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## ABOUT US

“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE III of Volume I focuses on three themes i.e. (i) Arbitration Law (ii) Competition Law, and (iii) Criminal Law.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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## PREFACE

On looking at today's scenario, there are numerous issues to know about. Our journal's Issue III of Volume I has work on three crucial themes namely *Criminal Law*, *Arbitrational Law* and *Competition Law*. We would like to express our deep appreciation of the co-operation of the contributors, who so willingly devoted their time and energies.

We have tried to cover these wide topics with the relevant research and landmark judgments. We have used standard of words for the explanation, evenly attempted to clear the concepts and presented captivating writing to the readers. The works also contains some suggestions in respective fields.

The views expressed in the articles are purely and solely of the authors and the entire team of the Journal has no association with the same. Although all attempts have been made to ensure the correctness of the information published in the articles, the Editorial team shall not be held responsible for any errors that might have been caused due to oversight or otherwise. It is up to the rest of us to help make the journal a success story in the next several years.

## FOREWORD

As a member of the Advisory Board of Journal of Unique Laws and Students (JULS) which seeks to support student dynamism in action, I take pride in writing this very brief Preface to **Issue III of Volume I** of the Journal. Through this sturdy student-led initiative, the Journal provides young lawyers and law students of the opportunity to deliberate on legal issues of contemporary interest and to express their well-researched conclusions in the form of double-peer reviewed articles.

In this issue of the JULS I am happy to see a wide array of articles on *Alternate Dispute Resolution (ADR), Arbitrability, Competition Law, Juvenile Delinquency, Gender Crime, Cybercrime, Criminalisation of Politics, Sedition and Witness Protection*. Laws and legal systems are dynamic in nature and laws evolve or are enacted to suit the changing needs of society. Young lawyers and law students can contribute to this dynamic process and even recommend law reform or analyse existing laws including case law. Young lawyers can also contribute to society as civil society activists engaged in efforts to improve the quality of law and its administration. The inculcation of critical thinking, which is one of the main objectives of the JULS, can no-doubt stand in good stead to young lawyers in moulding their future careers.

While I am happy that the very first issue of the inaugural volume of JULS was a tremendous success and its wide array of articles on diverse topics were well received by the legal fraternity, I take this opportunity to thank the contributors of articles as well as the vigilant and hardworking Editorial Board and my colleagues in the Advisory Board for the high standards achieved. In this Foreword, I take the opportunity to thank the publisher for coming out with another issue of JULS almost in time despite the trying conditions in which lawyers work and law students are placed, and I am glad that JULS through its on-line presence, is able to contribute immensely to this process of dissipation of legal knowledge and skills.

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## EDITOR'S NOTE

Unique Law was established in the month of April 2020 and cheerfully brings **Volume 1 Issue III** of **Journal of Unique Laws and Students (JULS)**. This journal has become a successful climb in reaching to our goal of gaining visibility in the academic front and becoming a great platform in education community.

The journal aims to present merit papers on the numerous legal issues and these topics are authored by various groups of individuals that have been reappraise and emended by our team of editors to attend the highest possible excellence. These research papers, case analysis and shortnotes are the result and we feel privileged to have been able to act as editors.

We thank to all our authors for their obedient submission to the third issue of the Journal by Unique Law and also for their productive cooperation with the editorial team to garnish their work with perfection. We would also like to express our gratitude to our diligent editorial board, whose restless support and commitment made this Journal's Issue III a success.

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# GENDER CRIME IN INDIA: AN ANALYSIS UNDER INDIAN CRIMINAL LAWS

**Author:** *Rounit Deep\**

## **ABSTRACT**

*Gender crime has become a major worry in India. The rates of gender crime are steadily rising. Rape, dowry threats, and gender violence are examples of gender crimes. In this study, we will discuss about gender crime, how it impacts different genders, the violence against women, their past struggles, and how they are still fighting for justice in the contemporary society. This paper will also discuss about the women's gender crime rate and the legal provisions enshrined in Indian statutes to protect them against such crimes.*

*Earlier there was a period when gender crime solely affected women, but in the twenty-first century, gender crime affects both men and women. It has now become the country's most serious issue. Every day, a case of gender crime is filed in India, whether it is committed by men or women. The pace of increase, according to analysis, is increasing every year. Thus this paper addresses the burning issue of gender crime in the country, the need for gender neutral laws in India, its analysis based on available statistics and measures to curb these crimes.*

**Keywords:** *women, crime, gender, India*

## **INTRODUCTION**

“A gender crime is a wrong committed against a specific gender”. Gender crime may be rape, genital mutilation, forced prostitution, forced pregnancy or any sort of violence against any specific gender. Gender crime in India is increasing day by day. In the 21<sup>st</sup> century, gender crimes are against not only women, even men are victimized. Concerning the provision of the penal code that protects both men and women from gender-based crimes. Despite what one would think, gender is a social development that underpins the relationship between men and women in society.

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It is undeniable that crime is viewed with the utmost hatred by all sections of society. However, it is also clear that studying and researching criminal law has always been one of the most appealing aspects of jurisprudence, dating back to the dawn of civilization. As in any organised sector, where one person injures another person, the injury should be compensated in monetary value, and the person who did the wrong must pay the damages to the aggrieved. However, in some cases, in addition to liabilities to pay compensation, the state imposes penalties on the person who committed the crime. The state's primary goal is to promote peace and good behaviour toward one another in the society, and the problem or question that arises here is what acts should be prohibited and what acts should be decided by the state. To put it another way, what act should be classified as a crime? As we all know, crime is defined as a violation of the criminal law by society. Crime is determined by public opinion. As crime and law are intertwined, if a person commits a crime, a legal framework is in place to punish the perpetrator.

As a rule of thumb, a law is enacted for each crime in order to punish the perpetrator. It is beneficial to examine the social foundation of women in the general public since it is an obvious feeling of socio-legitimate perspective to consider the wrongdoing against women. Essentially, this article discusses the perspective of gender crime, parts, analysis, case law, and how it is increasing in India. We should discuss the challenges that women confront in this paper. The central focus of this topic is to investigate the numerous ways in which gender-based issues occur at various stages within the criminal justice system.

### **STRUGGLE OF WOMEN FROM ANCIENT PERIOD**

As, in old Vedic period the rank of women was in dignity and magnificence. They enjoyed both freedom and equality. In this period women participated in all the spheres of life. In this period women studied at gurukul and enjoyed every part of life. Women like Apala, Garge, Visvara, and Yamini shone brightly during that time and rose to prominence among the general public. They found viability in their profession, music, and even government assistance. As a result of their chance and independence, women's standing during this age was rather remarkable. During that time, they had no problems. In the ancient Vedic period, women had a social rank. In the Aitereya Upanishad, the woman is referred to be the husband's companion. The woman is said to dwell like a queen at her partner's residence in the Rig Veda. The term 'Dampati' describes the women and men of that time. As stated in the Mahabharat, the woman is the source of prospering, happiness, and dharma. Men did not participate in religious events

without their wives during that time period, as wives played a vital role in religious activities.<sup>1</sup>The provision of the Dowry system was exclusively available to the upper or governing classes. There was no provision for widows to remarry. They were treated equally whether they are girls or boys. Women's standing throughout this time was founded on equality, liberty, and cooperation. As a result, women's standing was good and they were treated equally during this time period. They held a significant position during the time period.

However, this was not the case in the post-Vedic period. Women suffered greatly throughout the post-vedic period, as their positions were not the same as they were during the previous vedic period. Women have been subjected to significant hardships and restrictions, as outlined in Manu. It is because this was a male-dominant phase, where the birth of a girl child was not a source of concern for her father, but rather a source of burden. During that time, girls were not permitted to attend school. They had no right to choose their life companions, as they did in the ancient Vedic period, and they were also not permitted to marry through Upanyan Sanskar. During this time, only child marriages were common, and the average age of a girl child bride was between 9 and 10 years old. To some extent, only the daughters of the ruling class were permitted to pursue education, military science, administration, and the fine arts. Manu's renowned command was that women should not be left alone, as it said that in her childhood her father takes care, her husband protects in youth, and sons look after her in old age.).<sup>2</sup>As it is taught, women should be enjoyed cautiously at this point. Surprisingly, the right to property was recognised during this time, and the Feminine notion was dominant (wealth and the other belonging of women which she brought from her father, mother, brother and husband).

As we can see, the post-Vedic period was harsh for women, but the medieval period was even more challenging. It is the most difficult period for women, and it is tougher than the post-vedic period. As a result, many outsiders (from outside India), particularly Muslims, vanished during this period. Muslim women were viewed as property in their culture at that time. As a result of this, Hindu families began to treat their women in the same way. They also introduced the pardah system, to protect them from strangers.<sup>3</sup>As was customary among Muslims at the

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<sup>1</sup>MacDonnell, A.A. and Keith A.B. Vedic Index, 2 vol. 1912, <https://drive.google.com/file/d/1rIp1NBXrtv6J1HRDtViLnsIFioOEUGF5/view> (Last visited on 7<sup>th</sup> Sept ,2021 at 15:00 PM IST)

<sup>2</sup>A.S. Alteker; The position of women in Hindu civilization , 1962

<sup>3</sup>Medieval Indian women, Maps of India, ( Nov. 29,2012) , <https://www.mapsofindia.com/culture/indian-women.html> (Last visited on 7<sup>th</sup> Sept ,2021 at 15:20 PM IST)

time, men married multiple women and kept the women as they pleased. By this, Indian culture believes that girls are a burden to them and should be guarded, whilst the boy, on the other hand, is treated differently since Indian society believes that he will assist his family in making a living and so does not receive much care. It was one of the most dreadful periods for women.<sup>4</sup>As only Hindus are affected, other castes such as Jainism, Christianity, and Buddhism got benefit from the restrictions; their wives had the freedom to do anything they choose.

In the nineteenth century, the subject of revising the old Vedic period as one of the most important periods for women arose. Swami Vivekananda and Dayanand Saraswati also mentioned the importance of returning to the old Vedic age for the advancement of women because it was a good time for them. Mahatma Gandhi also opposed the practises of child marriage, female remarriage, and sati. He was a strong supporter of women, and he believed that women's education could help men achieve equality. They also get moral support with education. He always said that both men and women are equal. As a result of the Britisher's efforts to raise awareness of societal ills, women's education was improved, and participation in political organisations boosted women's abilities. So, in general, we can see that gender crime against women has been practised in the past and continues to be a major concern in the present.

## **CONSTITUTIONAL PROVISIONS AND PRIVILEGES CONCERNING WOMEN IN INDIA**

As the preamble of India's constitution mentions gender equality, what are the fundamental rights, duties, and directive principles? Certain provisions for women are included in the Indian constitution. It also includes unique facilities for women's growth in India. As we all know, the preamble is the most important part of the Indian constitution. Gender equality is enshrined into the Indian constitution, which respects men and women equally. But, women in India still suffer a lot of problems; they have had problems not only today, but for a long time, as evidenced by women's struggles dating back to ancient times. However, it decreases since, as stated in the preamble, men and women are treated equally as citizens of India.

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<sup>4</sup>*Ibid*

In one of the cases, *Madhu Kishwar vs. State of Bihar*<sup>5</sup>, Justice K. Ramaswaray stated that women have always been discriminated against and live in a discriminatory environment without speaking up. Because they live in a state of selflessness and denial, their mobility is limited, and they are susceptible to inequality and discrimination. As stated in clause (3) of Article 15, the state should make provisions for women as of point it provides for the goal of protection, but not in comparison to equality. The Indian constitution guarantees equality, equal opportunity, and equal position for males. However, some women are unaware of the rights and equality afforded to them under the Indian constitution, which is a major issue.

### **THE RIGHTS OF CITIZENS AGAINST DISCRIMINATION**

Part III, which contains Articles 12 to 35 pertaining to fundamental rights, is the most important part of the constitution. Fundamental rights are extremely crucial in one's existence. As a fundamental right, it protects and promotes each person's dignity as an individual, as well as the development of the people's personalities. As stated in Article 15 and 16 of the Constitution, discrimination against women is prohibited, as it is mixed up with other forms of discrimination such as discrimination based on race, caste, religion, or birthplace. Fundamental rights are equal for both men and women because they pertain to Indian citizens.

### **STATISTICAL ANALYSIS**

The crime against the women in J&K and Arunachal Pradesh has the tendency to assault the woman with the intent of modesty (54% and 38.1% respectively). The state of Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Gujarat, Haryana, Maharashtra, Madhya Pradesh, Punjab, U.P., Uttarakhand, and West Bengal, all had the tendency to crime of "cruelty by husband and /or his family members." Andhra Pradesh has 54.1%, Assam had 44.0% and so on. The most of the Percentage of crime of cruelty by husband and his family member was found in Maharashtra and Gujarat that is 66.7% and 83.4% respectively. Goa has the highest percentage rate of crime of immoral traffic. In Manipur half of the offenders were arrested for kidnapping and abduction. Bihar has 19.8% of its offenders being caught for Dowry Death

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<sup>5</sup>Madhu Kishwar vs. State of Bihar, (1996)SCC 125(5)

which resulted in 3994 arrests. These are only few states but they give us the glimpse that how the crime rate against the woman in India is high.

According to National Crime Records (NCRB) that number of cases reported as crime against the women in 2017 was total 3,59,849 as compared from the crime in 2016 and 2015 was 3.38 lakhs and 3.2 lakhs respectively. Thus, in 2017 increased the number of case reported. In state wise, Uttar Pradesh has topped rank of crime against the women as its statistics are 56, 0121, Maharashtra at 31,979 and West Bengal 30,002.

Some of the crimes against women include murder, rape, dowry death, acid attack, cruelty against the women and kidnapping. Cruelty by her husband or his family members accounts about 27.9% of crime. Majority of cases filed under IPC relates to domestic violence in the country. The rate of assault on women with intent of outraging her modesty is 21.7%, the kidnapping and abduction of women is 20.5% and the rape 7.0% respectively.

The total number of rape cases is about 32,559. The state like Madhya Pradesh has recorded highest number of rape cases i.e., 5,562 and second was Uttar Pradesh.

Delhi has witnessed a decline in the cases reported for rape. As, in 2017, 13,076 cases were reported which is the lowest as compared to last three years. Rape by known person is high as 32,559 cases are there and in about 93.1% cases accused was known to the victim, usually the relatives, family friends, employer, neighbours or some other person whom she knows.

5562 cases in Madhya Pradesh, in which 97.5 per cent were known persons. Rajasthan with 3,305 cases, in which 87.9 percent of the known to the victim. In Maharashtra, 98.1 percent rape cases were against friends, associates or relatives. Based on state-wise data, Arunachal Pradesh, Goa, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura can be seen as safer than other states as they recorded the lowest number of cases.<sup>6</sup> According to NCRB's report, Crimes against women has increased by 20% from 2016 to 2019

In India, the uniform civil code is enforced by Article 44 of the Directive Principle. "The state shall endeavour to ensure for all citizens a uniform civil code throughout the territory of India," it adds. However, as this article points out, women in India also face inequalities. Gender crime is a crime committed against women. Our late Prime Minister, Smt. Indira Gandhi, stated that

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<sup>6</sup>Nirandhi Gowthaman, NCRB Crime in India 2017 report reveals most unsafe places for women, Your Story, (Oct. 31, 2019), <https://yourstory.com/herstory/2019/10/most-unsafe-places-women-india-ncrb-report> (Last visited on 8<sup>th</sup> Sept, 2021 at 15:00 PM IST)

our women have more rights than women in other nations, but that women in India still face many disadvantages, Whether they are aware about it or not. As a result, many women in India are unaware of their rights. Article 39(a) says that both men and women are equal and have adequate means of livelihood. Article 39(d) says that the state needs to secure equal pay for equal work for both men and women in India.

As, in one of the cases, *Neera Mathur vs. LIC*<sup>7</sup>, the supreme court was shocked that the LIC asked about information about the menstrual period and post-pregnancy and terminated her because she didn't answer that question, so the supreme court held that the question asked was wrong as it violated someone's privacy and that there was no reason to pry into that information. The right to privacy is protected in Article 21 of the constitution, and it is a violation of that right. Article 16(2) says that no citizen shall be discriminated against or be ineligible for any employment under state on the ground of sex.

IPC (1860) also contain provisions to protect Indian woman from dowry deaths, rape kidnapping, cruelty and other crimes.

The CRPC (1973) provides various protections for women, such as the obligation of a man to support his wife, the arrest of women by female police officers, and so on. As a result, crimes against women have become increasingly widespread in recent years. Pre-natal abortion is also practised in India. Although the government of India has launched several initiatives such as “Beti-Bachao, Beti Pahao” and other schemes, many people in India still perform pre-natal abortions and regard the girl child as a burden to the family. Abortion is commonly performed without the consent of women. As a result, legal resources are ineffective in combating crimes against women and girls. Every day, crime rates rise in the current world of economy, where we talk about a civilised society.

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<sup>7</sup>*Neera Mathur vs. LIC*, AIR 1992 SC 392

## **PROVISIONS TO PROTECT WOMEN UNDER CRIMINAL LAWS**

As stated in the Indian Penal Code, 1860, the arraignment is used to punish those who commit heinous crimes against women. Different sections of the IPC deal with specific violations, such as:

### 1. Rape:

As defined under Section 375 of the IPC, rape is defined as sexual intercourse with women without consent or by force.

When a man is accused of rape; he must meet the six criteria listed below.

1. against her will
2. without her consent
3. with her consent
  - By putting her in fear of death or of hurt)
  - On account of unsoundness of mind or inebriation or unwholesome substance, where she can't comprehend the nature and outcomes what she is giving her assent.
  - When the man knows that he is not the husband and she gives consent as she believes that he is another man or she believes to be lawfully married.
4. with or without consent (When she is below 16<sup>th</sup> year old or 18<sup>th</sup> year old)

Explanation- Sexual intercourse by any man with his wife, where the wife is not under fifteen year of age, is not rape.

Section 376 deals with the punishment of rape

(1) Whoever , except in the case provided for sub section(2) commits rape shall be punished to be imprisoned for not less than 7 years, but which may imprisonment more than 7 years or life imprisonment, and the person who commits rape shall also be liable to pay fine.<sup>8</sup>

(2) Whoever (a) being a police officer, commits rape, Within the limit of the state in which he is appointed or in the premises of any station house or a woman who in the custody of the police officer or in the custody of his sub ordinate to him.

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<sup>8</sup>Inserted by Section 9 of 'The Criminal Law (Amendment) Act, 2013

- (b) Being a public servant, commits the rape as he takes advantage of his official rank and when the woman is in his custody or in the custody of his public servant to him.
- (c) Being a management or on the staff of the jail , remained home or other place of custody established by or under any law for the time being in force or of a women' or kids organization, submits assault on any detainee of such prison, remand home, spot or establishment.
- (d) Being an armed forced member into the position of that area appointed by the central and state government commits rape.
- (e) Being a management or a hospital staff commits rape of a woman in that hospital.
- (f) If a man knows that she is pregnant but commits the rape.
- (g) If a girl is below the age of 16 years.
- (h) If a group of persons commits gang rape on her.
- (i) If a women is incapable of giving her consent.

They shall be punishable for not less than 10 years extendable upto life imprisonment and also liable to fine.<sup>9</sup>

Case laws:

Case of Haryana gang rape of Nepal women-:

Seven men were sentenced to death by a fast track court in Rohtak, Haryana, for raping and murdering a 21-year-old Nepal woman. While announcing her decision, Additional District and Sessions Judge Seema Singhal stated that the case is "rarest of rare." Because of the cruelty and involvement of minors, this case has made international headlines, prompting comparisons to the Nirbhaya case in Delhi. As a result of her treatment, a mentally challenged woman was raped and murdered in Rohtak. When she went missing on February 1, 2015, her body was discovered. Blade, condoms, stones, and shards of a stick were found in her private areas when she went missing on February 1, 2015. "I can hear the cries of women falling victim to crime," the judge stated. As she stated, it is a male-dominated society in which women are believed to be able to be forced to put an end to. Men who commit the crime should be ashamed of his acts.

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<sup>9</sup> Indian Penal Code, 1860, § 376, no. 45, Acts of parliament, 1860

### Case that changed the country-

Case of Mathura<sup>10</sup> in the late 1970s was one of the most important cases for the Indian movement campaigns to fight against the rape cases in India. A young tribal girl lived with her brothers. Her age was between 14 to 16 years at that time. Mathura used to work with her friend and she met her friend's nephew named Ashok. Ashok wanted to marry Mathura but her brothers opposed it. One day they went to the local police station to file a complaint that his sister was kidnapped by Ashok and his family member. After receiving the complaint police called Ashok and his family members and investigated them.

Mathura's brothers, Ashok and his family were allowed to go back. But police men stopped Mathura and rest were told to wait outside and then she was raped by two policemen and the two policemen were threatened by the public and her relatives that they will burn down the station. Due to the threat, the two cops were unwilling and hesitant to agree on the panchnama file. The police officers were spared because the judge determined that because Mathura had sexual relations with her boyfriend, she could not have been raped. On appeal, the Bombay High Court's Nagpur bench overturned the session court's decision, stating that they were sentenced to five years in prison and that passive submission owing to fear produced by strong threats could not be equated with consent.

In September 1979, the Supreme Court ruled that the High Court's ruling in the case of Mathura should be changed. They were once again exempt from criminal charges because the accused cops were found not guilty. The court decided that because Mathura did not raise her voice in opposition to the proceedings and there were no visible wounds on her body, there was no rape. According to the Supreme Court, because Mathura was used to sex, she may have incited the two police officers (who were intoxicated on duty) to have sex with her. However, after a while, some protesters submitted an open letter to the Supreme Court, expressing their displeasure with the court's decision. It is also claimed that there is such a strong taboo against premarital sex that it allows police officers to rape a young girl. Women's organisations led the protests, claiming that they wanted to review the ruling and that they were garnering media attention. The case ultimately went in favour of Mathura, prompting the Indian government to modify the rape statute.

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<sup>10</sup> Satvir Singh vs State of Punjab, (2002 S.C.C.(CrI.) 48

## 2. Kidnapping and Abduction

Sections (363–373) deal with kidnapping and abduction. The punishment for kidnapping is dealt with in Section 363. Section 366, 366-A, and 366-B of the Indian Penal Code deal with kidnapping and abduction, procreation of minor girls, and the importation of foreign girls are all of which are crimes against women. Sections 366-A and 366-B only apply to girls aged 18 to 20 years old. Section 366 applies to people of all ages. Section 370 deals with the buying and selling of any person, which is essentially human trafficking.

Sections 372 and 373 prohibit the purchase and sale of anyone under the age of 18 for the purpose of prostitution. Basically, this section deals with both male and female prostitute cases, however it focuses primarily on female prostitution in India. It aids in the punishment of those who commit the crime.

## 3. Dowry Deaths

In India, the subject of dowry death is a hot topic. As we observe in India, the majority of cases of crime against women are tied to dowry.

So, essentially, section 304B is concerned with the issue of Dowry Death. If a woman dies through burns, injury, or any other cause within the first seven years of marriage, it is stated that her husband is responsible. It must be demonstrated that the woman has been subjected to cruelty by her husband or a member of her husband's family in relation to the demand for dowry. The penalty is a minimum of 7 years imprisonment or a maximum of life imprisonment, depending on the circumstances. Many women have been harassed by their husband's family and relatives, and this section can help on that.

In *Satvir Singh vs State of Punjab*, the Supreme Court of India held that the offence under section 304B of the Indian Penal Code cannot escape the burden of proof that the harassment was committed for dowry and that the complaint was brought before her death. Dowry is associated with three occasions: one is before marriage, the second is after marriage, and the third is the period of seven years after marriage. The dowry has no bearing on the birth of a child or any other rite involving female harassment. The Dowry Death is also linked by section 113 B of the Evidence Act, 1872, as does section 304-B.

#### 4. Cruelty against the woman

The cruelty against her husband or her husband's family members is dealt with in Section 498A. This provision states that anyone who commits cruelty towards a woman, whether he is her husband or a member of her family, will be sentenced to three years in jail, with the possibility of an extension, as well as a fine.

#### 5. Acid Attack

As Acid Attack crime deals with section (326 A-B) of Indian Penal Code.

326 A<sup>11</sup> deals with the cause of permanent or partial injured , burned and damage any part of the body by throwing acid shall be punished by the imprisonment of 10 years or may extend to life imprisonment and with fine. As, charging of fine will meet the expenses of victim's treatment.

326 B<sup>12</sup> Deals with the attempt to throw acid on any person with the intention to cause damage or grievous hurt or disability to the person, shall be punished with imprisonment for a term not less than 5 years and extend to 7 years and also liable to fine.

As a result of this section's existence in India, women are more protected against gender-based violence. For many reasons, girls who come into contact with the criminal justice system are an especially powerless category. While the specifics vary by society, separation and sexual and sex-based brutality have "inescapable and shattering" effects on women and young women all around the world (United Nations SRSG on Violence Against Children, 2015, p. 1). However, this part assists girls and women in protecting themselves from any crime that occurs in India. As a result, this component is very crucial in the criminal justice system in India in order to secure justice for women and girls.

#### CRPC Sections:

##### **1. Right to Privacy while recording statement-**

When the case is under preliminary investigation and no one else is available, a woman who has been assaulted can record her announcement before the District Magistrate under section 164 of the CRPC. Alternatively, she can videotape the announcement with just one cop and a

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<sup>11</sup>Inserted by Section 5 of 'The Criminal Law (Amendment) Act,2013

<sup>12</sup>*Ibid*

lady constable in a convenient location that is not overcrowded and eliminates the possibility of the announcement being overheard by a third person.

## **2. Protection of identity-**

**As there is no provision for revealing the rape victim's identify. Women's identities should not be disclosed, according to Section 228 of the IPC.**

## **3. No arrest after sunset-**

In order to protect women's rights, section 46(4) of the CRPC forbids the arrest of women after nightfall and before sunrise, with the exception of exceptional circumstances. If this occurs, the arrest must be done by a female police officer after filing an appropriate report and obtaining court clearance.

## **GENDER-CRIMES AGAINST MEN IN INDIA**

We examine the difficulty that women confront as a result of gender crime. However, in recent years, we have seen that men in India are also victims of gender-based crimes committed by women. There was a time when only women were victims of gender crime, but times have changed, and male members of society are also victims of abuse now. As a result, there are provisions in the Indian Penal Code that are one-sided and do not reflect the current state of society. If women have experienced 50% of the violence in recent times, the male members of society have likewise experienced 50% of the violence in recent times. We can see that a massive part of the Indian Penal Code focuses on protecting women from gender crime. However, because the Indian Penal Code is a national law, it must apply equally to everyone in the twenty-first century. In India, majority of cases of gender crimes are documented, with males perpetrating most of the destructive and immortal acts and females serving as victims.

According to the NCBI report, Gender crime against men increased by 52.4 percent. As a result, 51.5 percent of men's violence is experienced by his wife and intimate partner once in a lifetime, and 10.5 percent in a year. As evidenced by this report, not only women but also men are victims of gender-based violence and, there are no laws in place to protect them.

## **MISUSE OF SECTION 498A**

As this part aids women in obtaining justice for the brutality they have suffered at the hands of their husbands or their husband's relatives. The most serious flaw in this part is that it fails to provide protection to men. According to NCRB statistics from 2012, approximately 200,000 persons, including 47,951 women, were arrested on the basis of a false Dowry report. In section 498A, if a man faces a similar difficulty, such as cruelty by his wife, no provision is offered to assist him. This section concentrates solely on the protection of women and offers no assistance to men who are victims of domestic abuse.

As we all know that domestic violence against women is a serious problem but domestic violence against the men is also increasing.

This section is mostly meant to assist genuine women in obtaining protection. However, for their husbands, this part has become a source of blackmail and harassment. Once the FIR is filed under section 498A/406 of the IPC, the police have the authority to arrest or threaten to arrest the spouse. The majority of women use this as a weapon against their husbands.

## **SHIELD AND WEAPON: THE TWO FACTOR**

Domestic violence laws, like those in the Western world, are equal for men and women, as they give protection to both. However, in India, only women are protected against violence, whereas men are not protected. The Protection of Women from Domestic Abuse Act of 2005 was enacted to safeguard women from domestic violence by acting as a "shield" or "gift" to them.

However, the other side of this is that women use it as a weapon, filing bogus FIRs against their husbands. As a result, PWDVA should enact a legislation to punish those who misuse or file bogus FIRs. As a result, women will be unable to file a bogus FIR against her husband.

### **Cases:**

As we can see in one of the Tedx videos, Deepika Bhardwaj has portrayed one of the cases in which the husband, Syed Ahmed Makdoons, commits suicide as a result of his wife's assault. Before committing suicide, he filmed a video in which he claimed that his wife falsely filed a Dowry case against him and also separated his son from him, causing him to become sick of it and eventually commit suicide as a result.

In another instance, Swadesh Yadav's wife falsely filed a Dowry case against him, and she also filed a molestation charge against his father and sibling. As a result, he becomes frustrated and exhausted, and commits suicide, writing a letter stating "Please save my family." Investigate if we were really wrong"

There are numerous cases where a woman's husband has grown tired of his wife, and as a result, either commits suicide or divorces her. As a consequence, women are increasingly using the law as a weapon against men rather than a shield.

### **MISUSE OF RAPE LAWS**

The rape law part of the IPC is designed to safeguard women and girls by ensuring that they receive justice. However, some ladies employ this region as a protective shield. As an example, there has been a situation where women have abused this part. In one case, two boys, Milind and Prashant, are victims of women abusing the legal system. A Woman informed Milind that if he does not marry her, he will be charged with rape, but Milind refuses. As a result, she filed a bogus police report against him and his companion. They were imprisoned for 14 months. The women wanted money to withdraw the fake complaint against them. The two Amity University young boys were acquitted by a preliminary court three years later. The two boys' careers and reputations were wrecked by the fraudulent lawsuit. Also, the court regrets that they were confronted with a crime that they did not commit at such a young age.

There have been numerous instances of men committing acts of violence. It is self-evident that a few provisions of the Indian Penal Code are unfriendly to women activists. Wrongdoing should be judged on its own merits, regardless of gender. Article 14 of India's Constitution, which outlines the core Right to Equality, is carefully harmed by these arrangements .The sex-based division is infringing on a man's fundamental rights. These rules are one-sided in that they place a man in a dominant position and consider women to be inept members of society, which may explain why laws for women were created in the first place.

As a result, we can observe that men, like women, are victims of gender crime in today's world. Women have been using their protection as a weapon against males, the criminal justice system in India has played a critical role in obtaining justice for women and girls, and in my opinion, and the criminal justice system should establish a law for the protection of men too in the society. False accusations against males disturb the public's balance, pulverise marital homes,

and add to the weight of the legal structure to deal with such foolish and non-existent concerns. False objections should be met with strong regulations to protect the blameless victims from unquantifiable torments.

## **CONCLUSION**

It can be concluded that, legally we should apply the gender-neutral language in our law. Both the Genders should be treated equally according to the laws. We can see that gender crime is committed equally by men and women. Laws that respect both genders equally should be implemented. For example, section 498A and 304B of the IPC were formed because crime against women was on the rise at the time, therefore these sections of the IPC were enacted to protect women. However, we have recently seen women utilising these sections as a weapon against males. Not just this portion of the IPC, but practically every section of the IPC that only protects women. It is not acceptable since the area should be made gender-neutral for all members of society. As far as this topic is concerned, a robust law should be enacted that treats both men and women equally. It is also necessary to consider what is permissible under the Indian constitution for penalising and protecting all persons, whether male or female.

As a result, in order to stop gender crime, we should not discriminate against gender and should not harm any gender. We should treat all genders equally, including transgender people. If we want to establish gender equality where there is no crime of gender then we should recognize LGBT rights also which helps to ensure both legal justice and societal inclusion of all the communities. As the moment has come, the banner of justice should be a gesture toward equality rather than gender discrimination. Finally, I believe that everyone should understand that crime knows no gender, and that everyone in society should be afraid of committing it. It has resulted in far too many hardships for the victim, who, whether male or female, should be entitled to justice. “If we truly need equity to win, if we truly need trust in the law, if we truly need balance, we must need gender impartiality as a plan”.

