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<p>Response/ Clarification</p>	<p>1. List of Research paper. (Appendix-I).</p> <p>2- Screenshot / Copy of the Research Paper Published. (Appendix-II)</p>



APPENDIX-I



College Code - 332

IMIRC COLLEGE OF LAW

Affiliated to CCS University Meerut (U.P.)
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Ph.: 05731-262222
262223
0120-4109381
(M) : 09311699997
09453690543

Number of research papers in the Journals

Title of paper	Name of the author/s	Department of the teacher	Name of journal	Year of publication	ISSN number
Legal Article on 'Judicial Accountability in India'	Dr. Salim Khan	Law	College Magazine	2014	NA
Legal Article on 'Election Commission of India and Discrimination of Politics'	Dr. Salim Khan	Law	LAWZ	2020	2456-3587
Legal Article on 'The Press Council of India and its Role in Indian Democracy'	Dr. Salim Khan	Law	International Research & Reviews Journal	2018	2320-4540
Legal Article on 'Right to Privacy -Issues and Challenges in India'	Dr. Salim Khan	Law	The Public - An International Research Journal	2019	0975-5799
Legal Article on '21st Century and Rape Crimes in India'	Dr. Salim Khan	Law	International Journal of Development Studies	2021	0975-799
Article on 'Right to privacy and Indian Judiciary'	Dr. Salim Khan	Law	International Journal of Development Studies	2021	0975-799
Article on 'Sexual offences against the Children in India: A Deplorable Condition'	Dr. Salim Khan	Law	International Journal of Development Studies	2022	0975-5799
Article on 'Artificial Intelligence and Indian Legal System'	Dr. Salim Khan	Law	International Journal of Development Studies	2022	0975-5799
Sedition - A Boon or a Curse in Indian Panorama	Dr. Salim Khan	Law	International Journal of Development Studies	2022	0975-5799



Surrogacy in Indian Society	Dr. Salim Khan	Law	IJRES Journal		2320-9364
Honor Killing - Current National and International Legal Framework	Dr. Salim Khan	Law	IJRES Journal	2023	2320-9364
Live-in Relationships and Indian Laws	Dr. Salim Khan	Law	IJRES Journal	2023	2320-9364



Appendix-II



Certificate of Publication



This is to confirm that

Salim Khan

Published following article

Surrogacy in Indian Society

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Editor-In-Chief



Surrogacy in Indian Society

Salim Khan

Research Scholar LL.D., CCS University Meerut

Abstract- When a woman reproduces biologically, she creates a kid through morally permissible sexual behavior. Procreation is the act of having children, to put it another way. Even if the child's genetic material came from somewhere other than the person's own body, when someone intentionally causes the birth of a child, they intend to raise the child as their own from conception to adulthood and to be legally responsible as the child's parent. Feeling powerless is compelled by fertility. They publish satires on their culture and family, particularly for women. The social institution of society is the family. A human being's fundamental right is to have his or her own family. Infertility is a problem that many married couples face. Medical science has established a number of biological and medical causes of infertility, including frequent miscarriages, high blood pressure, uterine defects, aging fetuses, liver or kidney disease, thyroid abnormalities, diabetes mellitus, adrenal disease, and genetic difficulties. Infertility is actually viewed as a threat to parenthood and fatherhood. The modern era is the era of technology and science. The development of assisted human reproductive technologies, notably surrogacy, has given infertile couples new hope. One of the significant advancements of this new scientific and technological era is surrogacy. The process of being a surrogate benefits intended parents everywhere. Commercial surrogacy is one of the different types of surrogacy.

Key Words: - Surrogacy, Curse, Commercial Surrogacy, Infertility, Children and Assisted human reproductive technologies.

Date of Submission: 02-04-2023

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I. Introduction:

"He is my son"; "No he is mine." After hearing both the ladies, the King delivered his judgment. "Divide the living child into two, and give half to one and half to the other."¹

The above mentioned judgment was delivered by the wise King Solomon in order to find out the own mother of the child in question for whom two ladies were quarreling with each other for claiming their rights over the child. Having heard the decision of the King, one woman began to weep and requested the King not to cut the child into two pieces but give it to other woman. At this the King Solomon came to about the real mother and gave the child to the woman who made request him not to cut the child. Although this story shows the wisdom of the King Solomon but such disputes have become a reality in recent times. Due to the scientific developments it has become possible for a child to have mother or father more than one. Today the Kings are replaced by the Courts.

In modern times several persons may claim their rights over a child and to settle such disputes is not an easy task for the Courts but also poses a legal and human rights challenge. This burning problem has emerged due to the scientific developments made by the biologists and medical experts in the sphere of human reproduction for getting a solution for childlessness.

Children are the most precious gift to the spouses in this world. There is no bigger responsibility but the relationship with a child can bear the greatest rewards. Undoubtedly a child is one of the most valuable boons of God to every living creature on this earth. That is why every human being has a natural instinct and desire to have his or her natural children. Regarding from the point of view of performing the different religious rituals and duties, in order to carry out the customs and traditions of the family the importance of the children is depicted in all religions of this world. Children are the flowers in a spouse's life garden. Every living thing has the innate drive and biological need to reproduce in order to produce progeny. Especially human beings want to have their own biological child.

¹ Anand V. Pillai, "Surrogate Motherhood and the law: International and Natural perspectives" 76-84
Publications, New Delhi, 2015)



Procreation is the process by which an Organism produces others of its biological instinct. Marriage bond is a naturally procreative in the whole world. But due to infertility, married couple find out themselves helpless for beginning their own biological offspring. Infertility means Unable to get pregnant through natural Process. A new family is created during the unique bond of marriage process when two people of the opposite get together and establish a matrimonial relationship. Such types of families are completed with the birth of a child. A child's birth, in the opinion of psychologists, forges a unique link between spouses. Parents take peace of breath that child will Support in our old age. They feel themselves stress free at his birth. The Practice of surrogacy exists from the ancient period in society. Hence surrogacy is not at all new to the present generation, and is slowly but surely becoming more and more popular day by day. Today India has become the hub of surrogacy process. Infertile couple and others also prefer to opt surrogacy for their biological child.

Mostly people compel by the circumstances to opt surrogacy method but some people opt in fashion as actress Priyanka Chopra and Shilpa Shetty etc. In our society, we can easily see many instances where the infertility led to matrimonial break down. Therefore, in Indian society, the life of women is incomplete without a child. Generally, infertility is divided in to two parts like biological and social. Firstly, in biological infertility means that a woman is biologically in competent to unable reproduce a new born baby on her reproductive parts. Due to health issues, Medical Science clearly denies to conceive the baby. Secondly social infertility is one in which a group of or certain classes are barred by the community from reproducing. Surrogacy is only way to alternate to face aforesaid situations. Surrogacy is a method to help such intended parents.

Meaning and Definition of Surrogacy- The term "Surrogacy" has been derived from the Latin word "surrogatus" which means 'substitute' that is, a person who is appointed to perform any act in place of another. Surrogacy in the context of medical practice denotes an agreement whereby a woman consents to carry through the pregnancy, labour, and delivery for another person who is either unable or unwilling to do so. Thus, a surrogate mother is a woman who carries a child for another woman using either her own egg or the implantation of a fertilized egg from a different woman in her womb. Through the use of a surrogate, a pregnancy can be achieved without sexual contact. A "Surrogate Mother" is a woman who bears a child on behalf of other parents as part of the surrogacy process, which is a type of assisted reproduction.

Traditionally the Surrogacy can be defined as the technique known as "surrogacy" entails a couple hiring a woman to help them conceive, deliver their kid to term, and then give up all of her parental rights to them. Through the various definitions given by different scholars and laws the author has tried to explain and define the surrogacy and other technical terms precisely in the following way;

According to Black's Law Dictionary surrogacy is an "agreement wherein a woman agrees to be artificially inseminated with the semen of another woman's husband. She agrees to conceive a child, carry the child to term and after the birth, assign her parental rights to the biological father and his wife."² The Oxford Dictionary defines surrogacy as "an arrangement in which a woman (the carrying mother) agrees to bear a child and to hand over that child, on birth, to another person or persons (the commissioning parents)."³ The Encyclopaedia Britannica defines 'surrogate motherhood', "as the practice in which a woman bears a child for a couple who are unable to produce children in the usual way." Warnock Commission Report defines surrogacy, "as the practice whereby one woman carries a child for another with the intention that the child should be handed over after birth."⁴ According to ICMR, Guidelines 2005, "Surrogacy is an arrangement in which a woman agrees to carry a pregnancy that is genetically unrelated to her and her husband, with the intention to carry it to term and handover the child to the genetic parents for whom she is acting as a surrogate."⁵ "Surrogacy means a practice whereby one woman bears and gives birth to a child for an intending couple with the intention of handing over such child to the intending couple after the birth."⁶

In this way surrogacy means to help infertile couple who is not competent in conceiving and is not able to fulfill her desire to become mother in the creative world. The concept of surrogacy has become an alternative

² Bryan A. Garner (ed.), Black's Law Dictionary, West -Thomson Reuters, U.S.A. (6th ed. 1990), p.1445

³ Available at <https://www.oxfordreference.com/view/>

⁴ The Report of the Committee of Inquiry into Human Fertilization and Embryology, 1984 (U.K.) available at <https://www.ethicsarc.org/node/751750>

⁵ Rule 1.2.33, The national guidelines for Accreditation supervision and regulation of ART clinics in India, Indian Council of Medical Research, issued by Ministry of Health and Family Welfare, Government of India.

⁶ Section 2(2) of THE SURROGACY (REGULATION) ACT, 2021



method for the couples to overcome the problems of having adopted the children as well as to reduce the infertility rates in the society.

Kinds of Surrogacy - The subject of surrogacy is seen as being extremely delicate and emotional, with implications that are felt by all those involved. Depending on the suitability and convenience of the partners, many arrangements are conceivable in surrogacy. This led to the development of several types of surrogacy. Every surrogacy agreement is different, and the parties can choose the best and most convenient type of surrogacy out of a variety of options. The sort of arrangement entered into, the financial transactions and connections involved, the usage of genetic material, and other factors can all be used to classify different types of surrogacy as follows:

- **Traditional Surrogacy**- The traditional surrogacy involves artificial insemination of a surrogate mother using donated sperm from the intended father or another donor of sperm. This process is totally medically assisted. If a surrogate's egg is used in this procedure, the woman will also be referred to as the biological mother of the resulting kid. The intended mother will typically go through the step-parent adoption process, and the intended father's name will typically be listed straight on the baby's birth certificate. Regarding surrogacy, we discover that rules vary greatly from state to state and country to country. However, the legislation pertaining to surrogacy has not been processed with adequate uniformity.
- **Gestational Surrogacy**- The foundation of this gestational surrogacy is that the surrogate mother no longer has a genetic or biological connection to the child born. There is an equal split of involvement at both ends. On one end, the eggs are removed from the intended mother or the egg donor, and on the other end, the sperm from the intended father or the sperm donor is combined. Following this mixing, the developing embryos are placed in the surrogate's womb. Embryos that are not transferred after this mixing process are occasionally frozen and later used for the transfer if the first transfer does not result in pregnancy.
- **Altruistic Surrogacy**- To accurately define altruistic surrogacy, it can be challenging given that many proponents of surrogacy contend that all surrogacy is by inherently altruistic. The phrase "altruistic surrogacy" is, however, typically only used to describe situations in which the surrogate is not paid for her services beyond reimbursement for medical expenditures and other acceptable pregnancy-related costs. Many of these agreements are made as discrete surrogacy between relatives or close acquaintances. Altruistic and commercial surrogacy follows a similar surrogacy process in most cases. But in charitable surrogacy agreements, the majority of intended parents work with surrogates they already know. Many altruistic surrogates are women who donate their gestational services for their siblings, children, or other close family members or acquaintances because of the extraordinary selflessness required of such surrogates. Because the intended parents and surrogate already knew who they were before consulting a surrogacy expert, these situations are referred to as "identified surrogacy."
- **Commercial Surrogacy** - "commercial surrogacy means commercialization of surrogacy services or procedures or its component services or component procedures including selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or kind, to the surrogate mother or her dependents or her representative, except the medical expenses and such other prescribed expenses incurred on the surrogate mother and the insurance coverage for the surrogate mother." The commercial surrogacy is also known 'womb for rent' or compensated surrogacy. Generally commercial surrogacy means to compensate to the surrogate mother for her services except reimbursement of medical expenses.

On the other hand amount is paid to surrogate mother for her services beyond medical expense. India has developed into a centre for commercial surrogacy because there are less expenses in comparisons other nations in the world. When a surrogate mother carries a kid in her womb and then gives the baby to the commissioning parents in exchange for money other than medical costs, this is known as commercial surrogacy. In India, commercial surrogacy has been prevalent on a large scale. Due to poverty, surrogate mother agrees to carry pregnancy for intended parents at less cost. And due to all these factors the commercial surrogacy has become on large scale a profitable business in India. There are a number of nations where all these medical procedures are practiced, have legalized and approved them. Following the Baby Manji decision in 2002, the Apex Court declared that commercial surrogacy is legal in India. But the new legislation namely THE SURROGACY (REGULATION) ACT, 2021, prohibits the commercial surrogacy completely.

Legal, Ethical and Moral issues of Surrogacy- Every couple wants to experience what it's like to be a parent, but for some couples, infertility prevents them from realizing this desire. Couples can now feel the breath of

Section 2 (g) of THE SURROGACY (REGULATION) ACT, 2021



their own blood thanks to the development of in-vitro fertilization and other medical and technological advances. The process of surrogacy is a boon for India. Many infertile couples from over the world have been drawn to India by surrogacy, and there are many women who are willing to carry another person's kid here. Notwithstanding the surrogacy is not limited to the medical side but also includes several social, legal and ethical concerns. There is a dominant fear of commercializing childbirth and fear of abuse of women and the poor, and a mother with another child who transfers the child to another woman is not readily tolerated in society and commonly accepted. In Surrogacy, a woman is contracted to carry pregnancy for another married couples. But, yet, India has the definite legislation namely The Surrogacy (Regulation) Act, 2021 to regulate the surrogacy. The Act has made commercial surrogacy illegal and focused only on altruistic surrogacy. Moreover, foreign infertile couples are banned to have a child through surrogacy process in India. Surrogacy is more likely to have legal, ethical and moral and issues

- **Legal Issues-** The legal issues surrounding a surrogacy are complex, diverse and unsettled which results into hardships regarding defining the legality of surrogacy contracts, determining the status of surrogate child, commissioning parent, settling disputes regarding custody, citizenship of surrogate child. India has never outlawed surrogacy, but in recent years it has come to realize how important it is to regulate the sector. However, it is anticipated that more formal regulation will be adopted at the federal and state levels. Until now, regulation has taken the form of non-binding guidelines issued by the medical sector. The necessity for regulation is obvious given the volume of troubling situations that continue to be reported involving cross-border surrogacy arrangements where the child's citizenship and parentage status are ambiguous, as well as given the worries regarding proper protections for surrogate mothers.⁸ But now India has the definite legislation namely The Surrogacy (Regulation) Act, 2021 to regulate the surrogacy.

- **Ethical Issues-** There are several ethical issues regarding surrogacy in Indian culture. For the purpose of evaluating practical ethics, women's readiness to fully and voluntarily consent to serving as substitutes is crucial. Some critics contend that the prohibition on substitution restricts women's ability to use their reproductive powers anyway they see fit and that women's autonomy in determining how to use their time and abilities is shameful. In this sense, women are rational, autonomously responsible beings who are prepared to make major decisions about their lives and bodies, even practical ones, due to their realistic circumstances and resources. "Substitution would thus culminate in the treatment of a kid as a good, which is ethically wrong and unethical. Substitution with in vitro fertilization frequently leads in the delivery of triplets or quadruplets, according to studies. This might be harmful to the baby's growth since the commissioning parents would not be capable of caring for a great amount of children who were born not as per their will. Furthermore, there is a possibility that surrogate children will be born with abnormalities. The verification of paternity and child custody is yet another difficult topic in the procedure."⁹

- **Moral Issues-** There are several moral and emotional issues as far as surrogacy is concerned in Indian society. Psychology experts believe that surrogacy, on the other hand, is more usually linked to stress. These are a few of the main emotional concerns that surrogate mom's experience.¹⁰ Like, enforced suppression of feelings for the child, Relationships with the foetus' genetic parents, family, and other relatives; worry over her husband's reactions to marriage and sexual activity, Concerns about disclosing the pregnancy type to her own children, Persons engaging in the surrogacy operation encounter religious challenges in the absence of societal and religious acceptance etc. Another important psychological aspect of the surrogate pregnancy is the mother's emotional attachment to the child as it develops during pregnancy. A woman's inner experience and feelings change during a typical pregnancy, and she forms an emotional link and attachment to the unborn child. Infants' mental health is significantly influenced by the nature of the mother-foetus bond and level of attachment. Similarly Surrogate babies have a difficult time accepting the fact that someone other than their biological mother carried them. However, find it easier to accept the idea that they are not linked to the individuals raising them on a biological level. A surrogate's children are more likely to have behavioral and emotional issues.¹¹

⁸Katarina Trimmings and Paul Beaumont, *International Surrogacy Arrangements: Legal Regulation at the International Level*, 186-187 (Hart Publishing Ltd United Kingdom Oxford, OX1 2JW, 2013).

⁹Dr.S.S. Das & Priyanka Maut, "Commercialization of Surrogacy in India" A Critical Analysis, Available at <https://www.researchgate.net/publication/281710247>, visited on 30/02/2021

¹⁰Oksana Sulaleva, "Medical aspects of surrogate motherhood" vol. 64 Proc. Shevchenko Sci. Soc. Med Sci. (2021) Available at <https://mssps.org.ua/index.php/journal/article/view/392/400>. Access on 1/4/2021

¹¹<https://www.dailymail.co.uk/health/article-2344362/Surrogate-born-children-likely-sufferdepression>



Judicial response on Surrogacy in India- The function of the Indian judiciary and legislative initiatives pertaining to the surrogacy concept set the way for the concrete form in this area. The Supreme Court has taken a unique approach in a number of instances involving the surrogacy notion since it is the protector of basic rights. In 2002, India made commercial surrogacy legal, and since then, the industry has expanded tremendously. Consequently, a plethora of for-profit businesses claiming to be experts in surrogacy law have emerged, providing advice and aid to foreign visitors to India looking for an Indian mother who will rent her womb for the blessing of a child. The Indian Council of Medical Research (ICMR) issued¹² guidelines for surrogacy agreements in 2005. The couple and the surrogate mother would determine the surrogate mother's entitlement to a certain amount of financial remuneration in accordance with the requirements. According to the criteria, the surrogate mother cannot use her own eggs for the surrogacy and must forfeit all parental rights to the child she is carrying. But presently by "The Surrogacy (Regulation) Act of 2021", any clinic offering surrogacy services, gynecologists, embryologist, or other medical professional is prohibited from performing commercial surrogacy in any way. Under the 2021 Act, only altruistic surrogacy is permitted. According to Indian law, the intended pair, or the couple wishing to become parents, must be legally wed. Females should be between the ages of 25 and 50, and males should be between the ages of 26 and 55. They also cannot already be parents to biological, surrogate, or adopted children. This demand is essential. The age of the surrogate mother providing this service must be between 35 and 45. One surrogate mother placement is allowed per woman during her lifetime. An intended couple who has a medical need for surrogacy¹³ must receive a "Certificate of Essentiality/Infertility" from the National/State Assisted Reproductive Technology and Surrogacy Board.

The voyage of commercial surrogacy in India can be said to have begun in 2002 when the Supreme Court, the highest court in the nation,¹⁴ declared it permissible. The Supreme Court and several High Courts of the various States have produced a number of decisions that have been essential in India's surrogacy industry. *Baby Manji Yamada vs. Union of India & Anr.*¹⁵ It is very first case which was filed through a writ petition under Article 32 of the Constitution of India, 1950, before the Supreme Court of India for declaration of legalities of the various issues relating to surrogacy arrangement. Till the date no enact proper law which governs various aspects of surrogacy. "The Supreme Court opined in this case that surrogacy arrangements are legal in India and so it ordered to hand over the child Manji born through surrogacy arrangement, to her guardians. The court also held that the medical procedure even in commercial surrogacy is legal in India as it is in many countries of the world."¹⁶ *Jan Balaz, Anand Municipality and others (AIR 2010 GUJ 21)*. In this case, Jan Balaz and his wife Susanne Anna Lohle came to Anand, Gujarat and opted surrogacy to get the twin children. Jan Balaz applied to the regional Passport Office of the Ministry of External Affairs, Government of India for¹⁷ granting passport to the twin's baby. Accordingly passport was granted under "Tafkal Scheme" "Later on, Ministry of External Affairs issued a notice withdrawing the passport due to coming across some new facts that surrogacy is not recognized in Germany and twins' baby cannot get German citizenship if they are not first recognized as India citizen. The twins' babies were left "Stateless" for more than two years."¹⁸ This case raised the fundamental question of whether foreign biological parents who want to send the surrogate child back to his or her native country or place of permanent residency need a court ruling outlining the parties' rights in a surrogacy relationship.¹⁹ In *P. Geetha vs. The Kerala Livestock Development Board*²⁰ Ltd., 2015, the court had the opportunity to address a number of important issues in this case, including the concept of motherhood obtained through medical technology, including surrogacy, the legal safeguard for maternity rights, the right of a child to health care, as well as the incorporation of international convention laws into municipal law, and beneficial interpretation of laws.²¹ There are many cases before or after the enactment of The Surrogacy (Regulation) Act, 2021 (No. 47 of 2021) and Surrogacy (Regulation) Rules, 2022, which instead of regulating the practice of surrogacy in a democratic and organized way seek to ban commercial surrogacy completely.

¹²<https://odishatv.in/coronavirus/covid-19-icmr-mulling-to-removeplasma-therapy-from-treatmentprotocol-486350>

¹³<https://blog.ipleaders.in/issurrogacy-legal-in-india/>

¹⁴<https://legalknowledgebase.com/is-the-supreme-court-the-highest-court-in-the-nation>

¹⁵(2008) 13 SCC 518, Available at <https://bnblegal.com/landmark/baby-manji-yamada-vs-unionindia-anr/>

¹⁶Dr. M.P.Verma, *Surrogacy: Medico-Legal Parading* (G.B. Books New Delhi ed. 1st 2016)

¹⁷<https://ndtv.chiefsec.wp.gov.lk/en/?p=2035>

¹⁸Supra note 1

¹⁹Ibid

²⁰<http://www.mondaq.com/india/constitutional-administrativelaw/1126150/surrogacyregulations-in-india>

²¹Sonal Kusum, "Right to child care leave for the women attaining motherhood through surrogacy in India",

Journal of AIR's Labour and industrial cases journal (2015). Access on 22/01/22. Available at

<https://www.familiesthrusurrogacy.com/india>



which is practically not possible too, the Indian Judiciary has played the very crucial role regarding surrogacy in Indian society.

II. Conclusion

In the present day, surrogacy has become a blessing for humanity. It gave infertile couples who are unable to have children naturally a viable choice. It gives those optimistic parents who are childless the chance, if they so desire, to have a genetically related child. All living things, including humans, have a limited lifespan. Marriage is a lifelong commitment and the cornerstone of the family. It is a particular kind of relationship between people of different sexes that serves social, psychological, biological, and religious objectives within societies and cultures. Almost all ancient societies assigned the fertilization, childbearing, and childrearing of children to the institution of family through marriage. And all of the world's main religions, including Hinduism, Christianity, and Islam, place the highest value on human reproduction. In India, surrogacy has industrialized as a million dollar business and become a major destination for commissioning surrogacy by foreigners also. Modern sophisticated technology and medical expertise easy accessibility of surrogate women, low medical cost in comparison to other countries. Therefore the overall conclusion of the author is that commercial surrogacy arrangements are dehumanizing and degrading to the dignity of the women, uses her body as machine of procreation and takes the resulting child as a commodity, throw the child in various conflicts of custody and parenthood, nationality and otherwise immediately after the birth, which is violation of all the rights of child and against the human dignity. Surrogacy Regulation Act 2021, has made the biggest change that there is no scope for commercial surrogacy. The legislature regulates exploitation of surrogate mother and child. Commercial surrogacy has been made an offence through the existing Act 2021. Indian Legislature has taken a good step by prohibiting the commercial surrogacy in India.



Honor Killing - Current National and International Legal Framework

Mr. Salim Khan

Research scholar C.C.S. University Meerut

Abstract- The notion of honour has fundamental importance in collective societies since the dishonorable conduct of an individual reflects upon the rest of the family members or community. The worldwide media has regularly exposed younger generations to liberal thought, which has caused them to start to doubt the standards of the old society that have been imposed by extreme vigilance. The most horrifying of all the several crimes of honor that occur is undoubtedly honor killing. Despite the fact that some of the illegal components of honor killing may overlap with those necessary for murder under a country's legal systems, honor killing has several particular qualities that make it even more horrifying than murder. Usually, a victim of an honor killing is a relative or friend who belongs to the victim's own social group. The perpetrator is frequently a brother, father, mother, or other relative whose traditional duty it was to protect the victim from danger. Honour killings are inherently murders of individuals. All murders of individuals that are prosecuted if they fall within the ambit of sections 299 and section 300 of the IPC. On international level the provisions of the CEDAW cover murder and other homicides that do not amount to murder. The stipulations of the treaty, which in general forbids any degree of bodily or mental discomfort that is accumulated to women, immediately cover all aspects and angles of honour killings against female members of society. The executive is required to exercise all due diligence to ensure that the member states of the CEDAW take preventive measures to protect women and outlaw all forms of discrimination against them.

Keywords - Honor Killing, Indian Penal Code, Customs, Caste-system, Horrible offence and International laws.

Date of Submission: 27-04-2023

Date of acceptance: 07-05-2023

Meaning and Definition of Honour Killing - Honor killings are similar to intra-family violence in that they involve the murder, usually by male relatives, of women who are thought to be the guardians of the male or family's honor and who as such must preserve their virginity and chastity. These women are thought to have ruined the family's honor and should be killed in order to restore it. Although men can also be killed for the sake of honor, women are typically the victims of honour killings. Honor killings are first and foremost acts of violence against women and violations of human rights. Even though there is disagreement over what exactly qualifies as a "honor killing," most researchers, female rights activists, NGOs, and legislators consider it to be a specific category of honour-based crimes in which a man is killed by the family in order to restore the degraded family honor. Honour killing is defined as the act of murdering a person, usually a female relative (such as a daughter, sister, or spouse), who is believed to have brought shame to the family by engaging in improper sexual behavior.

Honour killings have been occurring for a long time. They have been taking place all over the world for centuries. Honour crimes are violent acts, generally murder, carried out by family members against male or female relatives who are believed to have damaged the family's reputation. Even the perception that a woman has behaved in a way that "dishonors" her family is enough to start an attack on her life. A woman may be targeted by her family for a variety of reasons, including refusing to enter into an arranged marriage, being the victim of sexual assault, seeking a divorce even from an abusive husband, or (allegedly) committing adultery. The decision to kill the daughter in the interest of upholding the family honor might be made for a number of different reasons. The fact that the rural sections of India refuse to modify their attitude toward marriage is the most evident reason why this practice still occurs as quickly and frequently as it does. They contend that any girl who defies her parents' wishes about marriage and opts to a They decide to give the daughter the death penalty since granting her requests to someone of a different goira or caste would undermine the family's honor. Sociologists contend that the caste system's persistent caste-based rigidity is what causes honor killings to occur. Here, they commit this heinous act out of fear of losing their caste status because of which they receive many benefits. Crime. The people's mindset has not evolved, and they just cannot understand that marriage can occur within the same goira or outside of one's caste, which is another reason why honour killings occur.



Human Rights Watch explains the term honour killing as follows:

Honour killing are the acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonor upon the family. A woman can be targeted by (individuals within) her family for a variety of reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce- even from an abusive husband or (allegedly) committing adultery. The mere perception that a woman has behaved in away that 'dishonors' her family is sufficient to trigger an attack on her life.¹

Honour killing also referred to as 'customary killing' or 'Domestic public violence' According to The Black's Law Dictionary honour killing defines² "A crime motivated by a desire to punish a person who the perpetrator believes has injured a person's or group's sense of honour." Honor killing is neither specifically defined by law nor is there any other term that could be said to have widespread acceptance. Yet, human rights organizations and experts have not offered many reasons of honour killings. Honor-based violence, honour crimes, and violence based on honour rules are all terms used to describe the notion of honour killing, which is a complicated idea, "...since they have many variants of definitions."³

Indian Legal Framework for Honour Killing - There are numerous provisions in the Constitution of India that that substantiate and allow for a citizen to do as and what he wishes to do till the time he or she does not encroach upon the rights of others. There are fundamental rights and civil liberties that have been given wide interpretations so as to allow for citizens and individuals within India to take free decisions. However, fundamental rights and directive principles of state policy do not always deal with issues and freedoms directly, but have to be interpreted in a fashion so as to allow for the implementation of these liberties and freedoms into ever pervading spheres of life. Honour killings are inherently murders of individuals. All murders of individuals that are prosecuted if they fall within the ambit of sections 299 and section 300 of the IPC.

Honour Killings are cases of homicide and murder which are grave crimes under the IPC ("Indian Penal Code"). Under the provisions of 299 & 301 of the IPC, culpable homicide not amounting to murder and murder are both made punishable offences. . The offence of honour crimes falls within the parameters of section 299 and 301 because families kill either with the intention to kill or not for the breach of family honour. The punishment for the offence of honour killings or any killings whatsoever for that fact are contained under section 302 of the Indian Penal Code. In past instances, the courts of India have also held the khap Panchayats and the families as well the local communities responsible for the offence of honour killings under section 302 if the IPC.⁴

Such murders are violative of Articles 14, 15 (1) & (3), 17, 18, 19 and 21 of the Constitution of India. By the force of Article 14, India puts forth the rule of law that means that everyone is equal before the eyes of law and that no one is above the law. This means that the law is applicable to each and every one and no one irrespective of their social status can breach the law and get away with it. This part of the Constitution of India falls within the ambit of the basic structure doctrine, which states that no authority can amend or change this particular power that the constitution permits to the citizens and individuals in India. And it is for this very reason that all crimes committed for the alleged or actual protection of honour in the family are grossly adverse to the rule of law as contained in Article 14. Honour killings are inherently murders of individuals. All murders of individuals that are prosecuted if they fall within the ambit of sections 299 and section 300 of the IPC. These are also directly violative of Article 19 and 21 of the Constitution of India.

Article 19 is the following- "19. Protection of certain rights regarding freedom of speech etc

- (1) All citizens shall have the right (a) to freedom of speech and expression;
- (b) To assemble peaceably and without arms;
- (c) To form associations or unions;

¹ Human Rights Watch, Honoring the killers. April 2004, vol.16 No.1(E)

² Bryan A. Garner (ed). Black's Law Dictionary, Ninth edition 2009 P. 428

³ Linda Edvardsson, "Crimes of Honour- Females' Right for Support in the Multicultural Society" (2008), available at: <https://maep.mau.se/bitstream/handle/2043/6820/1%2B2%2B3.pdf?sequence=1&isAllowed=y> (last visited on October 20, 2018)

⁴ The Indian Penal Code, 1860. Sections 299, 301 and 302



- (d) To move freely throughout the territory of India;
- (e) To reside and settle in any part of the territory of India; and
- (f) Omitted
- (g) To practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.⁴⁵

Article 21 provides the Protection of life and personal liberty as "No person shall be deprived of his life or personal liberty except according to procedure established by law."

Therefore, all such murders are against Articles 19 and 21 of the Indian Constitution, which have consistently been given broad interpretations in order to protect the lives and way of life of Indian citizens. Therefore, all coercive and aiding behaviors on the part of the perpetrators, their families, communities, villagers, or khap Panchayats constitute violations of Articles 19 and 21 and are subject to punishment under Sections 299 and 300 of the IPC. The Section 299 of the IPC reads- "Culpable homicide.-- Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide. Illustrations

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

⁴⁵The Constitution of India. See Article 19



(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B or to cause death by doing an act that he knew was likely to cause death. Explanation 1.- A person who causes bodily injury to another who is laboring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death. Explanation 2.- Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented. Explanation 3.- The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born."

While section 300 of the IPC reads "Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or

Secondly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or

Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or

Fourthly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Hindus, Muslims, Christians, and Zoroastrians each have their own laws that govern marriages in accordance with their respective religious practices, as long as such rituals are in line with Indian public policy. The Special Marriage Act of 1954 was created to regulate marital unions between people who want to marry outside of their marriage or social class.

That shows the establishment's intent, which calls for the rural Indian community and khap Panchayats to acknowledge the legalization of interfaith and inter caste unions. In order to achieve their own goals, the Indian people frequently disregard provisions that are in place to protect such marriages. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, which was passed by the Indian Parliament to outlaw discrimination against the scheduled castes and scheduled tribes in India, also prohibits honour killings that are justified by caste differences. While this contains the legal discrimination against marriages between people of different religions, it also violates the law.

This paints a painful picture of the actual circumstances faced by the smallest quasi-judicial bodies, namely the khap Panchayats, when they decide on issues related to honor crimes while acting in opposition to the law of the land. There are a number of offenses committed against both men and women who are members of scheduled castes and scheduled tribes, the majority of which are sexual in nature and are intended to be criminalized by the law. In keeping with the principles of this country's founding fathers, the act seeks to end discrimination against the lower classes.

Apart from the aforementioned provisions, there are also human rights legislations, namely the Protection of Human Rights (Amendment) Act, 2006, creates the legal framework to protect the individuals residing within India from the various acts and instances by virtue of which the basic necessities of life are not take away from the individuals residing in India. In accordance with the legislation, the National Human Rights Commission and the State Human Rights Commission have been created for greater access and implementation of human rights law in India. There are plenty of Human Rights Courts that have also been established for the better protection and quicker adjudication of the human rights of the vulnerable groups. In many instances of honour killings there are instances where the couple is burnt alive or has been subjected to acid attacks; and such instances are covered by the human rights law as laid down by the Protection of Human Rights (Amendment) Act, 2006.



Not only are many honour killings against marriage, but they are also seen as improper behavior after marriage. The Protection of Women from Domestic Violence Act of 2005 covers both these claimed indecencies and the offenses associated with them. It guarantees a woman's protection against her husband and his family in the event that they hurt her body, mind, or reputation. When a woman is discovered having adulterous relations with a man other than her husband, she frequently faces gruesome and violent situations that are covered by the requirements of the relevant law. "For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –

(a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person."⁶⁶

The judiciary and the executive have the power to take punitive action against those who attempt to conceal or manipulate evidence in accordance with Section 13 of the Indian Evidence Act of 1872. This provision is applicable for the entire duration of the crime that begins at the beginning of the crime at the attempt stage, and carries on endlessly. In most cases of honour killings, the family or community or local community of the killing makes the best attempt to conceal evidence that could charge sheet the perpetrators of the crime. Section 13 states that "Where the question is as to existence of any right or custom, the following facts are relevant: (a) Any transaction by which the right or custom in question was created, claimed modified, recognized, asserted or denied, or which was inconsistent with its existence; (b) Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from." This is also applicable to the illegal verdicts passed by the khap Panchayats in violation of the law. Thus it is the domestic legal framework for honour killing in India.

International Legal Framework for Honour Killing - The United Nations is constantly working in order to protect the human rights throughout the world through its various Legislations, Conventions and Treaties. Some important provisions of these have been discussed in this research paper. For instance The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has been ratified by 189 states. India is a signatory to the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW 1979) and has also ratified the convention. The provisions of CEDAW can be used to argue that the tradition and practice of punishing individuals for ill-informed ideas of dishonoring the family, is essentially institutionalized discrimination against individuals and creates a legally binding obligation for India, as a State party to the convention, to take all measures to end all forms of the practice of honour killing and ensure that all discrimination against women in matters relating to marriage and family relations are eliminated, providing them with the equal right to enter into marriage and to freely choose a spouse and to enter into marriage with their free and full consent.

For instance, Article-2 of the said treaty mandates that states parties ratifying the Convention declare intent to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises. And the article-16 prohibits "discrimination against women in all matters relating to marriage and family relations." In particular, it provides men and women with "the same right to enter into marriage, the same right freely to choose a spouse," "the same rights and responsibilities during marriage and at its dissolution," "the same rights and responsibilities as parents," "the same rights to decide freely and responsibly on the number and



spacing of their children," "the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation" "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration. Thus, the CEDAW prohibits discrimination against women protecting them as a class or category.

Apart from the CEDAW, there is the UDHR ("Universal Declaration of Human Rights") of 1948,⁷ which puts forth the philosophical premise that all individuals are born equal and no one is above or greater than another, and this equality must be established, maintained and protected at all given points in time. This declaration protects class based and gender based discrimination, and on those grounds protects the rights of both women and men from aggressors who kill them in attempt to preserve the honour of the family. Article 1 and 2 of the declaration state that "all human beings are born free and equal in dignity and rights," and that "everyone is entitled to all the rights and freedoms set forth in" the declaration irrespective of "sex". Therefore as enumerated in the declarations Articles 3 and 5, women are entitled to enjoy the "right to life, liberty and security of person" and also the "right to be free from torture or cruel, inhuman and or degrading treatment". Crimes of honour violate Article 3 and 5 when the purpose of the perpetrator is to inflict severe mental and physical pain on the women.

There is also the ICESCR of 1976("International Convention on Economic, Social and Cultural Rights").⁸ Under Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR 1976) State parties have to take all steps to ensure the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health", is ensured. Honour killings involve aspects of mental, physical and sexual violence as is clear from the aforementioned incidents that have been reported. The executive bodies of the nations are mandated to protect these rights and thereby take strict action against those who violate these provisions in furtherance of honour crimes. There are other covenants which though are not legally binding but carry persuasive value in directive principles to be followed by the states to prohibit honour killings. An example of the same is the BPFA of 1995("Beijing Platform for Action")⁹ which in paragraph 232 states ""human rights of women include their right to have control over and decide freely and responsibly on matters relating to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence" and directs the executive authorities to "take urgent action to combat and eliminate violence against women, which is a human rights violation resulting from harmful traditional or customary practices, cultural prejudices and extremism."

Conclusion - Honour crimes are a clear violation of the local laws of the country and the international law which India is obliged to uphold. The legal framework is thereby in place to ensure that adequate action should be taken by the police forces to ensure that there are no honour killings in the country. These provisions need to be enforced repeatedly in order to ensure that the frequency in their violation is minimized substantially. Two UN documents that deal directly with the offences of honour killings are "Declaration on the Elimination of Violence against Women" of 1993 and the "Working towards the Elimination of Crimes against Women Committed in the Name of Honour" of 2003. In these documents it has been categorically stated that "Violence against women is a manifestation of historically unequal power relations between men and women, which have led to discrimination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men." However, the law itself and only partially its enforcement are not the issue. The bigger problem at hand is that communities living in the areas where honour crimes are more likely to occur actually support such criminal behaviour. The force established to prevent honor crimes has its single biggest hurdle here.

⁷UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712e.html>

⁸UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

⁹United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October, 1995, available at: <http://www.refworld.org/docid/3dde04324.html>





Live-in Relationships and Indian Laws

Dr. Salim Khan

UGC Net, LL.D., IMS Law College, Noida

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Abstract - The law has been essential in bringing about social transformation. A society is made up of different people. Both the law and society make an effort to control how people behave. Since marriage is a cornerstone of society, society's interests are properly preserved through preserving a robust marriage institution. Each religion in India has its own law governing marriage and other family concerns because the issue of marriage falls under the ambit of personal law. Law must respond appropriately whilst bearing in mind societal and constitutional ideals as we see shifting societal life patterns. There isn't a law in India that specifically addresses living together. In addition to establishing their succession and property rights, the Hindu Marriage Act of 1955 grants legitimacy to children born out of "void" and "voidable" marriages. The Indian judiciary has recently taken the lead in illuminating the correct way for the advancement of society. In this article, I've attempted to examine the trend in Indian law regarding live-in relationships. Article 141 of the Indian Constitution states that the Supreme Court's rulings are to be obeyed and respected because they are regarded as the law. The judiciary is expected to have a consistent stance by society.

Key words - live-in relationships, Indian Judiciary, Legality, Marriage, Indian society and Couples

I. Introduction –

Indian law is rather restrictive when it comes to live-in partnerships. Live-in relationships are rather frowned upon in Indian culture, despite the fact that they are neither illegal nor sinful. The idea of a live-in relationship has given the man-woman relationship a new depth, particularly in a country like India where marriage is considered as the social underpinning for legalizing a man-woman bond. India's social dynamics have improved somewhat with the passage of time and modernity. The prehistoric beliefs of Indian civilization have been questioned by a number of people. Live-in relationships are a common phenomenon of how many society facts are still

rejected and seen from a patriarchal perspective. Although some Indians have embraced it, a sizable majority still doesn't agree with it.

Live-in relationships are subject to a variety of judgments; most seem advanced and some are conservative. We must review earlier decisions made by various Indian courts to dispel any confusion on the matter in light of these recent discordant judgments. Because of this, the goal of this essay is to examine the legal repercussions of live-in relationships in India. It begins by examining the meaning, acceptability, and problems of live-in relationships. It then goes on to list the advantages for couples who decide to live together, including a claim to maintenance, the right to inherit property, the legitimacy granted to children born from live-in relationships, etc.

What is a live-in relationship - Although it can be confusing to define, a "live-in relationship" is when two single people share a home. Living together full-time is more and more common among couples. It may be claimed, nonetheless, that the incidence is higher in metropolitan areas and tier-1 cities, particularly among young people with aspirations for upward mobility. Before deciding to be married, couples frequently start live-in relationships to see how well they get along. It enables them to better understand one another and make wise decisions about important commitments like marriage.

Live-in relationships enable separation without the involvement of the government, which is crucial in nations like India where divorce is stigmatized and frowned upon. On the other side, pre-marital sex is taboo in Indian culture. Living together prior to marriage is so generally seen as culturally inappropriate, unethical, and contrary to social norms. Because of this, even if some people have openly accepted the idea of live-in relationships, it nevertheless encounters social rejection based on conventional beliefs.

Types of live-in relationships in India - There are three fundamental categories that can roughly classify live-in relationships. This division into categories is based on the nature of the relationship.





easier to determine if these groups fall within the wide definition of the phrase "relationship in the nature of marriage." Three situations cast doubt on the idea of a "relationship in the nature of marriage," to continue the analogy. The first option is the domestic cohabitation of two single heterosexual individuals. The second is adulterous interracial partnerships. Domestic partnerships between same-sex couples are the last category. The most well-known, typical, and accepted type of live-in relationship is one in which two single heterosexual individuals consciously reside. However, the second and third of the aforementioned scenarios are where the majority of public antagonism and legal issues occur.

Prominent issues with live-in relationships -

Here are various problems to consider when it comes to live-in relationships. Specifically, identified as follows:

- ❖ Is Indian society prepared to accept this new style of relationship?
- ❖ What are the ramifications of accepting or rejecting such connections for the survival and growth of society?
- ❖ Should India adopt new legislation to govern such relationships?
- ❖ What are the ramifications for married couples of legalizing such a relationship?
- ❖ Should existing regulations governing maintenance, guardianship, succession, and inheritance be modified to accommodate such relationships?
- ❖ How important is the Indian judiciary in the formation of such relationships?

Live-in relationships and Indian Judiciary - The Indian judiciary has proven the most consistent in acknowledging such links thus far. However, when it comes to preserving women's rights in such situations, the Indian judiciary is ready to bring justice to society's most vulnerable individuals. In the case of *Sarma v. V.K.V. Sarma*¹ the Supreme Court established the following rules to decide whether or not a relationship is 'in the nature of marriage'. "Ms. Indra Sarma, an unmarried woman, left her job and began a "live-in" relationship with Mr. V.K.V. Sarma for a period as long as 18 years, despite knowing that he was married. Mr. Sarma abandoned Ms. Sarma in a state where she could not maintain herself. Under the Protection of Women from Domestic Violence

Act, 2005, failure to maintain a woman involved in a "domestic relationship" amounts to "domestic violence." Two lower courts held that Mr. V.K.V. committed domestic violence by not maintaining Ms. Sarma, and directed Mr. Sarma to pay a maintenance amount of Rs.18,000 per month. Thereafter, on appeal, the High Court of Karnataka set aside the orders of the lower courts on the ground that Ms. Sarma was aware that Mr. Sarma was married and thus her relationship with him would fall outside the protected ambit of "relationship in the nature of marriage" under the Protection of Women from Domestic Violence Act, 2005. On further appeal, the Supreme Court, while affirming the High Court's order, created an exception to the general rule. The Supreme Court clarified that a woman who begins to live with a man who is already married to someone else, without knowing that he is married, will still be considered to be in a "domestic relationship" under the Protection of Women from Domestic Violence Act, 2005; thus, the man's failure to maintain her will amount to "domestic violence" within the meaning of the Act and she will be eligible to claim reliefs such as maintenance and compensation. This case is important because it established for the first time such an exception and calls for legislative action to protect women like Ms. Sarma whose contributions in a joint household are often overlooked."

The Supreme Court ruled in *Lata Singh v. State of U.P. & Anr*² that heterosexual majors who are not married can only be in live-in relationships. *Gurwinder Singh & Anr v. State of Punjab. And.Ors*³. The Supreme Court's most recent ruling on the idea of a live-in relationship is this one. After being denied protection by the Punjab and Haryana High Court on the grounds that live-in relationships are socially and morally wrong, the petitioner couple proceeded to the Supreme Court. Due to their inter-caste connection, the petitioners Gurwinder Singh and Gulzar Kumara encountered hostility from their families, the woman's side of the family had threatened and endangered them, so they moved to the Punjab and Haryana High Court to ask for protection. But the Court took a backwards approach and refused to provide them protection. This infuriated the Couple, who then

² (2006) 5 SCC 475

³ Special Leave to Appeal (Crl.) No(s). 4028/2021





sought justice in the Supreme Court. The petitioners had spoken with the police superintendent, but the top court noted that the police had not taken note of their complaint. The court ruled that, despite the High Court's order, the Superintendent of police must act quickly in accordance with the law and provide the couple with the necessary protection because they have been apprehended and are facing threats. This is because the matter involves the couple's life and liberty. As a result, the petition was dismissed.

In *Suneta and Another vs. State Of U P And Others*⁴, the Allahabad High Court recently rejected a writ petition brought by a married woman and her live-in partner who sought police protection because they believed her husband was harming their ability to live peacefully. The bench of Justice Renu Agarwal further explained that the Court is not against live-in partnerships but rather against illicit relationships. "While dismissing a plea filed by an interfaith live-in couple seeking protection against alleged harassment at the hands of the police, the Allahabad High Court recently observed that the views expressed by the Supreme Court pertaining to 'live-in' relationships 'cannot be considered to promote such relationships. Observing that traditionally, Law has been biased in favour of marriage, the Bench of Justice Sangeeta Chandra and Justice Narendra Kumar Johari also stressed upon the need to create awareness in young minds regarding the emotional and societal pressures and legal hassles which may be created by such relations."⁵

The Supreme Court recently dismissed a PIL seeking framing of norms for registration of every live-in relationship with the Centre and termed it a "hare-brained" idea. A bench, headed by Chief Justice D Y Chandrachud, asked the counsel for petitioner, lawyer Mamta Rani if she wanted to foster the security of these people or wanted them not to get into live-in relationships. The counsel replied that the petitioner wanted the relationship to be registered to enhance their social security.

Indian Laws related to live-in relationships

Despite the law remains vague on the validity of these kind of relationships, certain privileges have been offered by evaluating and changing the rules to ensure both parties are unable to abuse such relationships. Various pieces of legislation are discussed below.

Article 21 of the Indian Constitution - Article 21 of the Indian Constitution protects the fundamental right to life and personal liberty, and many Supreme Court decisions, such as *S. Khushboo v. Kanniammal and Anr*⁶, have held that the right to life and personal liberty encompasses the ability for cohabitation with no interference.

The Protection of Women from Domestic Violence Act, 2005 - Section 2(f) of the Domestic Violence Act of 2005 defines a domestic relationship as one that is "in the nature of marriage" between two people who share a home. A domestic relationship is defined as an association between two people who live or have lived together in the same home at any time and are linked by consanguinity, marriage, or a relationship in the nature of marriage, adoption, or who are friends and family living together as a family group. Because the couples live together for an extended period of time and continually represent themselves as husband and wife, live-in relationships have the hallmarks of marriage. As a result, they are covered by the Domestic Violence Act of 2005, and a woman in a live-in relationship can seek protection and maintenance under this Act. As a result, this Act legalizes unions other than marriage.

Protection of Women from Domestic Violence (Amendment) Act, 2013 - The Domestic Violence Act of 2005 has been amended to add "relationship in the nature of marriage" as part of the definition of "domestic relationship." Live-in relationships are included, and women in these situations have a right to protection under the Act.

Indian Penal Code 1860 - The Indian Penal Code establishes criminal liability for crimes like rape, adultery, and bigamy, which may also apply in situations when two people live together.

The Code of Criminal Procedure, 1973 - If her husband refuses to support her, Section 125 of the Criminal Procedure Code authorizes her to seek maintenance from him. If a woman is able to create a marriage-like relationship with a man, she is eligible to get maintenance from that man.

⁴ [WRIT - C No. - 2723 of 2023]

⁵ Kiran Rawat And Another vs. State Of U.P. Thru. Secy. Home Lko. And Others [CRIMINAL MISC. WRIT PETITION No. - 3310 of 2023]

⁶ (2010) 5 SCC 600.





court can assume that such a relationship is a marriage and the woman is regarded a wife. The principal purposes of bringing live-in relationships under Section 125, jurisdiction is to protect women from domestic violence and to raise the legal threshold for partners in live-in relationships to that of marriage.

The Supreme Court built on this precedent based on the recommendations of the Malimath committee, which was established by the Home Ministry. Justice presided over the committee. In 2009, the Committee presented its conclusions, proposing that the definition of alimony/maintenance under Section 125 be changed to allow women to get it. As a result, in the case of *Abhijit Bhikaseh Auri v. State of Maharashtra and Anr*⁷, the Supreme Court declared that a woman does not need to show marriage to seek maintenance under Section 125 of the Cr.PC, implying that a woman in a live-in relationship is equally entitled to maintenance. This ruling exemplifies our judiciary's liberal and progressive approach.

Legality of a live-in relationship - In India, there is no formal legislation or custom that governs live-in partnerships. Thus, the Supreme Court has broadened the concept of live-in couples and established guidelines for dealing with such relationships through decisions. In the case of *Badri Prasad v. Dy. Director of Consolidation*⁸ the Supreme Court initially recognized live-in partnerships as legal. According to the Court, a live-in relationship between consenting adults is permissible under Indian law if the prerequisites of marriage, such as legal age of marriage, consent, and soundness of mind, are met. There is no regulation that allows or prohibits such linkages.

Legitimacy and rights of children born from a live-in relationship - Section 16 of the Hindu Marriage Act of 1955 and Section 26 of the Special Marriage Act of 1954 provide legitimacy for offspring borne from void and voidable marriages. Such children have no right to inherit anything other than their parents' property. Such offspring lack coparcenary rights in the Hindu undivided family's property and hence cannot claim their parents' heritage assets.

*S.P.S. Balasubramanyam v. Suruttayan*⁹ established the legality of children born from live-in partnerships. According to the Supreme Court, if a man and a woman live in the same residence and cohabit for an extended period of time, there is a presumption of marriage under Section 114 of the Indian Evidence Act, 1872. As a result, their offspring will be recognized as genuine and able to inherit a piece of the family assets. In *Bharatha Matha v. Vijaya Renganathan*¹⁰, the Supreme Court granted children born from live-in relationships a portion of their parents' property. The Court held that children born in live-in relationships may not be considered illegal if the relationship lasts long enough.

II. Conclusion

According to all indicators, the concept and legalization of a live-in relationship in India has merely evolved over time, alongside numerous rulings by the Apex Court and the High Courts assuming an extremely crucial role. Marriage is regarded as a spiritual bond that is both recognized and valued in the societal arena. The courts have acted as a check and balance in society as whole allowing spouses to carry on living harmoniously with one another as well as receiving the same dignity in the wider society, presently no explicit law in our nation governing live-in partnerships. Although recognized by the legal system, a live-in relationship lacks cultural acceptance and is stigmatized. Adequate legislature is required to protect such individuals' interests and rights. In general, even though there is no explicit statute in India governing live-in relationships, the Indian legal system has granted couples who are in such relationships certain legal protections and entitlements to rights through various judgments and rules.

⁷CRIMINAL WRIT PETITION NO.2218 OF 2007

⁹[1993] INSC 436 (13 October 1993)

¹⁰[2010] 11 SCC 483





21st Century and Rape Crimes in India

Sudha Khan

Faculty, School, Department of Law, V.V.S. University, Mysuru, Karnataka, India. E-mail: sudhaxkhan@gmail.com

Rape offences are the most heinous and a detestable crime against the women folk in this world and India is no exception in this regard. Over the past months the horrifying attacks on women prove the sick mentality of such persons who think women as a thing of sexual enjoyment and thus the popular notion that violence against women is violence against humanity. But in the face of modernism and westernization, we have left our Indian culture, social norms and values, morality and good deeds far behind. The flesh of the worldly activities and modernity have demolished the humanity in our society. As a matter of fact humanitarian aspect of human being is decreasing rapidly day by day. There are no more rape offences which are committed unintentional due to the gross negligence of appropriate authorities in our system and numerous are the instances where the victims of such shocking crimes do not disclose these incidents because of the fear of their honour and careers reasons in the society. There is a dire need to be societal changes in itself. For these horrible incidents are the yield of filthy minds that need to be changed, else the sexual violence will be continued unabated.

Keywords: Rape offences, modernisation, 21st century, heinous, humanity, dignity and pride.

Introduction

Today we are living in 21st century and being Indian, we are very proud of ourselves. And why not so? Certainly we deserve to feel so because we are establishing new records and dimensions from Earth to Space. As far as modernism is concerned, we are not behind from the western countries in the affairs of modernity. But in the race of modernism and westernization, we have left our Indian culture, social norms and values, morality and good deeds far behind. The flesh of the worldly activities and modernity have demolished the humanity in our society. As a matter of fact humanitarian aspect of human being is decreasing rapidly day by day. And that is why the atmosphere for the female given to ancient culture has lost its place in the recent years. Over the past months the horrifying attacks on women prove the sick mentality of such persons who think women as a thing of sexual enjoyment and thus the popular notion that violence against women is violence against humanity.

The President, Ram Nath Kovind in his speech on Human Rights Day¹ on 10th December equated human rights with equal rights and dignity for women. But the simple acknowledgment that women have the equal rights like men seems a hollow statement even in the 21st century in our country. And the recently horrible sexual violence against women in public places at Hyderabad, Delhi, Uttar etc. explicitly shows how women have been violating in our society. In consequence of these heinous crimes there has been raised the women voice in the whole country for a vigorous response.

¹ Address by the President of India, Shri Ram Nath Kovind on the occasion of Human Rights Day, New Delhi - 10.12.2019

There is pain, anger and frustration among the people that is driving the demands to systemic reforms, being the account of Rape-murder crimes.

But the former Chief Justice 'Muralidharaiah'² recently stated that the principles of justice must be upheld and not confused with vengeance. It simply means that to uphold these principles governments must take stronger measures to improve access to justice for victims. Though necessary central government and state governments have announced and implemented one measure after another to ensure the safety of women, still the rape crimes against women have been steadily rising in the two decades of the 21st century.

After the rape and murder of a veterinarian in Hyderabad in November, 2019 and the burning of a rape survivor in Unnao, UP in December, 2019, within and outside the Parliament there has been a clamour to make the Criminal justice system harsher for the offenders committing sexual violence against women and children. Now the question arises what are the laws on rape and sexual crimes in our country? Are the existing laws sufficient to control the sexual violence against women?

The nationwide public outcry, in 2012, following the December 16, gang rape and murder in Delhi led passing the Criminal (Amendment) Act in 2013, which widened the definition of rape and made punishment more stringent. The said Act, which came into effect on April 2, 2013, increased jail terms in most sexual offences and also provided the death penalty in rape cases that cause death of the victim or leaves

² The Former Chief Justice of India

her in a regressive state. The Act also created new offences such as of Criminal force on a woman with intent to disrobe, restrain and making. The punishment for gang rape was extended to 20 years to Life imprisonment from the earlier 10 years to Life imprisonment. In the year 2017 for the first time clearly defined the offences such as use of unwelcome physical contact, words or gestures, demand or request for sexual favours, showing pornography against the will of a woman or making sexual remarks and also made the provision of punishment for these offences. Life with or without fine was made extendible with up to 7 years in jail terms. The offence of acid attack was extended to 10 years of imprisonment.

An eight-year old girl was abducted, raped and married by some peddlers at Bannu village near Kullu in Himachal Pradesh in January 2018. There was again nationwide protest and calls for more stringent punishment for this crime. This caused passing of the Criminal Law (Amendment) Act, 2018. According to the said Act, rape and gang rape of a girl below the age of 12 years will carry

world. But recently rape crimes in India, reveal the truth that several instances of brutal rape and sexual violence against women certainly put a stain on the reputation of India and make it one of the worst places in the world for female.

UP reported 8,899 cases of POCSO Act in 2020, followed by Maharashtra with around 7,687 cases, Madhya Pradesh 7,148, Tamil Nadu 5,999 and West Bengal 2,657 cases. The NCSS data released in September, 2021, stated that 47,221 cases of Prosecution of Child Sex (POCSO) (POCSO) Act were reported in 28 states and eight union territories across the country.

Each year cases in the Central Bureau of Investigation (CBI) was tracking down on sexual abuse and circulation of child pornography material across the country. Uttar Pradesh tops in the number of incidents related to sexual offences against children, according to the latest data of the 'National Crime Record Bureau'.

Seventy-seven rape cases were reported in UP in India on an average every day in 2020, resulting 27,666 such





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Respected sir,

I have sent my three Articles for publication in your esteemed journal namely IJDS, as following mentioned-

1. Sexual offences against the children in India- A Deplorable condition
2. 21st. Century and Rape Crimes in India
3. Right to Privacy and Indian Judiciary

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Salim Khan, Research Scholar



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Right to Privacy and Indian Judiciary

Sahin Khan

Faculty Member, Department of Law, CCS University Meerut, Ghaziabad, Uttar Pradesh, India

The concept of privacy has always been a debatable issue from the ancient age. There is no specific definition of privacy in any culture, civilization and religion, whereas the matter of privacy has not been contemplated by the writers of human rights such as legal scholars, scholars, social reformers, administrators, jurists, judges etc. The idea of privacy is as ancient as the history of human civilization. The Indian history witnessed by the fact that the privacy has always been occupied a place of prime importance in India's rich legacy of historical traditions and culture. This is evident in the prevalence of different customs, traditions, belief and faith in India. But in last some decades due to the revolutionary developments in the information and technology and the deterioration of social values and standards, American Philosopher Lewis Harward's words seem appropriate that, "Today the degradation of the man left is symbolized by the fact that the only place sacred from interruption is the private toilet".

Keywords: Right to privacy, Fundamental right, violation, Indian law, dignity and Indian judiciary.

https://doi.org/10.30605/ijds.v14i1.202101.001

1. https://www.lawyergate.com/guest-lawyer_meerut_30702

Introduction

"Right to be let alone, right of a person to be free from unreasonable publicity, and right to live without unwarranted interference by the public in matters with which the public is not necessarily concerned." The popular notion of Privacy requires positive social, political, and judicial action to support the claims said to be central to humanity and dignity of the individual. The term Right to privacy has acquired a momentum through a long line of judicial decisions as it's not contained explicitly under the part III of Indian constitution with other fundamental rights. Tracing back its history when we peruse the debates of Constituent Assembly we find some discussions on the point of privacy and secrecy. From the Constituent Assembly Debates it can be concluded that right to privacy was deliberately not included in the Constitution. What could possibly the intention of legislators behind this is unknown. But Judicial Activism and Judicial Jurisprudence has brought the right to privacy within the sphere of fundamental rights because according to the article 141 of Indian Constitution, "Law Enforced by the Supreme court shall be binding on all courts within the territory of India."

Meaning and Definition of Privacy

As stated earlier that Right to privacy is recognized generally as diverse subjects and values but there is still need to reach at a consistent definition of privacy. Generally the term privacy means, "The conditions or status of being

free from public attention or intrusion or non-interference with one's acts or deposits." Which means there is some certain reservation regarding any individual which one would not like to disclose or share with anyone, in other words privacy is the state for power to isolate oneself and keep others away from making any intrusion on it. These encroachments may be physical or virtual and in any other forms including peeping over one's shoulders for snooping directly or through any instruments or devices.

Legally speaking, the right to privacy means the right to be let alone, the right of an individual to be free from unwarranted interference, liberty of the individual to be fairly according to one's involving himself, his family and his relationship with others in the society. There is an autonomy or control over one's personal affairs and activities. This privacy is, "right to be let alone, right of a person to be free from unwarranted publicity, and right to live without unwarranted intrusions by the public or matters with which the public is not necessarily concerned."

In this way, Right to privacy is a right which individual possesses by birth. Privacy simply means the right of an individual to be left alone which is recognized by the common law. It is essentially considered to be a natural right.

Existence of Right to Privacy in India

This is not to say that there was no popular notion of privacy in ancient or medieval age in India. As far as the

2. Black's Law Dictionary
3. The Indian Constitution 1950

4. Samuel D. Warren and Louis D. Brandeis, The Right to Privacy, 4. Harvard Law Review, 193 (1890)



matter of privacy is concerned, it has been observed some ancient epoch in Indian culture. A lot of discussions has been made on the various facets of it including the observance of one's home, correspondence, thoughts, beliefs and the necessity of protecting personal information from misuse by media or private agencies or its Commercial use. In India before the Independence, The Constitution of India Bill, 1949 contains several instances of it. As Bal Gangadhar Tilak, who declared, "Swearing to my birth right." According to Anne Hume, "Every citizen has in his house an inviolable asylum." Which is a simple articulation of English notion of Privacy that "Every man's house is his castle."

The Constitution of India bill, 1925 in draft is composed of such provisions, which was drawn up for self-government in India. Mahatma Gandhi, Bepu Chandra Pal, Sarojini Naidu and many others great personalities who were the members of the said bill. The Bill recognized, "every person shall have the fundamental right to liberty of person and security of his dwelling and property."

why it is subjected to judicial interpretations, in which the said right has been discussed in context of the privacy as against the State that has brought it within the purview of fundamental rights. The very right has always been controversial and vague in India because Indian Constitution doesn't include it expressly. The drafters of Indian Constitution could not grant to life and personal liberty as a fundamental right as granted in article 21, which is available to 'citizens' as well as 'non-citizens'. The Supreme Court of India has given various interpretations to Art. 21 and with the growing time the right to life and personal liberty has been given to much expanding horizon with an every other rights aiming to that it would like, right to shelter, right to speedy trial, right to livelihood and many others which are necessary for a human being to live with human dignity. In the case of Maneka Gandhi¹ Supreme Court gave two dimensions to Article 21. According to this Art.





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21st Century and Rape Crimes in India

Salim Khan

Faculty of Law, Department of Law, CCS University Meerut, P.O. Box, Meerut, Uttar Pradesh, India

Rape offences are the most heinous and inhumanly crime against the women in our world and India is no exception in this regard. Over the past months the horrifying attacks on women prove the sad mentality of such persons who think women as a thing of sexual enjoyment and thus the popular notion that violence against women is violence against humanity. But in the race of modernisation and westernisation, we have left our Indian culture, social norms and values, morality and piety trails far behind. The flash of the worldly activities and modernity have diminished the humanity in our society. As a matter of fact humanitarian aspect of human being is deteriorating rapidly day by day. There are so many rape offences which are repeated and followed due to the gross negligence of appropriate attention in our system and moreover are the instances where the victims of such shocking crimes do not disclose these incidents because of the fear of their honour and various reasons at the society. There is a dire need to be societal changes as well. For these heinous incidents are the yard of truly motto that needs to be changed, else the current violence will be continued unabated.

Keywords: Rape offences, modernisation, 21st century, heinous, humanity, dignity and pride.

Introduction

Today we are living in 21st century and being Indian, we are very proud of ourselves. And why not so? Certainly we deserve to feel so because we are establishing new records and milestones in our Earth's Space. As far as modernisation is concerned, we are not behind from the western countries in the spirit of modernity. But in the race of modernisation and westernisation, we have left our Indian culture, social norms and values, morality and piety trails far behind. The flash of the worldly activities and modernity have diminished the humanity in our society. As a matter of fact humanitarian aspect of human being is deteriorating rapidly day by day. And that is why the reasons for the female gender in our society has lost its place in the recent years. Over the past months the horrifying attacks on women prove the sad mentality of such persons who think women as a thing of sexual enjoyment and thus the popular notion that violence against women is violence against humanity.

The President, Ram Nath Kovind in his speech on Human Rights Day¹ on 10th December against human rights with equal rights and dignity for women. But the simple acknowledgement that women have the equal rights like men seems a hollow gesture even in the 21st century in our country. And the recently heinous sexual violence against women in public places at Hyderabad, Trichy, Coimbatore etc. explicitly shows how women have been suffering in our society. In consequence of these various crimes there has been raised the infatigable voice in the whole country for a women response.

1 Address by the President of India, Shri Ram Nath Kovind on the occasion of Human Rights Day, New Delhi, 10-12-2019

There is pain, anger and frustration among the people that is driving the demands to customs, traditions, being the moral of rape-crime victims.

But the former Chief Justice, Sharad Aravind Reddy² recently stated that the principles of justice must be upheld and not confused with compassion. It simply means that to uphold these principles governments must take stronger measures to improve access to justice for victims. Though successive central government and state governments have announced and implemented one measure after another to ensure the safety of women, will the rape crimes against women have been steadily rising in the two decades of the 21st century.

After the rape and murder of a veterinarian in Hyderabad in November, 2019 and the burning of a rape survivor in Unnao, U.P. in December, 2019, within and outside the Parliament there has been a clamour to make the Criminal Justice system harsher for the offenders committing sexual violence against women and children. Now the question arises what are the laws on rape and sexual crimes in our country? Are the existing laws exhaustive to control the sexual violence against women?

The nationwide public outcry, in 2012, following the December 16, gang rape and murder in Delhi led passing the Criminal (Amendment) Act in 2013, which widened the definition of rape and made punishment more stringent. The said Act, which came into effect on April 2, 2013, introduced far more in new sexual offences and also provided the death penalty in rape cases that caused death of the victim or her or

2 The Former Chief Justice of India



her as a cognitive state. The Act also created new offences such as Cyber Stalking on a woman with intent to disturb, harass and stalk. The punishment for gang rape was extended to 20 years to life imprisonment from the earlier 10 years to life imprisonment. In the year 2017 for the first time clearly defined the offences such as use of words, gestures, physical contact, words or gestures, demand or request for sexual favour, showing pornography against the will of a woman or making sexual remarks and also made the provisions of punishment for these offences. Like sexual stalking was made punishable with up to 5 years to jail terms. The offence of Acid attack was extended to 9 years of imprisonment.

An eight-year old girl was abducted, raped and murdered by some predators at Buxera village near Kathua in Jammu and Kashmir in January 2019. There was general nationwide protest and calls for more stringent punishment for this crime. This caused passing of the Criminal Law (Amendment) Act, 2019. According to the said Act, rape and gang rape of a girl below the age of 12 years will carry

death. But recently rape crimes in India, reveal the truth that sexual violence of brutal rape and sexual violence against women continue put a mark on the reputation of India and make it one of the worst places in the world for female.

UP reported 6,098 cases of POCSO Act in 2020, followed by Maharashtra with around 5,687 cases, Madhya Pradesh 5,648, Tamil Nadu 3,099 and West Bengal 2,657 cases. The NCRB data released in September, 2021, stated that 47,221 cases of Protection of Child from Sexual Offences (POCSO) Act were reported in 26 states and eight union territories across the country.

Lucknow crime is the Central Bureau of Investigation (CBI) was tracking down on sexual abuse and penetration of child pornography material across the country. Uttar Pradesh tops in the number of incidents related to sexual offences against children, according to the latest data of the National Crime Record Bureau.

Recently seven more cases were reported across India on an average every day in 2020, totaling 28,046 such





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Sexual Offences against the children in India: A Deplorable Condition

Salim Khan

Research Scholar, V.K.J.C. College, Kherai, Indore district, M.P., India, Email: salimkhan1997@gmail.com

Sexual offences against the children are extending at a startling rate all over the world. Among the top countries with highest rate of sexual offences involving children, India is not an exception in this regard. In the present social context, children are more vulnerable to crime and it is obligatory that the State must protect the life and liberty of the children as they are the backbone of the country. Sexual offences relating to rape and unnatural offences constitute altogether different kind of crime, which is the result of a perverse mind. Those who commit such crimes are psychologically perverted persons exhibiting that tendency to rape forcibly committed by them. Female children face all forms of sexual assault in India and offences against female children have reached an epidemic proportion. The number of child rape cases registered as incidents of sexual assault against the female children below 18 years, who account for a staggering almost 47% of the country's population, have long been the victims of the most brutal sexual crimes known in humanity. The indifferent attitude of the Union and State Legislatures, the quality of its law enforcement agencies and the conspicuous absence of any specialised legal framework to deal with cases of children sexual abuse have played the role of transforming this latent truth into a potential reality that seems to have been passively accepted and unopposed by decades of their inaction. With the growing prevalence of child trafficking, sex-tourism, the prostitution, child pornography, incest and child rape etc. are the horrid and heinous crimes of child sexual abuse not only in India but almost all countries of the world.

Keywords: Sexual offences, child trafficking, rape, prostitution and heinous condition.

Introduction

Crime is not only against any particular individual but against the whole society. "Sexual Offences" relating to rape and unnatural offences constitute an altogether different kind of crime, which is the result of a perverse mind. The pervasiveness may result in rape or in homosexuality. Those who commit such crimes are psychologically perverted persons exhibiting that tendency to rape (forcibly committed by them). With the growing prevalence of child trafficking, sex-tourism, the prostitution, child pornography, incest and child rape etc. are the horrid and heinous crimes of child sexual abuse not only in India but almost all countries of the world. The Researcher has made an attempt to examine statutory provisions, and critically evaluate Judiciary's attitude towards such crimes. Female Children face all kinds of sexual assault in India and offences against female children have reached an epidemic proportion. The provisions of the law relating to sexual assault against these victims are not proved enough sufficient to protect them from these heinous crimes. That is why, efforts made by Legislatures, Executives and Judiciary seem futile because these offences are increasing day by day on a large scale. The legal definition of rape excludes several other forms of sexual assault and those that are injurious

1. T.K. Gopal v. State of Karnataka (2010) 80:708.

to the bodies and minds of children and leaves such fatal and vulnerable impression on them that they cannot forget such heinous incidents throughout their life. These helpless children feel their life like hell and even their other victimizations always peak them constantly. And thus their life becomes very miserable and especially for female children this is very wretched condition. The figures are witness in itself that how much horrible is the condition of these innocent children.

UP Tops in sexual offences against children: NCRII data¹

1. Prepared 8,998 cases of POCSO Act in 2020, followed by Maharashtra with around 5,607 cases, Madhya Pradesh 5,648, Tamil Nadu 3,094 and West Bengal 2,877 cases.

The NCRII data released in September, 2021 stated that 47,231 cases of Protection of Child from Sexual Offences (POCSO) Act were reported in 28 states and eight union territories across the country. Lucknow, Even as the Central Bureau of Investigation (CBI) was cracking down on sexual abuse and circulation of child pornography material across the country, Uttar Pradesh tops in the number of incidents related to sexual offences against children, according to the latest data of the National Crime Record Bureau (NCRB).

2. The Hindustan Times Published on Nov 18, 2021

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The picture is symbolic for representation.

The CBI had detained at least 30 people during raids at 77 locations across 14 states and Union territories, in a drive against sex-related abuse and circulation of child pornography material. Raids were carried out at 11 locations in various districts across UP alone. As many as 25 FIRs were registered against 33 accused people, in the last five days, for allegedly

the state stood at 24th position among all states and union territories across the country.²

109 children sexually abused every day in India in 2018³

As many as 109 children were sexually abused every day in India in 2018, according to the data by the National Crime Record Bureau, which showed a 22 per cent jump in such cases from the previous year. According to the recently released NCRB data, 32,008 cases were reported in 2017 while 39,827 cases were reported in 2018 under the Protection of Children from Sexual Offences Act (POCSO).

POCSO Act, 2012 is a comprehensive law to provide for the protection of children from offences of sexual assault, sexual harassment and pornography. It requires special treatment of cases relating to child sexual abuse such as setting-up of special courts, special prosecutors, and support persons for child victims.

As many as 22,015 child rapes were recorded in 2018 which included 71,801 cases of girls and 204 of boys, the data showed. The highest number of child rapes were recorded in

