men and further that the culture of Nigeria forbids a man from touching a woman in the way required to search for the explosive.

The clothing worn by Nigerian women can be more easily be used to conceal an explosive device. It is also reported that certain women fighters are given Tramadol a drug, which presumably make them more willing to launch dangerous attacks, including suicide, bombing. Female bombers are directed to target secular civilian areas, such as markets and camps for internally displaced people.⁷⁰

The above article is dealt with by Jo Shua Me Servey who is a senior Policy Analyst, Africa and Middle East and Andre. W. Vadyak (Summer 2018 member of the young Leaders Program at the Heritage Foundation).

BENEATH THE TAMRIND TREE-

It is a story of Courage, Family, and the Lost School Girls of Boko Haram by Isha Sesay. It is a grave toned paean to the fortitude of the 276 Nigerian schoolgirls from Chibok who were abducted by their boarding school on April 14, 2014 by the Boko Haram, one of the world's deadliest Jihadist terrorist group⁷¹. Sesay a former CNN anchor and seasoned reporter of African affairs has covered the entire episode, right from its inception. The aim of the book is to criticize the public opinion to condemn the incident and set these girls released from captivity. Sesay was educated in Cambridge University and was a social activist and reformer too.

She narrated the sad plight, pain, sufferings and inhuman behavior the girls met. How they were forced to accept the Islam by coercion is also mentioned in the book. The girls were kept below a

⁶⁹ The History of an African Jihadist Movement by Thurston Alexander

⁷⁰ What makes a Terrorist by Allan Krueger.

⁷¹ Beneath the Tamarind Tree, Isha Sesay (New York, Dey Street, Books 2019, 382 pages)

huge tamarind tree in open with no human respect like animals under terror, hunger and threat to their life and limb if they did not accept Islam.

There was no support by the Govt. for the reasons well mentioned in the book has remarked, “It is no accident that the places in the world where we see the most instability are these in which the rights of women and girls are denied. Isha Sesay’s indispensable and gripping account of the brutal abduction of Nigerian schoolgirls by Boko Haram terrorists provides a stark reminder of the great unfinished business of the 21st century; equality for girls and women around the world.” The Chibok kidnapping made intentional headlines and promoted the “BRING BACK OUR GIRLS” movement many unanswered questions surrounding that fateful night remain about the girl’s experiences in captivity and where many of them are still today. Sesays travelled a lot met rescued girls took their interviews regarding them sad plight by abduction. To date about 112 girls are still missing and as Seasy laments, the world has all but forgotten them.

Malala Yousafzai on kidnapping and victimization of girls by Haram-

Winner of Noble peace prize, a teenager of Pakistan who survived a Taliban bullet on her head, and now based in Birmingham and wrote an open letter to girls who were kidnapped. She said, “In my opinion, Nigerian leaders and the international community have not done enough to help you.” Further she wrote, “They must do much more to help secure your release. I am among many people pressuring them to make sure you are heard. We cannot imagine the full extent of honors you have endured. But please know this, we will never forget you. I look forward a day I can hug each one of you, pray with you and celebrate your freedom with your families.”

Michelle Obama, the American’s first lady was weekly national address to express heart brook and express and outrage, vowing that U.S. will do everything possible to rescue. She said, “This unconscionable act was committed by a terrorist group determined to keep these girls from getting an education-grown men attempting to smother the aspirations of young girls.” She further said, “I want you to know that Barak has directed our government to do everything possible to support the Nigerian government effort to find these girls and bring them home. U.N. Security Council also can demand the act and requested the world to come forward for the rescue operations.”

CHAPTER 10 - SLAVERY- WOMEN'S VICTIMIZATION

Jacqueline Joudo Larsen is a senior manager in Lalkfree Foundation and has written an article on woman's slavery. According to him the modern concept of slavery occurs in every corner of the globe and attracts many regardless of race, gender, religion and socio-economic status, females are disproportionately affected. Nearly 71% of modern slavery's victims are women and girls. Notably there are more female than male victims across all forms of modern slavery except for state imposed forced labor. Modern. Estimates of Modern Slavery revealed that woman and girls account for 99 percent of victims of forced labor in the commercial sex industry whereas 58 percent in other sectors like domestic work, 40 percent of victims of forced labor imposed by state authorities and 84% of victims of forced marriage.⁷²

Some forms of modern slavery, such as forced marriage can be difficult to parse out from cultural practice. Forced marriages occur in both developing and developed countries with girls and women being forced closely linked to poor families.

One of the laws is Bonded Labor System (Abduction) Act 1976. Besides Indian Slavery Act 1843 is still in existence.

Slavery and International Law-

Slavery is normally governed by number of treaties, conventions and declarations. Most important of all is Universal Declaration On Human Rights 1948. Article 4 of UDHOR says, "No one should be hold in slavery or servitude, slavery in all of its form should be eliminated." In slavery Convention also some views have been expressed and is also mentioned in Optional Protocol to the Abolition Of Slavery⁷³. Abolitionism has its roots in the 1807 Abolition of Slavery Act of Great Britain.

⁷² Unfinished business: addressing the victimization of girls by Jacqueline Joudo Larsen.

⁷³ 'Slavery Convention, Geneva 25th September 1926.

Thus, slavery is a great curse on society and particularly young girls and women who are subjected to force slavery are victimized in the world. Though there are laws national and international to abolish it but as it is said ‘in laws there are ways to find out loopholes to break it’ and the same is being done by powerful persons without any fear, social or legal.⁷⁴

Today slavery is less about people literally owing other people although that doesn’t exist but more about being exploited and completely controlled by someone else, without being able to leave.

Girls and women are in slavery if they are:-

1. Forced to work through coercion or mental or physical threat.
2. Trapped and controlled by an ‘employer’ through mental or physical abuse or the threat of abuse.
3. Dehumanized and treated as a commodity is bought and sold as property.
4. Physically constrained or have restrictions placed on their freedom of movement.

Forms of modern slavery of girls and women-

Following are the common forms of modern slavery for girls and women-

1. Debt bondage or bonded labor-

This is one of the most common and prevalent form of victimization all over the world. It is undoubtedly the world’s most widespread and common form of slavery. People, particularly poor one, borrow money with the condition that if they fail to return in a stipulated period, they will work as labor in lieu of money. When people due to poverty are unable to pay or rather repay they are required to work to pay off the debt, then losing control over the conditions of both their employment and the debt.

2. Forced Labor-

Any work or services done by women, who they are forced to do against their desire or will or under the threat, coercion or undue influence of some powerful person and without any payment is also called the slavery.

⁷⁴ Supplementary Convention on abolition of slavery, the Slave Trade, and Institutions and Practices’ Office of the High Commissioner of U.N. dated 7.9.56

3. **Girls and women trafficking**-It may involve transportation recruiting harboring of girls and women for exploitation, sex, violence or other criminal activities.

4. **Ancestral slavery-**

Where a girl is born in slavery because her parents were captured and enslaved; they also remain in slavery by inheritance.

India's paradox- Best anti-slavery laws, but largest number of girls and women slaves

No doubt India has some of the world's best anti-slavery laws, better than even Europe, but it has more people, particularly girls and women living in modern slavery than any other country of the universe. According to 2016 Global Slavery Index, are only 46 million inclusive of Girls and women live under conditions of slavery across the world whereas 18 million (39%) of them in our country i.e. India, which is the world's largest number of slaves.⁷⁵ These 18 million people have lost their freedom by way of domestic, bonded or sexual labor among other means. Slavery has also become a global phenomenon that generates a 5 billion industry according to Kevin Bales who is a professor of contemporary slavery at the University of Nottingham in U.K. He is also cofounder of Free The Slaves a non-profit based NGO in USA.

Decline of agriculture in India is also attributed as one of the causes of slavery. There are lots of things people do for business not just in India but throughout the world with the help of labor who are low paid with high hours of work, a new way of slavery. Girls and women are always paid low ways in comparison to men so they are preferred. We have stringent laws to curb slavery but they are not enforced and there is low awareness about it also. We know that there is freedom dividend and are measuring it in some of the places like our country.

Self-victimization as call-girls-

⁷⁵ Globally Slavery Index, 2006.

The high life style, glamour, Club Culture and hotel and bar attract young girls to enter into flash trade in secret western outfits, modeling, fashion shines and western tours and life style attracts the ambitious girls though they cannot adopt these lavish lifestyle in limited financial resources. Rich, lustful men, by power of their money contact such girls and vice versa too. Beg hotels, guest houses and resorts are the places where these young girls go for pleasure, sex. Money so obtained is used by them for their recreation and lifestyle. There is no force or compulsion for them to do so. Thus they victimize themselves for their luxurious needs.

Bride Burning- a victimization-

The cases of bride burning in India are very common. It mostly relates to post marriage dowry demands or demand pending as promised at the time of marriage. This is a problem of Indian sub-continent in general and India in particular. In villages it is common to cook food on stoves of kerosene oil and its availability in houses is very natural and common. Burning are causing death by pouring kerosene oil and lighting gives an opportunity of defense to husband in-laws that the bride got burn injuries and consequential death while cooking by way of accident and they are not liable for it.

This crime has been treated as culpable homicide and if proved, results in life imprisonment or death penalty. There are at least four perspectives on why bride burning concept comes into existence in South Asian countries and India in particular.

“The elephant in the room is art of living, One of the most culturally founded concept suggests that in a highly patriarchal society like in India, the role of a woman is defined even since her birth which ultimately places her unequal to men. She is being considered as an extra burden and an extra mouth to feed. She is considered to be a burden economically and it promotes the idea that none who are considered to be physical asset can treat woman as slaves. After marriage it is considered property of husband for her to obey the commands of her husband.”⁷⁶

As per LAKHANI, “Historically speaking it has been noted that the dowry system may have been considered as a way to distinguish Muslims from Hindu culture, creating a further divides

⁷⁶ Bride-Burning: The "Elephant in the Room" Is Out of Control by Avnita Lakhani.

in castes. A higher dowry would indicate a higher status and distinction from Islam, thus providing an incentive to demand a larger dowry.”⁷⁷

Even Article ‘A’ of the universal declaration of rights of woman’s rights declares that “On human being one is free and equal in all respects & bride burning is a curse on our society.

⁷⁷ Ibid.

CHAPTER 11 -TRAFFICKING, FORCED LABOUR, BEGGARY **THE VICTIMIZATION OF GIRLS/WOMEN**

As a matter of fact, the begging is as old as human civilization and is prevalent almost all over the world with few exceptions, particularly the developing countries. It relates to religious sanctity in India. Often experiences shows that certain families carry it as family profession also and cases are not uncommon where people are forced to enter into this profession by criminals.

The use of small young and grown up girls for begging aggravates their problem and is also a curse on society at large. In many of the cities, organized groups of criminals use girls for begging exploiting their innocence and cute looks. The appearance of girls/women is made sympathetic and ugly to attract people with mercy and give money as beggars.

These girls and woman, sometimes with a kid in lap, are sent religious places, fairs, traffic junctions and other places like parks, picnic spot to attract the public. Some unscrupulous parents and guardians of poor families or low circle living below poverty line use their girls as an instrument of earning by begging. Some girls are made addicted to drugs, threat of violence and actual beating. Often they are maimed to draw the sympathy and alms from public at large.

Public while giving money or edibles thinks that then alms go towards feeding a poor hungry girls/women but in reality it is the members of syndicate engaged in the profession, who are the actual beneficiary.

Women/girls beggary is thus the worst form of human trafficking. This woman beggars are exploited sexually as commercial sex workers, pornography, sea tourism or for forced prostitution.

Legal provisions and Safeguards-

A wide range of safeguards and laws including constitutional provisions are there to prevent child trafficking and beggary. Art.23 of the Constitution of India guarantees right against exploitation prohibits human trafficking forced labor makes then practice punishable under law. In IPC also there are about 25 sections relevant one. Sec. 366A, 366B, 374 are certain relevant provisions in IPC also.

Art. 23 & 24 of Constitution- Art. 23- Prohibition of trafficking in human beings and forced labor-

Traffic in human beings and beggar and other similar forms of forced labor are prohibited and any contravention of their provision shall be an offence and shall be punishable in accordance with law.

Besides, Immoral Traffic (Prevention) Act (IPTA) deals exclusively with trafficking. The aim and object of this legislation is to prohibited and abolish trafficking in woman and girls for Prostitution Act 2000 also prohibits and penetrates publication or transmission in electronic form of any material which appeals to the prevent interest or is lascivious in nature.

In State of Karnataka, The Karnataka Devdasi (Prohibition of Dedication) Act 1982 declares the act of dedication of girls for the ultimate purpose of engaging them in prostitution to be unlawful, whether the dedication is done with or without the consent of the women so dedicated. Likewise the Karnataka Prohibition of Beggary Act 1975 is also a landmark legislation to prevent beggary in the state. There are also provisions for rehabilitation centers for female beggars. The Karnataka has set up a model example to check the beggars and police along with department of women and child welfare, the Child Right Commission, the District Child Protection Unit and the health department conducts format drives like ‘Operation Smile’ & “Operation Muskan” on a regular basis to rescue girls/woman begging at public places like traffic functions, fares and religious places. Rehabilitation Centers like CWC (Child Welfare Committee, Children’s Homes &Centers like ‘SAKHI’ & “GELATHI” established by CDD (Child Development Department play a very significant rule in child and particularly girls trafficking.

An Additional Director General of Police, crime and technical services, Bangalore has opined as, “There is a need for Girl Society and NGO’s to get involved and make people aware of the issues related to child beggary such involvement will also help in abolishing traditional and cultural practices that violate children’s right to grow and develop in a safe environment.”

Further “Programmes like ‘Operation Rakshane by the Freedom Project is an example of NGO participation to bolster the efforts of State agencies in detecting, monitoring and eliminating all form of child trafficking including child beggary.” (M.A. Saleem, IPS Karnataka).

According to an article in First Post, Delhi is the hub of human trafficking trade in India and half of world's slaves in India. Delhi is the hot spot for illegal trade of young girls for domestic labor forced marriage, beggary and prostitution. Delhi is also the transit point of human trafficking. To quote, "Kids especially girl and young woman especially from North East are taken from their homes and sold for away states of India for sexual exploitation and to work as bonded labor by the agents who lure their parents with education, better life and money for these kids". Agents do not send these girls to school but sell them to work in brick, carpentry units as domestic servants, beggars etc. whereas girls are trafficked for the purpose of sexual exploitation. Even these girls are forced to marry in certain regions where female to male sex ratio is highly disturbed. Girls from tribal areas are at greater risk of human trafficking.

Increasing human trafficking (girls) in India-

Human trafficking, particularly girls and woman is one of the major problems in India. As per the report of New Yorks Time it is widespread problem of India especially in the State of Jharkhand. Times of India is one of its articles has reported that Karnataka is the then leading state in India for girls trafficking. Whereas Chhattisgarh, West Bengal, Bihar are few other sought after destinations for girls trafficking. Fundamental theory of Economic of demand and supply is equally applicable to this situation as well as a matter of fact is search of work/job generally migrate to major commercial cities and from here demand for sex, which is a biological need is created. To get it all sort of efforts are made by the men/supplies like abduction etc. Women and young girls of poor family are targeted for the purpose. Poverty and economic injustice/inequality also plays a vital role. Girls born in poor families are at higher risk of being sold parents also sometimes under compulsion desperately sell their daughter to earn money.

Social inequality, regional gender preference imbalance and corruption are other major reasons of girls trafficking in India. In tribal areas parents think that sending their girls means better life and education for the girls and themselves also.

Forced begging by girls/woman-

Thomsonreuters Foundation, Chairman has reported that about 300000 children across India are beaten, dragged and forced to beg, as it is now multimillion-rupee industry controlled by girls trafficking gangs⁷⁸. NHRC of India has given the figures that about 40000 children/girls are abducted almost every year and 11000 remain untraced. Hundreds of girls and young women are sold into forced marriages as per the report of 'Shakti Vahini' a NGO. As per the report, "They are bartered at prices that vary depending on their age, beauty and virginity and exploited under conditions that amount to a modern form of slavery."

Rishi Kant of Shakti Vahini a NGO and a leading anti-trafficking activist says, "Thetrafficking is still considered a peripheral issue among law enforced agencies, especially in rural areas".

BACHPAN BACHAO ANDOLAN (BBA)-

BBA is an active in ensuring that girls are protected and are not vulnerable to being re-trafficking after rescue work. Mr. Kailash Satyarthi, the winner of noble prize for peace, in the year 1980 stated BBA in the year 1980 and have rescued not less than million children including girls also. Raids and rescue operations to free children including girls from unacceptable conditions and for the purposes of trafficking and bonded child labor. BBA Centers out programme of Prevention Protection & Rehabilitation of children including girls.⁷⁹

Facts of trafficking of girls and woman-

1. Trafficking always involves transporting girls into a situation of exploitation. This may be for forced labor, marriage, prostitution and in order to remove organs like kidney, liver or pancreas. This type of exploitation is known as 'human trafficking' 'trafficking of girls' and 'trafficking for the purpose of slavery and domestic work.
2. Intentionally, as per the estimate 20to 40 million people, including girls are engaged in this type of modern slavery nowadays. Exact number of persons involved in trafficking cannot be assessed because of unreported cases. U.N. sometimes refer to it as the hidden figure of crime.'

⁷⁸ Report regarding missing children in India by Thomson-reuters Foundation.

⁷⁹ Bachpan Bachao Andolan by Kailash Satyarthi(Noble Prize Winner).

3. Estimates suggest that, in the entire world only about 0.4% survivors of human trafficking cases are identified and vast majority of cases of human (girls) trafficking go undetected.
4. Global profit by human trafficking is roughly 150 billion dollars in a year for traffickers and 99 billion dollars of which comes from community sexual exploitation.
5. Trafficking and slavery fact shows that a large number of slaves have been fixed.⁸⁰
6. Same is the case in USA also.⁸¹

Cultural Issues of beggary of Girls-

Whenever we talk about a beggar it always link us to the problem of poverty. It is an important issue prevalent worldwide. Presently, a large number of people in India lives 'socially bottom' life. This is particularly visible in the background of strong stratification when the gap in income of rich and poor starts getting bigger and bigger This process has a dynamic character; the poor are getting poorer and rich getting richer day by day. Moreover, it gives birth to certain illegal acts and activities in society and begging either willful or forced is one of them.

It is very tough to give any specific reason for the organization of beggary as is the cause with the crime. There may be set of causes including inability physical or mental, poverty or custom giving, unemployment, the collapse of family business may the cause of beggary. Poverty of the family or unemployment is one the most piercing cause of beggary. If a family is beg and there is no financial support and persons who are disabled and unable to do work and have no mean to livelihood they under compulsion adopt beggary. Girls and women also are no exception to it.

Beggary and lucrative business-

It is not so that begging is always done in compulsion but it is the easiest way to earn the money. Easy profits and income from beggaring compel certain girls and woman to adopt it as a carrier, instead of doing honest labor. Not only this, many people engaged in crime field, make it as a business and exploit young female children, girls and woman to forced begging. We have seen

⁸⁰ (<https://w.w.freetheslaves.net>) visited on 11th May 2020, at 12:00.

⁸¹ (<https://aspe.hhs.gov>), visited on 12th May 2020, at 16:00.

group of girls and woman engaged in this activities in big cities engaged in this job. Girls are disabled, maimed and even made forcefully handicapped to earn the sympathy of public and are forced into this business. We have read in news often that a beggar when died, millions of rupees were found from his house. When in the garb of begging also states prostitution. At the end of the day, the boss or organizer of profession collects majority of the earnings and leave meager for actual begging girls and woman. Gradually they become used to in this profession and adopt it as their professional lucrative business without doing any labor.

Despite of Indians repaid economic growth, the begging as a social problem, particularly by girls and woman, has existed in our society since inception of human civilization and still persists even after our government is intended to abolish it by legislation. To the best of my search and knowledge, I could not find out any legislation which extends to whole of India. States have brought in their own anti beggary laws. Beggary law continues to exist in Indian jurisprudence regardless of any evidence of abuse and without any presumption of criminal act among the already vulnerable section of the society. As far as the genuine handicapped girls/women who are involved in beggary are concerned, it is a matter of concern that unreasonable prohibition on begging by anti-begging laws in India deprives them, who beg as then last resort to their survival and thereby violate their fundamental rights to life and liberty.

Self-victimization-

Keeping in view above principles, a new trend has emerged where young girls and men, though energetic, rather their working to cater for their needs now look to begging as one the most convenient and surest way of getting money. Street begging in our country also have a negative effect on our National, long standing cultural practices and understanding of gender rules, while other reflect for more pragmatic economic reasons relating to income generation and alleviating poverty. In some part of the world, young girls and women are forced to marry in exchange for payments to their families, the cancellation of debt to settle family disputes or to secure another person entry into the country.

In some societies and sects, a woman can still be inherited by the brother of her deceased husband and is forced to marry. Even a rapist is permitted to marry the victim to escape from criminal action by State. Usually such marriage takes place with the consent of the family

members of the victim of rape. Findings from the Global Estimates reflect highly gendered pattern of employment and migration that see more woman than man employed in informal unregulated and unplanned sectors of work. Research points out to the relevance of broader patterns of human right abuses that disproportionately affect women and girls, including domestic and sexual violence and discriminatory beliefs and actions around access to properly, education and even citizenship.

Globally, girls and women are more likely to live in extreme poverty and report to forced insecurity.

Data reveals that these living in poor households have higher rates of illiteracy and of these, women in poor households are most disadvantaged of all lack of education restricts the opportunities of their employment globally and are under compulsion forced to accept labor employment. So, women have less access to economic resources also and are subject matter of global slavery. Unequal risk of slavery is the result of cultural practices and economic decision making also. Women slavery did not end with abolition in the 19th century, instead it changed its shape and continues in almost every country of the world. Women are forced into prostitution, agricultural work, construction activities and shops. They are controlled by their masters, exploiters and men in power and they no longer have a free choice and they are bounded to do as directed, dignity and rights. They are endowed with reason and consigned and should act towards one another in a spirit of brotherhood.”

Article 5 proclaims, “No one shall be subjected to torture and , in human are degrading treatment and punishment.”

Primarily, alternatives initiatives resolve around reform of current flawed, failing laws. In order to provide asylum to victim of bride burning who survives death, expansion of the protection under criminal National Law is required.

In April 1954, European Parliament introduced a proposal that would “ All women from persecution on the basis of gender by reforming international refugee laws. This proposal was however not accepted. Increasing economic interest of women in property rights may also be one of the solutions.

A. S. Garg in his book, “Bride burning crime against women’ has also recommended that married women must have property rights in her husband’s property even in his life time. Thus bride burning is one of the most heinous types of social crime and if the victim bride dies, her

pains and sufferings are one time episode.⁸² However in case the victim survives after burning her life becomes hell. It depends upon the degree of burn, sometimes body is dis-shaped, multi-lateral and even becomes ugly and victimization after survival is more than death by burn.

⁸² Bride burning crime against women by A.S. Garg.

CHAPTER 12 - FEMALE INFANTICIDE

It is a deliberate killing of a new born female child. India, China and Pakistan are famous of this practice. In countries with a history of female infanticide the modern technique and practice of sex selective abortions is often a closely related issue of discussion. Low status of girls and women, curse of dowry at the time of marriage and their abduction for crimes and particularly prostitution are causes attributed for female infanticide.

Laila Williamson an anthropologist in the year 1978 had collected the data how widespread was the practice of infanticide from under developing to well developed nations. The practice has been well documented amongst the indigenous people of Australia, Northern Alaska, and South Asia.⁸³

Charles Darwin in 1871 in *The Descent of Man, and Selection in Relation to Sex*, wrote that the practice was commonplace among the aboriginal tribes of Australia.⁸⁴

Amartya Sen in 1990 wrote, "New York Reviewed of books and was of the view that 100 million fewer women in Asia than would be expected, and this amount of infanticide is alarming, in humane and criminal offence also. Sex selective infanticide has increased in present day patriarchal India. As per the Goodkind, the bias infanticide is the practice of laminating / killing a young born girl as feminine bias. As known, India is one of the most overpopulated countries, perhaps next to China only, there is a higher percentage of en in comparison to females. Hindu belief and caste system, young girls were being murdered daily. Researchers have revealed a very shocking fact that in some villages of India, no girl babies were found at all. A study of Tamil Nadu by The community Service Guild of Madras found that 'female infanticide is rampant in the state through only among Hindu.

Economic status and religion intertwined as one due to what caste you belong determines ones economic status within the society. In Hindus when marriage of girl is settled she becomes the property of her husband soon after her marriage. The family of the girl would have to make a lot of preparations gifts to be readied, dowry in cash and kind, even by taking huge amount of loans. The family of the prospective bride must pay enormous amount of money to the family of spouse, where the woman will live after marriage. Though the law prohibits giving and taking of

⁸³ Infanticide by Laila Williamson, 21st April 2016.

⁸⁴ *The Descent of Man, and Selection in Relation to Sex* by Charles Darwin, 1871.

dowry; then institution is state pervasive. The primitive and poor families therefore do not want to have a girl child and murder them soon after their birth.

The modern holocaust of faminicide signifies not only the killing of female child deliberately to avoid further expenses at the time of marriage. As per the Porras, an American Organizational theorist, "Sons are called upon to provide the income they are the ones who do most of the works in the field. In this way sons are looked to as a type of insurance. With the perspectives, it became clearer that the high value given to male decreases the value given to females."⁸⁵

It is ironic that India is a country where nine devise one worshipped during 'Navratri' and even daily by Hindu society. They are treated and worshipped as 'Goddess'. Young girls are supposed to be their incarnation, but it is a matter of shame and sorrow that these young girls are murdered when they born.

Main Reasons for girls infanticide-

Female infanticide in India is mainly due to poverty, dowry system, and birth by unmarried woman; deform infants, famine and lack of support services.

Poverty-

Extreme poverty, with inability to afford livelihood is most important of all the reasons as analyzed by researchers for female infanticide. Poverty is responsible for high infanticide rates not only in our country but also in China, France and England. Under developed communities with less natural resources and almost no agricultural land have such inhumane practice. Large family with no food to feed is also one of the reasons for girl infanticide.

Dowry System-

Though the law prohibits giving or taking the dowry, it is a common cause for infanticide of girl child.

Unwanted Children-

⁸⁵ Porras, M. (1996). "Female Infanticide and Foeticide."

Those conceived after rape or failure of family planning devices, are also responsible for girls infanticide.

Conception to unmarried women-

If a women having relationship, sexual with a man gets pregnant, she by shame, being cause of defamation also gets baby child killed. However it may be with male as well as female child.

Response of State-

Government has framed laws to curb this illegal act. In year 1991 ‘**GIRL CHLD PROTECTION SCHEME**’ was launched. This is a long term incentive/scheme for rural families in order to meet certain rural families. Once the obligations are met, the state puts aside Rs.2000 in a state run fund which can grow up to Rs.10000 and is released in favor of girl when she attains the age of 20, which can be used for higher education or marriage. Another scheme ‘**BABY CRADLE SCHEME**’ was also introduced in the year 1992 by the Govt. of India. This is a scheme to adopt a baby child without legal formalities and thus saves any of the girls from infanticide.

International scenario and comments-

The Geneva Centre for Democratic Control (DCAF) of Armed Forces has stated that a large number of was widows were compelled to carry out ‘secret genocide’. In the year 2012 a documentary- It’s A Girl: The Three Deadliest Words In The World’ was released focusing female infanticide in CHINA. In 1998 another documentary, ‘Gift Of A Girl Infanticide’ was released and depicted female infanticide in Southern India.

Legal Provisions and Supreme Court on female Infanticide-

The British Govt. in order to curb female infanticide in India enacted, ‘Female Infanticide Prevention Act 1870’. This Act was enforced till 1981 in Pakistan. This was however applicable only to British Colonies in India.

The SC of India in a landmark judgment Voluntary Health Association Of Punjab Vs. Union Of India (W.P. CrI. 349 of 2006) issued certain guidelines which are as under:-

1. "All the States and UTs in India shall maintenance centralized data base civil registration record from all registered units so that information can be made available from the website regarding the number of boys and girls are being born.
2. The information that shall be displayed on the website shall certain the birth information for each district, municipality, Corporation or grampanchayat so that a visual comparison of boys and girls born can be immediately seen.
3. The statutory authorities if not constituted as envisage under the Act shall be constituted forthwith and the competent authorities shall take steps for the reconstitution of the statutory bodies so that they can become immediately function after expiry of the term. The apart, they shall meet regularly so that the provisions of the Act can be implemented in reality and the effectiveness of the legislation is felt and treated in the society.
4. The provision contained in Sec. 22 & 23 shall be strictly adhered to Sect. 23(2) shall be duly complied with and it shall be reported by the authorities so that State Medical Council takes necessary action after the intimation in given under the said provision. The appropriate authorities who have been appointed under Sec. 17(i) and 17(2) shall be imparted periodically training carry out the function as required under various provisions of the Act.
5. If there be violation of any of the provisions of the Act or Rules; proper action has to be taken by the authorities under the Act so that that the legally inappropriate acts are immediately curbed.
6. The Courts which with the complaints under the Act shall be fast tracked and the concurred High Courts shall issue appropriate directions in that regard.
7. The Judicial officers who are to deal with these cases under the Act shall be periodically imparted training in the Judicial Academies or Training Institutions as the case may be, so that they can be sensitive and develop the requisite sensitivity as projected in the objects and reasons of the Act and its various provisions and in view of the need of the society.

8. The Director of Prosecution or, if the said post is not there, the legal Remembrance or the Law Secretary shall take stock of things with regard to see the lodging of prosecution so that the purpose of the Act is sub served.
9. The Courts that deal with the complaints under the Act shall deal with the millions in promptitude and submit the quarterly report to the H.C. through the concerned session and District Judge.
10. The learned C.J. of each of the H.C. in the Country are requested to constitute a committee of 3 judges that on periodically oversee the progress of cases.
11. The awareness campaigns with regard to the provisions of the Act as well as social awareness shall be undertaken as per the direction Ni. 9.8 in the order dated March, 4, 2013 passed in voluntary Health Association of Punjab.
12. The State legal Services Authority of States shall give emphasis on the campaign during the spread of legal and involve the pure legal volunteers.
13. The Union of India and States shall see to it that appropriate directions are issued to the authorities of AIR and Doordarshan functionally in various states to give wide publicity pertaining to the serving of girl child and grave dangers the society shall free because of female feticide.
14. All the appropriate authorities including the state and districts notified under the Act shall submit quarterly progress report to the Govt. of India through the State Govt. and maintain form H. for keeping information of all registrations readily available as per sub Rule 6 of Rule 18A of the Rules.
15. The State and UTI shall implement the Pre conception and Pre Natal Diagnostic Technique (Prohibition of sex selection (six month training) Rule 2014 forthwith considering that the training provided is imperative for realizing the objects and purpose of the Act.
16. As per the Union of India and same States framed incentive schemes for the girl child, the States that have not formed such schemes, may introduce such schemes.”⁸⁶

International day of the girl child is celebrated on October 11 every year whereas National Girl Child day is celebrated on January 24. It is celebrated to raise awareness among people about all the inequalities faced by the Girl Child in the society. It is saying that, a baby Girl is one of the

⁸⁶ Voluntary Health Association Of Punjab Vs. Union Of India (W.P. CrI. 349 of 2006).

most beautiful miracle of the world.” To my mind a female child has the right to her body and life, even if she is still in the womb. Further a son is son till he gets her wife, but a daughter is a daughter for her whole life. Further daughters are ANGELS sent from above to fill our heart with unending love. Lastly, “Don’t kill girl in womb when she might bring country to bloom.” There is a message for persons who victimization their female either before birth or after their birth, ‘Girl is like butterfly then why making them to cry and Girls are angels we should save them.’”

CHAPTER 13 - VICTIMIZATION OF S.C. INTERN

Stella James was a graduate student of NLU Kolkata and is now working with NGO 'Natural Justice, Lawyers for Communities and the Environment. She alleged that a retired S.C. Judge in 2012 physically and sexually assaulted her. In a blog of the SNJS Journal of India Law and Society she wrote about her sad experience of 24.12.12, the eve of ex max, when protests of Delhi Gang Rape of Nirbhaya were going on. In her own words, "In Delhi at that time, interning during the winter vacations of my final year in University, I dodged police barricades and fatigue to go the assistance of a highly reputed S.C. Judge whom I have working under my penultimate semester. For my supposed diligence, I was rewarded with sexual assault from a man old enough to be my grandfather....frankly I was really shocked.....A person who is a S.C. Judge you don't expect a S.C. Judge to harass somebody." She further wrote, "I have heard of 3 more cases of sexual harassment by the same judge and I know of at least 4 other girls who have faced harassment of other judges.....I did my internship through the college recruitment process." For not disclosing the name of judge she said, "I bore, and still bear no realwill towards the man and had no desire to put his life's work and reputation in question. On the other hand, I felt I had a responsibility to ensure that other young girls were not put in similar situation. But I have been unable to find a solution that allows that. Despite the heated public debates despite a vast army of feminist vigilantes, dispute new criminal laws and sexual harassment laws, I have not found closure. The lack of such an alternative led to my facing a gripping sense of intellectual and moral helplessness."⁸⁷ She has also prays for him but one sexual behavior disturbed her and she wrote, "I had worked for him for six months and he treated me really well for six months and has been really kind to me ,once it gets out in the open that he harassed other girls, people will only look at him in that light."⁸⁸ After month CJI has decided to institute a three member judicial committee to probe the allegation. This is an episode of a law student by her alleged victimization by a S.C. justice. Whatever may be truth, the fact-remains the same that something fishy had happened resulting into victimization of a law student.

⁸⁷ Blog of the SNJS Journal of India Law by Stella James on 24th December 2012.

⁸⁸ Ibid.

Second Episode-

The second intern alleged that she was sexually harassed twice by a sitting judge of S.C. at his official residence. 'Mail Today' broke the story that Justice A.K. Ganguli victimized a law intern sexually at his office. The complaint was made to then CJI, P. Sathasivam. A full count meeting of S.C. was convened and surprisingly it was resolved that no more complaint against J. Ganguli shall be entertained in future. The complaint was returned back to the intern without any action and decision on it. She reacted and wrote, "I am very clear that action should be taken and an enquiry should be conducted by the S.C. against the then sitting judge against whom allegations have been leveled."

In one of her attendants she alleged, "He put his right arm around me and kissed me on my left shoulder. I was shocked and hurriedly left his room." With such wild allegations, giving the clean chit not to enquire the matter is the highest victimization of a law student by her patron, a justice of S.C.

Episode of victimization by S.C. staff (lady) against Justice RANJAN GOGOI

An affidavit was sent to all the sitting judges of S.C by a former employee of S.C. on 19.04.19 alleging her sexual victimization by C.J.I. A detailed report is published in WIRE which gives the latest news and its analysis also. The affidavit, it is true gives a chilling account of the apparent victimization she had undergone due to sexual advances by CJI. She requested as under:

"I am requesting the Hon'ble Judges of the S.C. to constitute a special enquiry committee of senior retired judges of the Hon'ble S.C. to enquire into these charges of sexual harassment and consequent victimization" The alleged incidents of harassment took place on October 10 & 11 year 2018. This is also a fact that she herself was arrested in a bribery case which was registered in March 2019 and is now facing criminal trial. There are certain facts which cannot be denied and are as under:-

1. It is a fact that the alleged victim was working in the S.C. and Justice Gogoi was a sitting SC Judge at the time of alleged allegation.

2. She served as junior assistant in the court of Mr. Gogoi from October 2016 to October 2018.
3. The bribery case was transferred Crime Bench which moved Patiala House Govt. to cancel her bail.
4. The fact is that the bribery charge has been made against the women only and there is no charge against the alleged bribe giver, the complainant of the case.
5. She has a junior govt. employee was upgraded to Justice Gogoi's core team.
6. Her role was of typing and documentation in SC. Library earlier and but later on she was shifted to Gogoi's residential office.
7. As per the affidavit, Justice Gogoi used to call her twice or thrice a day and even used to message on what's up. She was asked to delete all these messages.
8. J. Gogoi often called her to her chamber for work of one kind or another and frequently enquired about her family and daughter.
9. Once she said, "My husband is conservative and felt that he was not willing that she should do the job but she was interested in her career.
10. The alleged victim stated her work at residential office from 11th August 2018. As per the allegations, on one occasion he praised her dress and also said that she was looking beautiful. In her own words regarding incident, " He took my notepad and kept it on table. He then took my hands into his hand and told me that my hands smell nice, he then pinched my cheeks, he then put his arms around my waist from the front and said "I WANT THIS FROM YOU." She has further written in her affidavit that when she stood up and put her hand behind back. He hugged her by patting his hands around her waist and did not allow her to go away. He started touching me all over the body and she was compelled to push him away and left the room in complete shock.

Complaint and after math-

In such a grave and wild allegation, It was the duty of Supreme Court to respond, act and enquire the matter family according to established legal norms and in accordance with the principles of natural justice. Two rulings of S.C. paved the guideline and they are:-

Besides Sexual Harassment of women at workplace (Prevention, Prohibition & Redressal) Act 2013 'POSH ACT' also provided a procedure and guidelines.⁸⁹ But what actually happened is narrated as under:-

1. "Justice Ranjan Gogoi suo moto took note of the matter and treated it as a writ petition and spoke for the bench. Famous legal saying that a man cannot be a judge of his own case was ignored.
2. A three member committee of S.C. judges headed by Bobde (Present CJI), who happened to be the second senior most judges of SC Justice N.V. Ramanna and Justice Indira Banerjee, were the other members. Justice Ramanna however resigned and Justice Indira Malhotra took his place.
3. InHouse Procedure was adopted by this committee as laid down by SC in 2015 (4) Sec. 91) the case of M.A. In this case she has held, " the facts and circumstances of a given case, to ensure that the investigation process affords safeguards against favoritism, prejudice or bias " Since CJI himself was accused, an ad hoc new legal procedure should have been adopted. As a matter of fact under the existing laws CJI was in full control of matter.
4. The presence of an external neutral member with the experience in the field of fighting sexual harassment case was the requirement of time in the Committee (Sec.4(2)(c) of the POSH Act.
5. Principles of natural justice require that members should be free from any bias, prejudice or influence of either the complainant or respondents. Here all the three committee members were co-judges only.
6. The victim, alleged, had no opportunity of being heard by committee.
7. Rule 4 of VISAKA says that during the enquiry either the alleged victim or alleged offender must be transferred from that place for fair enquiry but here CJI neither resigned nor proceeded on long leave."⁹⁰

Whatever may be the truth behind the complaint, but it is a fact that the alleged victim of alleged sexual assault was not heard, and the procedure adopted cannot be said to be fair. I am of the

⁸⁹ Vishaka & Ors Vs. State of Rajasthan & others (1997, 6 SC 241).

⁹⁰ ADDITIONAL DISTRICT & SESSION JUDGE Vs. High Court of MP (2015) 4 SCC 91.

tried that matter must have scrutinized by Joint Parliamentary Committee and certain professors, journalism and jurist must also have been included in the committee besides Supreme Court Judges.

CHAPTER 14 -IMPACT OF VICTIMIZATION ON WOMEN

Victimization affects all men, women & children but its impact is greater on woman & children. In order to understand the effect of crime on women, in criminal law justice system we must know the circumstances and intensity of criminal action against women. It is almost impossible to predict exactly as to what shall be the affect as it varies from women to women victims. Women react differently in different situations. Women react vary differently to similar offences and where one woman may very seriously attached, another one may only experience minor a short term affect. Those who are most vulnerable such as poor, deprived of hearing other stresses of life of these women who have been previously victimized are more likely to have a greater impact on them. The effect of crime can be felt by women victim herself as well as by her family members also. Likewise effect of fraud or cheating to business women is not only felt by her but also by her staff. These affects may sometimes, only be short term whereas sometimes it affects long term.

More seriously affected woman victims of a serious an assault, robbery and particularly rape, homicide may sometime need professional psychiatric and medical treatment as well as counseling. It is a consist observation that the emotional effects of criminal victimization on women do not differ much, though more serious and violent nature of crime tends to advice man adverse effects. A women victim of crime may possibly experience many kind of attacks herself, her family and close associates as under:

- a. Direct cost and inconvenience due to theft, robbery or damage to her property.
- b. The physical attacks of injuries through violent crimes.
- c. The feeling of guild to become the victim of crime and the feeling that why the criminal was not prevented and checked.
- d. Physical and mental attacks such as anger, depression, fear, and sleeplessness, flashback to offence or post-traumatic stress disorder may occur to women victims.
- e. Feeling of revenge as we have seen in the case of Phoolan Devi who ravished by men & in revenge she shoot number of high caste persons responsible for her rape.

- f. Sometimes women lose trust in society and community in which she lives.
- g. Sometimes criminal victimization affects women's social life, official life and even changes her lifestyle, as in the case of rape.
- h. Sometimes victimized women state taking extra crime prevention measures also.
- i. Sometime a victimized woman is concerned that other people will not believe in her version and would blame her for the crime that had happened to her.
- j. Some of the women victims of crime also experience neglected changes in their belief system and no longer think that their world is a safe place where they can trust other people.
- k. Some rape victims, particularly of mass rape think to commit suicide and make attempt and even commit suicide or start taking alcohol or narcotic drugs.
- l. Some rape victims are unable to have sex with their husbands also as deriving the process the scene of rape is recreated in their mind.

To summarize, following symptoms are to be noticed in general in women victims of crime.

1. Shock
2. Terror
3. Feeling of unreality
4. Feeling of numbness
5. Feeling of nervousness
6. Confusion
7. Helplessness
8. Fear
9. Anger and rage

10. Grief on intense sorrow
11. Enhancement of particular sense like hearing, smell or light (Rarely)
12. Difficulty in trusting self or others.
13. Depression, panic, agrophobia, obsessions or compulsive disorders.
14. Shame etc.

Child marriage and Sati victims

Child marriage is driven by gender inequality and common thinking that girls are inferior to boys. In India main causes of child marriage were—

Poverty- In poor households, child marriage is common in comparison to rich society. Many of two families marry their daughters in childhood in order to reduce their economic burden less dowry is expected for younger brides in poor societies. There happens no question of their consent as sometimes they are even unable to understand the institution of marriage as well as duties and liabilities attached to it. In their husbands house also, sometimes they are ill-treated and became victim of harassment. They are victimized by their parents to get rid of them due to poverty and often are victimized by husband or in-laws as they fail to perform duties attached to matrimony. Child marriage due to poverty is victimization in itself due to poverty.

Betrothal— Marriage of some of the girls are settled even before their birth, in order to secure their future. Parents settle that if a girl is born, she shall be married to some of a particular person. This is victimization even before birth.

Education—In many families girls are considered as ‘Paraya Dhan’ i.e. someone else wealth. It means that a girl productive-capacity benefit her marital family and therefore they are less

educated in comparison to sons of the family, because boys take care of their biological parents. This is again girl's victimization by none else but her own parents.

Labor and exchange marriage- Often girls are married as they attain puberty so that they may take care of husband's house by hand labor. The labor of young brides is artful to some rural economics and further practice of exchange girls through marriages so that neither of the family suffers a shortage of labor. This concept of girl being used as labor is also victimization and playing cruelty in their tender ages.

Gender-norms- Child marriages are sometimes used to control female sexuality, sanctify sex and ensure reproduction only to keep generation continuity. They are only thereto produce children without any respect, honor or humanity. This concept is again victimization of women as they are treated as animals to produce children.

Legal aspects- According to the Prohibition of Child Marriage Act, 2006 minimum of marriage is 18 years without any exception.

India is committed to eliminate early child marriages by 2030 in line with target 5.3 of the Sustainable Development Goals. Child marriages violate many human rights of the girls including education, freedom from violence reproductive rights, sexual health care, employment and right to consensual marriage and violation of all those human rights has an effect of victimization of girls. Further if a girl of under age is married, she gets pregnant whereas her uterus, pelvic & genitals are not mature enough to lead successful pregnancy. Number of death take place during delivery due to their physical reason and girls became victimization.

To sum up we can say-

1. Child marriage is a curse as it violates the rights of girls.

2. This institution should be seen as an abuse of human rights and act of victimization of girls.
3. It has long term effect on the health of a girl.
4. It is above for our society and causes hindrance in the process of development of a nation.
5. It is a process of slow victimization in the life of an innocent girl.

Sati- Traditional Indian Society was basically orthodox, rigid and superstitious. This society has a very inflexible customs and traditions. Sati or suttee is a largely a practice of history with certain exceptions even nowadays mainly among the Hindus in South Africa and particularly India in which a woman whose husband dies sacrifices herself by setting herself on pyre of her late husband. During Mughal period, Hindu Rajput clans had a practice that women used to sacrifice their lives on death of their husbands. Our ancient society had customs, rituals and manners, which were not to be accepted by any logical and cultured society. It remained stagnant and static and could not evolve a dynamic character. In the course of time, many inhuman social and religious customs and superstitious grow. Victims of customs and practices were unprotected and weak member/s community and especially the woman.

Sati i.e. the practice of burning off a widow on the funeral pyre of her husband, a barbaric custom which began liable practice and custom which flourished in the name of religion. This practice had its origin in the dark ages of 'Medieval India and was a vogue during the British India. It was Ram Mohan Roy who opposed this practice as it has not religious sanction and moved a petition in British Parliament. In 1829 the British govt. banned this practice.

History reveals that the practice of Sati was often not voluntary and even widows were forced to commit suicide in the name of religious practice of sati. As a matter of fact if Sati was voluntary, it was self-victimization and if it was under compulsion it was a crime and woman became victims of crime.

It is sad state of affair of the country that this horrendous crime is still committed and even educated people in 'Sati Worship'. Hundreds of the widows were tied to the dead bodies of their husbands under coercion threat, intimidation and deception.

It is true that the life of a widow is full of misery. She is being considered to be an outcast and is supposed to live in ignominy. Our Indian constitution in Article 14 gives right to equality, legal and constitutional safeguards are there against victimization of women, but in spite of all this women still become the victims of crime by the society.

CHAPTER 15 - CONSTITUTIONAL AND LEGAL

SAFEGUARDS AGAINST THE VICTIMIZATION OF WOMEN

The frames of Indian Constitution had given full protection to women against their exploitation. The principles of gender equality are enshrined in its preamble also. Fundamental rights, fundamental duties and the directive principles of State policy, all are the provisions for all including girls and women of the country. Our constitution not only grant equality to women but also empowers the State of adopt measures of positive discrimination in favor of women.

India is a democracy and within the framework of democratic policy, our constitution and other laws, development policies, programs and plans have aimed at women's welfare and advancement in different spheres on international front, India has accepted, adopted and ratified various conventions and treaties also. Further several human rights directive committing to secure equal rights of women have also been followed in true spirit. Key among them is the ratification of the 'Convention on Elimination of all forms of Discrimination against Women (CEDAW) 1993.

Constitution of India granted equality to women and also empowered the State to adopt measures of positive discrimination in favor of women. This is the step to neutralize the cumulative effect of socio-economic, political and educational disadvantages forced by them.

**Part IIIrd of the Constitution provides for the FUNDAMENTAL RIGHTS:
Following are the important articles for the purpose-**

1. Article 14

It is said that State shall not deny equality before the law and equal protection of laws with the territories of India meaning thereby among the equal laws, rules and regulations are equal and should be equally administered and like should be treated alia. This article is the core of equality among the masses.⁹¹

⁹¹ Article 14 of the Indian Constitution, 26th January 1950.

2. Article 15(1)

State not to discriminate against any citizen (men or women) only the grounds on religion, caste, race, sex, place of birth or any of them. Further Article 15(3) provides that the State to make any special provision in favor of women and children.⁹²

3. Article 16

Equality of opportunity to all citizens in matters relating to employment or appointment to any office under the State⁹³.

4. Article 39(a)

The State directs its policy towards securing for men and women equally the right to an adequate means of livelihood and Art. 39(a) equal pays for equal work for both men and women. To promote the justice on the basis of equal opportunity, in respective of gender and provide a free legal aid by making suitable legislation or in any other way to ensure securing justice by providing equal opportunities because of the fact of economic or other disability. Article 42 provides that the State shall provide and make provision for securing justice with just and human conditions of work for maternity relief. The State is directed to promote with special care the educational and economic interests of the people (men and women) and to protect them from all form of special injustice and exploitation (Art 46) duty on state to raise the level of nutrition of the standard of living of people (Art. 47). However, Art. 51(A) (C) provides for promoting harmony and the spirit of common brotherhood amongst all the people of India and to renounce the practices derogatory to the dignity of women.⁹⁴

Art. 243(D) (3) provides that not less than one third (1/3) (including the number of seats reserved for women belonging to the S.C. & ST) of the total number of seats to be filled by direct election to every Panchayat to be reserved for women and such seats to be allowed by rotation to different constituencies in a Panchayat: Likewise Art.243(D)(4) provides that not less than one third (1/3) of the total number of posts of Chairman (Chairperson) in the Panchayats at each level to be reserved for women. Art. 243T(3) says that not less than one third (including the number of

⁹² Article 15(1) of the Indian Constitution, 26th January 1950.

⁹³ Article 16 of the Indian Constitution, 26th January 1950.

⁹⁴ Article 39(a) of the Indian Constitution, 26th January 1950.

seats reserved for women belonging to the SC & ST of the total number seats by direct election in every Municipality to be reserved for women and such seats to be allowed by rotation to different constituencies in a Municipality. Art. 243T(4) makes the provision for reservation of office of Chairperson in Municipalities for the SC & ST, the ST women in such manner as the legislature of a State may by law provide.

The various State Governments, in order to uphold the Constitutional provisions and mandates, have enacted various legislative measures intended to ensure equal rights in respective of gender and to counter social inequality and discrimination and also various forms of laws to curb violence and atrocities on women particularly the working women. Although women may be victims of any type of crime which are directed specially against women are turned as crimes against the women.

National Commission for Women-

Government of India in January 1992 set up a National Commission for Women with a specific task and mandate to study, monitor and implement all the matters relating to the legal and constitutional safeguards provided for women and to review the existing legislation and to suggest necessary changes wherever necessary.

The National Plan of action for the GIRL CHILD-(1991-2000)

This plan of action was made to ensure development, protection and survival of the girl child with the ultimate aim of building up a better future for the girls.

National Policy for Empowerment of Women 2001-

The Department of women and Child Development in the Ministry of Human Resource Development of Government of India has preferred a national policy for Empowerment of women in the year 2001, with policy of all-round development of women in all fields of life.

CHAPTER 16 -STEPS TAKEN BY UNO TO CHECK VICTIMIZATION OF WOMEN

UNO has faced serious challenges for many years for making efforts to promote gender equality all around the world. It includes inadequate funding and gender equality issued also. On 17.11.1967 the General Assembly of U.N. adopted Women Rights. The Declaration on Elimination of Discrimination against women (DEDAW) is a human rights proclamation. The struggle for equality of rights for women has been taking place as feminist movement 'UN Women' is the name given to U.N. declaration which is dedicated to empowerment and equality of the women, all over the world. As a matter of fact, it is a global campaign for women/girls. It was founded to accelerate the progress of women worldwide in all the sphere of life such as education, equality, empowerment and economic stability. U.N. Women works with all the global governments, Civil societies and organization to design law, politics, policies, programmes and all types of services which are necessary for uplift men of women and to ensure that the standards are truly implemented and benefit women worldwide. It is world's programme for women to make a vision of the 'Sustainable Development Goals' focusing on following for priorities as per the strategy-

1. Women participate and lead in benefit equality from government system.
2. Women have income security, decent work and economic autonomy.
3. All girls and women live life free from all forms of violence and
4. Women and girls contribute to and have greater influence in building sustained and sustainable resilience, peace and benefit equally from the prevention of natural disasters, conflicts and humanitarian action.
5. Determine to advance the goals of equality, development and peace for all women everywhere in the interest of all humanity
6. Acknowledging the various of all women everywhere and taking note of the diversity of women and their rights and circumstances, honoring the women who paved the way and inspired by the hope present in the world's youth
7. Recognize that the status of women has advanced in some important respects in the past decade but that progress has been uneven, inequalities between women and men have

persisted and major obstacles remain, with serious consequences for the wellbeing of all people

8. Also recognize that this situation is exacerbated by the increasing poverty that is affecting the lives of the majority of the worlds, in particular women and children, within both the national and international domains.
9. Dedicate ourselves unreservedly to addressing these constraints.
10. The equal rights and inherent human dignity of women and men and other purposes and principles enshrined in the Charter of UN, to the UDHR and other international human Rights Instruments', in particular the convention on the elimination of all forms of discrimination against women and the Convention on the Rights of Child, as well as Declaration on the elimination of violence against women of the Declaration on the Rights of Development.
11. Ensure the full implementation of the human rights of women and of the child as inalienable, integral, and indivisible part of all human rights and fundamental freedom.
12. Build on consensus and progress made at previous U.N. Conference and Submits on Women at Nairobi in 1985, on Children in New York in 1990, environment and development in 10 –De- Janeiro in 1992, on human rights in Cairo in 1994 and on social development in Copenhagen in 1995.
13. Achieve the full and effective implementation of Nairobi Forward looking advancement of women.
14. The empowerment and advancement of women including the rights to freedom of thought, conscience, religion and belief , thus contributing to the moral, ethical, spiritual and intellectual needs of women individually or in community with others and thereby guaranteeing then the possibility of realizing their full potential in society and shaping their lives in accordance with their own aspirations.

There are total 38 declarations all are related to women's liberalization, empowerment, emancipation form inequality and liberty.

Further the U.N. Women also work for:-

1. To Co-ordinate and promote the U.N. System work in advancing gender equality.
2. It is also works towards deliberating all agreements linked with Agenda of U.N. for 2030.

3. The entity works to position gender equality as fundamental to sustainable development goals, and more inclusive world.

The real problem

Gender equality is not only a basic human right but is a universal acceptable requirement of the world. However following points require focus of the world:-

1. Equality is only in statics and on papers but not in the practical life.
2. Its achievement has enormous socio economic ramification.
3. Empowering women will fuel rising economics increase productivity and growth.
4. In spite of all laws and efforts of governments of the world, gender inequalities remain deeply rooted in every societies.
5. Women, still lack access to decent work and face occupational segregation and gender wage gaps.
6. They are too often denied access to basic education and had to care.
7. In all parts of the Globe, women suffer discrimination and violence.
8. Further they are under presented in economic and political decision making process in many countries of the world.

The U.N. has made land mark treaties and agreements between the member nations of the world. They are 'Declaration and Platform for Action and 'Convention on the Elimination of all forms of Discrimination Against Women. (CEDAW). U.N. women's main roles are:-

1. To held Members State's implement Standard, set up by it, standing ready to provide all suitable financial as well as technical support to countries that need and request for it.
2. To support the inter-governmental bodies and institutions such as-Commission on the status of Women' in the formulation of global standards, policies and norms.
3. To lead and coordinate the U.N. Systems work on gender equality, promote accountability and regular monitoring of progress.
4. Division for the advancement of Women (DAW) as envisaged by U.N.
5. To see international research and training institute for the advancement of women (INSTRAW).

6. Check the working of office of the Special Advisor on Gender Issues and Advancement of Women (OSAGI) AND
7. To check United Nations Development Fund for women established by U.N.C. (UNITEM).

The Commission on the status of Women (CST or UNCSW) –

It is a commission of United Nations Economic and Social Council (ECOSOS); main U.N. organ for upliftment and empowerment of women of the world. Every year members of this organization gather together at New York to evaluate the progress of gender equality, identify the unmet challenges, set global standards and formulate concrete policies to promote advancement of women and then gender equality. It was established on 21.06.1943 with head quarter at New York. It has 45 member states at a time subject to election after every four years according to geographical distribution system. It has drafted several conventions such as Declaration on the Elimination of Discrimination against Women in 1967.

Bureau of CSW-

It plays an important role in the preparation and ensuring that the annual session of CSW are successful. The term of Bureau is two years.

1976 to 1985 was named as United Nation Decade for Woman by C.S.W.

Reproductive Rights of Women and Commission-

After its foundation in 1946, the Commission started working on various rights of women. It also started working on and acknowledged the social implications of motherhood and states that Children and maternity protections are important, valuable and integrate rights of a woman and should be extended to all realms of the lives. Family planning is a basic right of women irrespective of views of her partner/husband. Moreover, it is a human right of a woman as per CEDAW, “to decide freely and responsibility on the number and spacing of their children and have access to the information, education and means to enable them to exercise these rights.”

Use of contra options to avoid unwanted pregnancy is also a vital right of women forced sterilization or abortion amounts to criminal victimization of women.

Beijing Declaration-

In the year 1995, the Commission had (4th) Fourth World Conference for action to be taken at Beijing, China. It is commonly called “1995 Beijing Declaration and Platform Action.” This was a resolution adopted in the UN at the conclusion of fourth World Conference on Women on 15.9.1995 and adopted to promulgate a set of principles concerning the equality of women with men. The resolution and text of declaration is as under:-

1. We the governments participating in the fourth World Conference on Women.
2. Gather in Beijing in September 1995, the year of the fifth anniversary of the following of the U.N.⁹⁵

⁹⁵ 1995 Beijing Declaration and Platform Action.

CHAPTER 17 - COMPENSATION LAWS AND SCHEMES FOR WOMEN VICTIMS-

POCSO CASES-

There are many strict and stringent laws for the safety of girls & women to curb the vulnerable and deteriorating condition of women against offences relating to outraging the modesty of a woman and then sexual victimization. The S.C. in many cases of women victimization of minor girls has expressed its dissatisfaction.

1. The S.C. has noted that no satisfactory schemes of compensation existed for the victims of sexual assault/abuse under POCSO and ordered that victims under POCSO should be compensated under Compensation Scheme for women victims/survivors of sexual assault or other crimes of NALSA.
2. Another fact which causes worries is that a high per cent children are turning hostile in POCSO Courts; especially where family members are the alleged perpetrators of sexual abuse which is the main cause of hostility and their consequential activities.

Hon'ble Supreme Court in the case of *Nipun Saxena Vs. Union of India* W.P. (C) No.565/2012 had observed as under:-

“It would be appropriate if NALSA sets up a committee of 4 or 5 persons who can prepare Model Rules for Victims Compensation for sexual offences and acid attackers considering the submissions made by the learned AMICUS. The learned amicus as well as the learned S.G. (solicitor General have offered to assist the committee as and when required. The Chairperson of the National Commission for women is associated with the committee.”⁹⁶ In view of the above observations of S.C., NALSA constituted a High-Powered Committee which consisted of following persons.

1. Mrs. Pinky Anand –Additional Solicitor General
2. Mr. Rakesh Srivastava- Secretary Ministry of Women and Child Development GOI (Govt. of India).
3. Mr. T.V.S.N. Prasad Additional Secretary, Ministry of Home Affairs, Govt. of India.
4. Mrs. Indira Jaisingh , Senior Advocate, S.C. of India

⁹⁶ Nipun Saxena Vs. Union of India (W.P. (C) No.565/2012).

5. Sri Ashok Agrawal- Member Secretary, NALSA
6. Mr. Arjun Rathi Rena- Joint Secretary, Department of Legal Affairs, Ministry of Law and Justice, Govt. of India.
7. Mr. K.L. Sharma- Joint Secretary, National Commission for Women
8. Mrs. Bhasti Ali- Co- director, HAQ- Centre for Child Rights.
9. Mr. Surinder, S. Rathi- Director, NALSA

This committee times to frame a scheme and it was resolved but a sub scheme within the existing Victim Compensation Scheme should be framed for victims of sexual assaults.

This Scheme come into existence in the year 2018 and the most important provision was the creation of fund called “Women Victims Compensation Fund” and out of this fund compensation was to be given to women victims as decided by SLSA (State Legal Services Authority) or DLSA. This amount of compensation was to be given either to the victim or her departments who have suffered to SS or injury. While deciding the question, it shall also be taken into account the fact of victim getting compensation under Sec. 357A Cr. P.C.

Procedure for making application for compensation-

It is mandatory that higher police authorities of the district like SP/DCD or SHO shall share the copy of FIR with SLSA and DLSA, as the requirement may be. In exceptional cases SALSAs or DLSAs may initiate proceedings suo moto also. All these documents like FIR, Medical report or inquest report be placed before the Court concerned along with the complaint. State or DLSA may provide the relief under the provision of Scheme fraud by NALSA & named as “Compensation Scheme for Women Victims/Survivors of sexual Assault/Other Crimes 2018.” Where deciding a matter of SLSA or DLSA, as the case may be, shall consider following factors for deciding the amount of the compensation.

1. Gravity of the offence and severity of mental or physical harm or injury suffered by the ‘victim’
2. Expenditure incurred or likely to be incurred on the medical treatment for physical or mental health including counseling of the victim, funeral, travelling during investigation/inquiry trial (other than compensation money.)

3. Loss of educational opportunity as a consequence of the offence, including absence from school or college due to mental trauma, bodily injury, medical treatment, trial of offence or any other relevant reason.
4. Loss of employment as a result of the offence including absence from the place of employment due to mental trauma, bodily injury, medical treatment, investigation or trial of the offence.
5. The relationship of the victim to offender, if any.
6. Whether the abuse was a single isolated incident or whether the abuse took place over a period of time.
7. Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP) or has given birth to a child including rehabilitation needs of such a child.
8. Whether the victim contracted the sexually transmitted disease (STD) as a result of the offence.
9. Whether the victim contracted Human Immune-Deficiency Virus (HIV) as a result of the offence.
10. Any disability suffered by the victims as a result of offence.
11. Financial condition of the victim against whom offence has been committed so as to determine her need for rehabilitation and integration needs of the victim.
12. In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/ growth prospects and
13. Or any other factor which SLSA/DLSA may consider just and sufficient.

There is also provision for interim compensation to be awarded in appropriate cases after conducting an enquiry as provided in the scheme. This enquiry is to be conducted within 6 days from the receipt of the application SLSA or DLSA, as the case may be after conducting the enquiry recommends the amount of compensation to the victim or her survivor. The copy of the order of interim compensation is placed on the record of the trial court so that it may take note of it while awarding final compensation under section 357 of the Cr. P.C.

Approval of Scheme by Supreme Court-

On May 18, 2018 the day or rather a history day for woman's right, the day when S.C. gave its approval to the scheme. It opens a new era by bringing uniformity in victim compensation benefits available for women in India.

The Apex Court, in its historic judgment, led by a bench headed by Justice Madan B. Lokur & Justice Deepa Gupta finally approved the NALSAs Compensation Scheme for women Victim/Survivors of Sexual Assault/Other Crimes 2018.

Scheduled available to women Victims of Crime

1. Loss of Life	Rs. 5 lacs minimum but may be up to 10 lacs.
2. Gang rape	Rs. 5 lacs minimum but may be up to 10 lacs
3. Rape	Rs. 4 lacs minimum but may be up to 7 lacs
4. Unnatural sexual, assault, Loss of any limb or part of body	Rs. 2 lacs may extend up to 5 lacs
5. Loss of limb or part of body resulting in 40% and below permanent disability	1 lac and maximum up to 3 to 5 lacs
6. Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 lac and maximum up to 2 lacs.
7. Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 lac and maximum up to 2 lacs.
8. Loss of foetus i.e. miscarriage as a result of Assault or loss of fertility	Rs. 2 lacs up to 3 lacs.
9. Pregnancy out of rape	Rs.3 lacs up to 4 lacs.

Victims of burning-

1. More than 50% burning	Rs. 5 lacs up to 8 lacs.
2. Injury less than 50%	Rs. 3 lacs up to 7 lacs.
3. Less than 20%	Rs.2 lacs up to 3 lacs.

CHAPTER 18 - CONCLUSION & SUGGESTIONS

We have noticed that women are victimized all over the world but to my mind it is not only a crime but also a moral wrong. Let us examine first as to what is women & purpose of almighty for her creation on earth. Franklin Frank who is a H.R. Manager at BLR Labs Pvt. Ltd, who is nick named as Lion& has 14 years' experience of human resources, supply chain management. His article ' A comment that makes a difference' is a wonderful article". To quote from his article , women are God's most precious gift to mankind. To all his wonderful creations, they are at top. They love & care for us like no men understands how to do , from birth in till we are grown." To continue, "women have changed & reformed societies at all levels in many different ways. Every day in our lives, we came across a women who has in same way or the other inspired us".⁹⁷ He further said, "This world is a better place because the presence of women, who plays an important role in the form of mother, sister, daughter, friend, wife or coworker. No matter what them role , they add meaning to our existence & they bring love to our live .⁹⁸"

This was an article written by LION on International women day.

I have gone through a blog by Rohan Singh, ASC/ ambassador & blog writer. In his blog dated 24.09.2015 he has written beautiful lines about women & to quote, "The strange ability to show her love through tears is the best gift women have got from God. Her tears are priceless. She will cry when she is in pain, she will cry when she gets immense joy. the tears of women are precious . One bad thing is that sometimes she shed it on people who don't deserve it.I have seen how a mother nurtures her son or daughter even when there is an adversity⁹⁹. In a blog by one Lajpat Rai Sabharwal while commenting on speaking true he has given a conversation between public & NAPCLEAN. Public asked Napoleon as to how he can make the nation great wonderful was the reply of Napoleon which I am quoting here, "You give me good mother, and I will give you good nation. Nation building depends upon mothers who play all encompassing role in preparing their children to face the challenges of left to come". Vedas have said beautiful words, " Mother you are epitome of sacrifice, tolerance & Love. You command our love & respect & are worth of worship by our progeny". To my mind, she possessive virtues of faith, love,

⁹⁷ A comment that makes a difference' is a wonderful article by Franklin Frank.

⁹⁸ Ibid.

⁹⁹ Blog by Rohan Singh, on 24th September 2015.

devotion , service, equanimity & purity. Bereft of worldly vices, she desires to do good deeds throughout her life. Further she is the first school where children spend the impressionable period of their mental life. She plays an important role in making personalities of the children & must be called as "Nirmatri" or Vidushi".

Coming back to Mahabharata once Yaksha asked a question to Dharmaraj Yudhistre which is being quoted verbatim here. The question was, "what is weightier than the Earth? The Yudhistre replied " Mother is weightier than the earth. In the role of a mother, she can be likened to a Goddess". Literature reveals that it is the woman who right from her conception starts training to fetus in her womb. To give an example, when Napoleon's mother got pregnant, she started watching army parades & listened to inspirational songs & its effect on new born child was wonderful. Aristotle once remarked, " Mothers are fonder of children because they are more certain they are their own".

In an unknown post which I met on <http://adisankhi.blogspot.com> write a little" Girl - The most beautiful gift of god. I found a beautiful conversation between the Earth & God. I don't know whether it is an imaginary conversation or not, but one thing is sure, that it is a master piece of work relating to creation of girls on earth.

What I am writing here is borrowed from this unknown blog but heart touching & cast light & colors on need of a girl in this universal. Now coming to that marvelous blog. I will try to discuss it independently.

There was a time when earth was just forming . The living things were just created by God & they come into existence on our planet. The water, tree, mountain, rocks, hills & sea all were created by god. Then god thought to create life on earth & to begin with, he created microorganism & the micro living was seen on the earth. In due course of time & gradually, most of the living things were seen, the earth also got color of rainbow. It was all creation of God, Various animals were created but he thought he want to create such animal that would be different from others. So he created a 'Man' the so called intellectual on the earth.

The life cycle started . All were leading them own life in the own way. They were just living them live, but they were not happy, because our mother earth was not happy. She asked GOD' "OH my Lord, you gave me variety, You gave me intelligence, You gave me life but why you made it so ugly?" God was shocked on the question, her thought; I gave her all the beauty. He has so my colors in her. What more does mother earth want? God was in a fix & dilemma. God asked mother earth, " what do you want exactly?"

Mother earth replied, *"I want pink color in me. I want a woman just like me. The woman who can be the sweetest daughter, loving wife, caring mother & at the end grandmother who would do everything for her grandchildren".*

Further she said, *" I & you want to see your creation to be happy, create a woman which would be the best gift for the whole universal "*. And god realized that what the mother earth wanted to suggest him. On hearing this reply God was too happy & he made his most beautiful creation on earth a "WOMAN" the actual need of mother earth & her forever love. That is the reason all women were born. That is why it is aptly said, when god is happy the girl is born. when we harm a girl, we ultimately harm gods feeling & our mother earth is love. Girls are the real gift for the universe, which has capacity to give birth to other living beings. So I can conclude as,Respect Women, Respect Our Mother Earth And It Would Be Respect To Our Creator, The God.

Above discussion depends a bloomy face of girl/ women. Now come the gloomy face of a girl or women, who is regularly subjected to cruelty, maltreatment, harassment & victimization. The sad plight of woman is universal though they have been confessed various legal right by land & laws of different countries. This victimization is not recent but has been noticed from time immemorial. Great law gives like Manu have added fuel to fire in their victimization. Now it would be apt to discuss and assess prevention & treatment programs.

Rosema Ry Chall & Patricia A King are the editors of National Research council & Institute of Medicine : A division of Behavioral & Social Sciences of education ; commission on behavioral & Social Sciences of education ; committee on the assessment of family violence's. This committee has done a voluminous research on in family violence on women has suggested

various ways to meet it out. In the book ' Researching violence against women' the author Jacqui True has narrated in chapter X as, "Structural determinations of violence against women, we can anticipate the gender impacts of various political & economic policies & forces. "Women's economic empowerment of education are the key factors to achieve the goal of eradication of women victimization. It is important to mention here but great efforts have been done in Europe to tackle this problem.

On 06th December, 2012 the Employment, policy of social Health & consumer council (EPSCO) adopted conclusion on " combating violence against women & the provision of support service for victims of domestic violence, " The Cyprus presidency on the basis of current studies has also laid stress on action of bringing proposals. It was reaffirmed that neither custom, tradition, culture, privacy nor religions can be invoked to justify the violence against women. The council of European Commission' has suggested that " status should develop a European strategy for prevention & combating also forms of violence against women in accordance with the decision taken".

It is however, important to note down following points.

1. Violence against women is a social , economic development, legal, education, human rights, health problem, physical as well as mental.
2. It is a preventable cause of morbidity & mortality in women.
3. The relationship between violence against women & mental illness has not been adequately explored so far.
4. Application of laws related to violence in the selling of mental illness is difficult.
5. Despite the social & moral sanctions against it in all cultures, it continues & on broader scale.

Justice J.S.Varma commission, set up by Govt. of India is exposing the ways to curb this violence.

Let the place & status of woman be uplifted in the society. It would be impossible to curb the victimization of women by legislation only.

To sum up, I don't agree with Mendelson that the woman herself is a cause of her victimization. Further the chance or opportunity theory is also not practical in the present day circumstances, because most of the women are working and their work hours may be till late in the night, so they are bound to return to their home in late hours. So, it cannot be said that they provide opportunity for crime and self-victimization. We are a welfare state with great laws and enforcement agencies, and it is the duty of the state to provide protection against the victimization of the women. The problem in fact is the will power of the State and its enforcement agencies. Power should be felt by the criminals and punishments must have deterrence. I do not agree with reformatory theory of punishment for serious crimes. Though, there are various legislations to deal with crimes against women, but I suggest that there should be single legislation in the name and style of Prevention Of Victimization against Women Act with harsh punishments and burden of proof be on accused to prove his innocence. However, this presumption be rebuttable and special courts with time bound framework for deciding the cases be constituted under monitoring of respective High Court.

Further there must be a greater role of victims in trial. Victims should also be heard like accused, at the time of awarding the sentence. Suitable amendments may also be incorporated in I.P.C, Cr.P.C and Indian Evidence Act for this purpose.

Marital rape must be made punishable as per the report of Justice Varma Committee, with making safeguards against false implications and standard of proof must be very high and indicate that there was no voluntary sex, but all the circumstances indicate that the only possibility is marital rape, with the right to husband to rebut it.

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