

CULTURAL NORMS AND GENDER-BASED VIOLENCE IN INDIA: THE INTERPLAY OF PATRIARCHY, TRADITION, AND RESISTANCE IN SUSTAINING VIOLENCE AGAINST WOMEN

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I. INTRODUCTION

Gender-based violence (GBV) in India is a multifaceted issue rooted in the collision of progressive legal frameworks and deeply entrenched patriarchal norms. Despite constitutional guarantees of gender equality, the lived experiences of women often reflect systemic oppression. Data from the National Family Health Survey-5 (NFHS-5, 2019–2021) reveals that one in three married women (30%) aged 18–49 has endured physical, sexual, or psychological abuse by their spouses.¹ This alarming statistic is compounded by the National Crime Records Bureau (NCRB) 2021 report, which documents 6,966 dowry-related deaths annually, a figure averaging 19 fatalities per day.² Such numbers underscore a societal contradiction: even as India strides toward modernization, cultural practices continue to legitimize violence against women.

A glaring example of this paradox lies in section 375 of the Indian Penal Code (IPC)³, which criminalizes rape but exempts non-consensual sexual acts within marriage.⁴ This legal anomaly reflects patriarchal ideologies that prioritize marital “harmony” over women’s bodily autonomy. While laws like the Protection of Women from Domestic Violence Act, 2005, and the criminalization of instant triple *talaq* (2019) signal progress, their enforcement remains inconsistent. For instance, dowry prohibition laws enacted in 1961 have failed to curb dowry-related harassment, with cases rising by 25% between 2019 and 2021.⁵ Such systemic inertia highlights how cultural complicity undermines legal safeguards, perpetuating cycles of impunity. Cultural practices like *kanyadaan* (the ritual “gifting” of daughters during weddings) and caste-based honor codes further institutionalize women’s subordination. These traditions, often romanticized in media and religious narratives, frame women as custodians of familial “honor,” reducing their agency to transactional roles. The 2018 *Kathua* gang rape case,⁶ where an 8-year-old Dalit girl was brutalized to intimidate her nomadic community, exemplifies how caste hierarchies and gendered violence intersect to target marginalized groups.⁷ Such incidents reveal the inadequacy of legal reforms in dismantling socio-cultural structures that normalize GBV.

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¹ Government of India, “National Family Health Survey-5 (2019–21)” 45 (Ministry of Health and Family Welfare, 2021).

² National Crime Records Bureau, “Crime in India 2021” 132 (Ministry of Home Affairs, 2022).

³ The Indian Penal Code, 1860 (Act 45 of 1860).

⁴ *Id.*, s. 375, exception 2.

⁵ *Supra* note 2 at 145.

⁶ *Mohd. Akhtar v. The State of Jammu and Kashmir* (2018) 5 SCC 499.

⁷ “Kathua Rape Case: Key Accused Sentenced to Life Imprisonment” *The Hindu*, June 10, 2019.

A. Theoretical Frameworks for Understanding GBV

To dissect the persistence of GBV, this chapter employs three interlinked theoretical lenses:

i) Feminist Theory

Feminist critiques expose how patriarchal systems in India legitimize gendered violence through institutionalized power imbalances. Scholars like Chandra Talpade Mohanty argue that postcolonial societies often perpetuate “colonial patriarchy,” where traditional and modern systems collude to suppress women’s rights.⁸ For example, dowry demands, initially a Brahminical custom—have evolved into a pan-Indian practice, transcending class and education levels.⁹ Feminist theory thus illuminates how GBV is not a relic of the past but a dynamic tool of control in contemporary society.

ii) Intersectionality

Kimberlé Crenshaw’s intersectional framework underscores how overlapping identities, caste, religion, class, and gender, amplify vulnerabilities. Dalit women, for instance, face 54% higher rates of sexual violence compared to upper-caste women, according to the India Human Development Survey (IHDS).¹⁰ Similarly, Muslim women navigate dual oppression from patriarchal family structures and state policies like the controversial Citizenship Amendment Act (CAA).¹¹ Intersectionality reveals that GBV cannot be addressed through a one-size-fits-all approach but requires nuanced, identity-sensitive interventions.

iii) Cultural Sociology

Pierre Bourdieu’s concept of symbolic violence explains how cultural norms and institutions normalize oppression. In India, Bollywood films often glorify female self-sacrifice (e.g., the *sati* trope in historical dramas), while religious festivals like *Karva Chauth* romanticize women’s subservience.¹² These narratives socialize communities to view GBV as a “natural” consequence of tradition. Cultural sociology thus contextualizes how violence is reproduced through everyday rituals and media, making resistance a cultural battleground.

B. Patriarchal Structures and Cultural Norms

The subordination of women in India finds its roots in ancient socio-religious texts and colonial-era legal codifications that entrenched patriarchal norms. The *Manusmriti* (circa 200 BCE–200 CE), a foundational Hindu legal text, explicitly institutionalized gender hierarchies by

⁸ Chandra Talpade Mohanty, *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity* 52 (Duke University Press, Durham, 2003).

⁹ Prem Chowdhry, *Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India* 89 (Oxford University Press, 2007).

¹⁰ India Human Development Survey, IHDS-II (2011–12) 112 (NCAER, New Delhi, 2014).

¹¹ Zoya Hasan, “Politics of Inclusion: Caste, Minority, and Representation in India” 55(42) *Economic and Political Weekly* 23–27 (2020).

¹² Pierre Bourdieu, *Masculine Domination* 41 (Stanford University Press, Stanford, 2001).

declaring, “A woman must never be independent; in childhood, she depends on her father, in youth on her husband, and in old age on her son.”¹³ Such prescriptions normalized women’s dependence on male guardians, framing their identities as relational rather than autonomous. While these texts were not uniformly practiced across India’s diverse regions, they provided ideological legitimacy to patriarchal systems, particularly among upper-caste communities.

Colonial rule (1757–1947) further entrenched these hierarchies through codified laws that selectively reinterpreted “traditional” customs. British administrators, guided by Victorian moralism and a misreading of Brahminical texts, ossified regressive practices like child marriage and sati (widow immolation) under the guise of preserving “native culture.”¹⁴ For instance, the Hindu Widows’ Remarriage Act, 1856, though progressive, inadvertently reinforced caste endogamy by requiring widows to seek permission from colonial authorities to remarry.¹⁵ Post-independence, India retained colonial-era personal laws, which continue to govern marriage, inheritance, and divorce along religious lines, perpetuating gender inequity.¹⁶

C. Socio-Religious Practices Institutionalizing Gender Subordination

Patriarchal norms, often sanctified by religious tradition and social custom, form a bedrock for the systemic subordination of women across India’s diverse communities. While manifestations differ, practices within Hinduism, Islam, Christianity, and Parsi Zoroastrianism alike institutionalize gendered hierarchies, commodify women, and restrict their autonomy.

II. HINDU PRACTICES: RITUALIZED COMMODIFICATION AND CASTE-BASED VIOLENCE

A. Kanyadaan: Ritualized Commodification of Women

The Hindu wedding ritual of *kanyadaan* (literally, “gifting the daughter”) epitomizes the cultural commodification of women. During the ceremony, the bride’s father ceremonially transfers her “ownership” to the groom, symbolizing her transition from one patriarchal unit (natal family) to another (marital home). Feminist scholars argue that this ritual reduces women to transactional objects, reinforcing the notion that their primary value lies in their roles as wives and mothers¹⁷. Despite its religious sanctity, *kanyadaan* perpetuates systemic disempowerment by naturalizing male authority.

B. Dowry System: Economic Exploitation and Violence

Originally a voluntary *stridhan* (bridal gift), dowry has morphed into a coercive system of economic exploitation. The Dowry Prohibition Act (1961) criminalized dowry demands, yet the practice persists across classes, with the National Crime Records Bureau (NCRB) reporting 6,966

¹³ Manusmriti 5.147–148, translated by Wendy Doniger and Brian K. Smith (Penguin Classics, 1991).

¹⁴ Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* 90 (University of California Press, 1998).

¹⁵ Flavia Agnes, *Law and Gender Inequality: The Politics of Women’s Rights in India* 45 (Oxford University Press, 1999).

¹⁶ Nivedita Menon, *Seeing Like a Feminist* 112 (Penguin Books, 2012).

¹⁷ Flavia Agnes, *Family Law: Volume I: Family and Laws* 45 (SAGE Publications India, 2011).

dowry-related deaths in 2021—averaging 19 fatalities daily¹⁸. Dowry harassment often escalates into domestic violence, with women subjected to burns, emotional abuse, or murder for insufficient payments¹⁹. Urbanization and education have failed to curb this practice; a 2021 study found that 40% of dowry demands in Delhi originated from educated, affluent households²⁰.

C. Caste Hierarchies: Intersectional Oppression of Dalit and Adivasi Women

Caste-based oppression compounds gender violence for Dalit and Adivasi women, who face systemic sexual exploitation as tools of caste dominance. The 2006 Khairlanji massacre—where a Dalit mother and daughter were gang-raped and murdered by upper-caste men—exemplifies how gendered violence reinforces caste hierarchies²¹. According to the India Human Development Survey (IHDS), Dalit women are 54% more likely to experience sexual violence than upper-caste women.²² Similarly, *Adivasi* women navigating displacement due to mining projects face heightened risks of trafficking and abuse, underscoring the intersection of caste, gender, and economic marginalization.

III. MUSLIM PERSONAL LAW AND GENDER-INEQUITABLE INTERPRETATIONS

Discriminatory practices within Muslim communities often stem from patriarchal interpretations of personal law and social custom, which are resisted by progressive scholars and women's groups.

A. Triple Talaq and Arbitrary Divorce

The now-outlawed practice of instant triple *talaq* (*talaq-e-biddat*), where a man could unilaterally divorce his wife by uttering “*talaq*” three times in one sitting, rendered Muslim women extremely vulnerable to arbitrary abandonment.²³ Although the Supreme Court outlawed the practice in 2017 and it was subsequently criminalized by statute, its historical prevalence underscores the power imbalance in marital dissolution²⁴. Critics argue that even under more traditional procedures, the husband's right to divorce remains significantly easier to exercise than the wife's right to seek *khula* (a woman-initiated divorce), which is often contingent on judicial approval or the husband's consent.²⁵

B. Polygyny and Maintenance

¹⁸ National Crime Records Bureau, “Crime in India - 2021” (Ministry of Home Affairs, 2022), ch. 5A.

¹⁹ Srimati Basu, *The Trouble with Marriage: Feminists Confront Law and Violence in India* 89 (University of California Press, 2015).

²⁰ Gaurav J. Pathania and S. Premchander, “Dowry in Urban India: A Study of Elite Marriage Practices in Delhi” 30(5) *Journal of Gender Studies* 602 (2021).

²¹ Anand Teltumbde, *Khairlanji: A Strange and Bitter Crop* (Navayana Publishing, 2008).

²² India Human Development Survey (IHDS), “Gender-Based Violence in India: A Study of Caste and Socioeconomic Dimensions” (2012).

²³ Sylvia Vatuk, “The Practice of Muslim Family Law in India” in Archana Parashar and Amita Dhandain (eds.), *Redefining Family Law in India* 262 (Routledge, 2008).

²⁴ *Shayara Bano v. Union of India* (2017) 9 SCC 1.

²⁵ Saumya Uma, *Muslim Women and the Law* 33 (National Commission for Women, 2015).

While, *quranically* restricted and conditional, the right of Muslim men to practice polygyny (marrying up to four wives) is often exercised in a manner that leaves women financially and emotionally insecure.²⁶ Furthermore, the controversial interpretation of the Supreme Court's judgment in the *Mohd. Ahmed Khan v. Shah Bano Begum* case and the subsequent Muslim Women (Protection of Rights on Divorce) Act, 1986, created a protracted debate on the right of divorced Muslim women to maintenance, often limiting it to the *iddat* period (roughly three months), despite progressive judicial rulings that have expanded these rights.²⁷

IV. CHRISTIAN PERSONAL LAW AND INSTITUTIONAL PATRIARCHY

Gender-discriminatory provisions are also embedded in the legal frameworks governing some Christian communities in India.

A. Discrimination in Divorce and Adultery

The Indian Divorce Act, 1869, originally contained starkly inequitable grounds for divorce. While a husband could seek divorce on the sole ground of adultery, a wife had to prove adultery compounded with desertion, cruelty, incest, or other offences.²⁸ Although this was amended in 2001 to make grounds equal, the legacy of such codified discrimination persists.

B. Syrian Christian Patriarchy and Property Rights

Within certain Syrian Christian communities in Kerala, traditionalist interpretations of personal law and custom have historically denied women equal rights in ancestral property. The preference for male heirs and the practice of giving daughters a dowry *in lieu of* their share of inheritance has been significant site of disempowerment, though legal challenges have sought to rectify this.²⁹

C. Parsi Zoroastrian Community and Gendered Exclusion

The small Parsi community, while often progressive in matters of female education and professional advancement, maintains a deeply contested practice of gendered exclusion in religious and communal life.

D. The Issue of Religious Identity and Interfaith Marriage

Parsi religious laws, as administered by the Bombay Parsi Panchayat, hold that a child's religious identity is derived only from the father. Consequently, children of a Parsi woman married

²⁶ Zakia Soman and Noorjehan Safia Niaz (eds.), *Seeking Justice Within Family: A Study of Muslim Women's Access to Divorce in India* 18 (Bharatiya Muslim Mahila Andolan, 2017).

²⁷ *Mohd. Ahmed Khan v. Shah Bano Begum*, AIR 1985 SC 945; *Daniel Latifi & Anr. v. Union of India* (2001) 7 SCC 740.

²⁸ A. Xaxa, "Gender and Law: Christian Women in India" 39(44) *Economic and Political Weekly* 4792 (2004).

²⁹ K. N. Chandrasekharan Pillai (ed.), *Christian and Anglo-Indian Law in India* 115 (Eastern Book Company, 2004).

to a non-Parsi man are not recognized as Parsi Zoroastrians and are denied entry into the fire temple and initiation ceremonies (navjote).³⁰ This stands in stark contrast to the children of a Parsi man married to a non-Parsi woman, who are accepted into the faith. This patrilineal definition of identity has been criticized as a fundamental form of gender discrimination that disenfranchises women and their children.³¹

V. NORMALIZATION OF VIOLENCE

A. “Honor” Crimes and Familial Control

So-called “honor” crimes, murders or assaults perpetrated to uphold familial reputation, reveal how patriarchal norms conflate women’s autonomy with communal shame. In 2020, the NCRB recorded 28 cases of honor killings, though activists estimate underreporting due to familial collusion³². *Khap panchayats* (caste-based councils) in rural Haryana and Uttar Pradesh routinely issue edicts policing women’s attire, mobility, and marriage choices, often sanctioning violence against inter-caste couples. Such crimes reflect a broader societal obsession with controlling women’s bodies to maintain caste and religious purity.

B. Religious Rituals, Media Tropes, and the Glorification of Female Sacrifice

Cultural and religious narratives that valorize female self-sacrifice and suffering play a critical role in normalizing and romanticizing the subordination of women. These narratives, perpetuated through rituals, popular media, and patriarchal interpretations of religious doctrine, reinforce the toxic ideal that a woman’s highest virtue lies in her endurance and the relinquishment of her autonomy for the sake of family, community, or religious honor.

C. Hindu Rituals and Cinematic Glorification of Suffering

The festival of *Karva Chauth*, where Hindu women observe a stringent fast for the longevity of their husbands, is widely popularized in North India. While often framed as a cultural expression of love, feminist critiques argue that it ritualizes and romanticizes female subservience, portraying it as a divine duty.³³ This ideal is powerfully amplified by Bollywood cinema. Films like *Padmaavat* (2018), which graphically glorify the Rajput practice of *jauhar* (mass self-immolation by women to avoid capture), reinforce the archaic notion that women are the primary custodians of communal honor, their bodies and lives being the ultimate site upon which honor is preserved or lost.³⁴ Furthermore, popular television serials that depict psychologically and physically abusive marriages as ultimate “tests of a wife’s devotion” socialize audiences,

³⁰ Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947* 205 (Cambridge University Press, 2014).

³¹ The Gujarat High Court in *Goolrokh M. Gupta v. Burjor Pardiwala* grappled with this issue, highlighting its discriminatory nature.

³² National Crime Records Bureau, “Crime in India 2020” 145 (Ministry of Home Affairs, 2021).

³³ Prem Chowdhry, *Contentious Marriages, Eloping Couples: Gender, Caste, and Patriarchy in Northern India* 158 (Oxford University Press, 2007).

³⁴ Rajeshwari Sunder Rajan, “The Story of Sati: From D. Kosambi to Umberto Eco” *The South Asian Newsletter* 12 (1993).

particularly women, to accept domestic violence as a normative and even necessary part of married life.³⁵ These narratives, steeped in patriarchal symbolism, perpetuate the myth that suffering is an intrinsic and virtuous component of womanhood.

D. Islamic Practice of Halala: Institutionalized Degradation

Within some Muslim communities, the practice of *Halala* (also known as *tahleel* marriage) represents one of the most starkly exploitative practices justified under the guise of religious procedure. It arises in the context of triple talaq, where a couple has divorced. If they wish to reconcile, Islamic law stipulates that the wife must first consummate a marriage with another man and subsequently receive a divorce from him before she can legally remarry her first husband.³⁶

Feminist scholars and Muslim women's rights organizations have vehemently condemned this practice as a form of institutionalized degradation and sexual exploitation of women.³⁷ It reduces a woman's body to a transactional object whose religious-legal status can only be "reset" through a mandated sexual encounter with a third party. This practice, often exploited by unscrupulous individuals who act as temporary 'halala husbands' for a fee, inflicts severe psychological trauma on the woman and underscores a deeply patriarchal control over female sexuality and marital bonds.³⁸ The Supreme Court of India, in its landmark judgment on triple talaq, also took note of the abhorrent nature of this practice.³⁹

E. Cross-Religious Valorization of Suffering

The theme of valorizing female suffering and sacrifice is not confined to a single religion but is a recurrent cross-cultural trope that serves to maintain patriarchal structures. Whether it is the Christian imagery of the enduring, forgiving wife who prays for her abusive husband's redemption or the social pressure on women across communities to uphold 'family honor' through their silence and submission, the underlying message is consistent: a woman's virtue is measured by her capacity to endure pain and injustice. This universalized glorification of sacrifice creates a social environment that discourages resistance and normalizes violence as a natural part of a woman's destiny.

VI. LEGAL FRAMEWORKS AND SYSTEMIC GAPS

A. The Evolution of Progressive Legislation and Judicial Activism in India

The Indian legal framework addressing gender-based violence and inequality has evolved significantly through a combination of progressive legislative amendments and transformative judicial interpretations. This journey, beginning with the codification of personal laws and

³⁵ Shoma Munshi, "Wife/Mother/Daughter-In-Law: Multiple Avatars of Homemaker in 1990s Indian Advertising" 20(4) *Media, Culture & Society* 578 (1998).

³⁶ Asghar Ali Engineer, *The Rights of Women in Islam* 110 (C. Hurst & Co. Publishers, 1992).

³⁷ Bharatiya Muslim Mahila Andolan (BMMA), *Seeking Justice within Family: A National Study on Muslim Women's Views on Reforms in Muslim Personal Law* 27 (BMMA, Mumbai, 2015).

³⁸ Flavia Agnes, *I Family Law: Family Laws and Constitutional Claims* 302 (SAGE Publications India, 2011).

³⁹ *Shayara Bano*, *supra* note 24. Wherein the Court observed that the practice of triple *talaq* is "manifestly arbitrary" and that the practice of *halala* is "a sinful act".

culminating in specific anti-violence statutes, reflects a growing state commitment to recognizing and remedying gendered oppression, often propelled by judicial activism.

1) Legislative Chronology: From Codification to Specificity

The trajectory of progressive legislation began with the post-Independence codification of Hindu law, which, despite its limitations, introduced key reforms.

- a. **The Hindu Marriage Act, 1955:** This Act was a foundational step in modernizing personal law. It introduced monogamy as the only legal form of marriage for Hindus, and established conditions for divorce, thereby granting women a legal route to exit untenable marriages, a right not universally available before.⁴⁰
- b. **The Hindu Succession Act, 1956:** This Act granted daughters the same rights as sons to inherit ancestral property, a monumental shift from traditional *Mitakshara* law. However, it contained limitations, particularly regarding agricultural land and the status of daughters as coparceners.⁴¹
- c. **The Dowry Prohibition Act, 1961:** This was the first specific legislation aimed at curbing the social evil of dowry, making both giving and receiving dowry a punishable offense. While initially weak in enforcement, it laid the groundwork for future legal actions against dowry-related harassment.⁴²
- d. **The Criminal Law (Amendment) Act, 1983:** A direct response to feminist activism following the Supreme Court's judgment in the *Mathura* rape case⁴³, this amendment inserted crucial sections into the IPC. It introduced section 304B (dowry death), placing the burden of proof on the accused in certain circumstances, and section 498A, which criminalized cruelty by a husband or his relatives towards a wife.⁴⁴
- e. **The Protection of Women from Domestic Violence Act (PWDVA), 2005:** Marking a watershed moment, this Act recognized domestic abuse as a civil offense, encompassing physical, emotional, sexual, and economic violence.⁴⁵ It empowers women to seek protection orders, residence rights, and monetary relief. Notably, it expanded the definition of "aggrieved persons" to include live-in partners, sisters, and mothers, challenging traditional notions of familial relationships.⁴⁶
- f. **The Criminal Law (Amendment) Act, 2013:** Enacted in the wake of the brutal *Nirbhaya* gang rape, this law introduced sweeping reforms. It expanded the definition of rape under section 375 IPC, created new offenses like acid attack and sexual harassment, provided for stricter penalties, and established new protocols for victim treatment and trial procedures.⁴⁷
- g. **The Muslim Women (Protection of Rights on Marriage) Act, 2019:** This Act criminalized the practice of instant triple talaq (*talaq-e-biddat*), declaring it

⁴⁰ The Hindu Marriage Act, 1955 (Act 25 of 1955).

⁴¹ The Hindu Succession Act, 1956 (Act 30 of 1956).

⁴² The Dowry Prohibition Act, 1961 (Act 28 of 1961).

⁴³ *Tukaram v. State of Maharashtra* (1979) 2 SCC 143.

⁴⁴ The Criminal Law (Amendment) Act, 1983 (Act 43 of 1983). Also see *Tukaram, Ibid.*

⁴⁵ The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005), s. 3.

⁴⁶ *Id.*, s. 2(a).

⁴⁷ The Criminal Law (Amendment) Act, 2013 (Act 13 of 2013).

unconstitutional and punishable by up to three years' imprisonment.⁴⁸ It aimed to safeguard Muslim women from arbitrary divorce, addressing years of activism. While critics argue the law risks over-criminalization, it underscores the state's intervention in religious personal laws as sites of gendered oppression.⁴⁹

VII. JUDICIAL ACTIVISM: CATALYZING RIGHTS AND REINTERPRETATION

The Supreme Court of India has played a pivotal role in upholding women's rights, often filling legislative gaps and offering broad, rights-based interpretations.

A. Role played by the Supreme Court of India

i) Recognizing Equal Inheritance Rights

In the landmark case of *Vineeta Sharma v. Rakesh Sharma* (2020), the Supreme Court settled a long-standing legal ambiguity. It held that a daughter's right to be a coparcener (joint legal heir) in Hindu Undivided Family property is absolute by birth, irrespective of whether her father was alive when the Hindu Succession (Amendment) Act, 2005, came into force.⁵⁰ This judgment solidified the amended 2005 Act's intent to eradicate gender discrimination in inheritance.

ii) Validating Live-in Relationships

The Court has consistently accorded legal recognition to live-in relationships. In *Indra Sarma v. V.K.V. Sarma* (2013), it held that relationships "in the nature of marriage" under the PWDVA, 2005, would be entitled to the Act's protection.⁵¹ In *D. Velusamy v. D. Patchaiammal* (2010), the Court laid down criteria for such relationships, affirming that women in these unions are not "concubines" but possess enforceable rights.⁵²

iii) Decriminalizing Adultery and affirming Autonomy

In *Joseph Shine v. Union of India* (2018), the Supreme Court struck down section 497 of the IPC, which criminalized adultery.⁵³ The Court declared the law unconstitutional for treating women as the property of their husbands, upholding the autonomy, dignity, and privacy of women as equal partners in marriage.

iv) Expanding the Right to Privacy and Bodily Autonomy

⁴⁸ The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Act 20 of 2019).

⁴⁹ Flavia Agnes, "Triple Talaq Law: Over-Criminalisation and the State's Control Over Women" 54(2) *Economic and Political Weekly* (2019).

⁵⁰ *Vineeta Sharma v. Rakesh Sharma* (2020) 9 SCC 1.

⁵¹ *Indra Sarma v. V.K.V. Sarma* (2013) 15 SCC 755.

⁵² *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

⁵³ *Joseph Shine v. Union of India* (2019) 3 SCC 39.

The landmark *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) judgment recognized the right to privacy as a fundamental right.⁵⁴ This has had profound implications for women, forming the basis for subsequent judgments that affirm bodily autonomy, including the right to make choices related to marriage, family, and intimate relationships without state interference.

B. Implementation Challenges

Despite robust legislation, systemic gaps hinder effective enforcement. Police apathy remains a critical barrier: a 2022 study by the Commonwealth Human Rights Initiative found that 40% of domestic violence complaints in Delhi were dismissed as “family matters” by officers⁵⁵. Deep-seated patriarchal attitudes within law enforcement often trivialize survivors’ experiences, deterring formal reporting. Societal stigma further compounds underreporting; NFHS-5 data reveals that only 14% of women who experience domestic violence seek institutional help, fearing ostracization or retaliation⁵⁶.

Legal loopholes perpetuate impunity. Section 375 of the IPC exempts marital rape, reflecting archaic notions of conjugal rights. The Justice Verma Committee in 2013 recommended criminalizing marital rape, but successive governments have resisted reforms, citing the “cultural sanctity” of marriage⁵⁷. This exemption leaves millions of married women without recourse, as courts often dismiss non-consensual acts within marriage as private disputes.

C. Case Study: Dowry Prohibition Act (1961) v. Rising Dowry Deaths

The Dowry Prohibition Act, 1961, criminalizes giving or receiving dowry, prescribing penalties of up to five years’ imprisonment.⁵⁸ However, its enforcement has been dismal. NCRB data shows dowry deaths surged by 25% between 2019 and 2021, with 6,966 cases reported in 2021 alone⁵⁹. A 2020 study by the Indian Journal of Gender Studies attributes this failure to three factors:

- i **Normalization of dowry:** The practice is deeply entrenched, with 80% of marriages in Punjab and Haryana involving dowry transactions despite legal bans.⁶⁰
- ii **Weak enforcement:** Only 15% of dowry complaints result in convictions, as families often settle cases informally to avoid social shame.⁶¹
- iii **Economic pressures:** Rising consumerism and male-dominated inheritance laws perpetuate dowry as a compensatory mechanism for excluding women from property rights.

⁵⁴ *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) 10 SCC 1.

⁵⁵ Commonwealth Human Rights Initiative, “Policing in India: A Study on Gender Responsiveness” 78 (2022).

⁵⁶ *Supra* note 1 at 312.

⁵⁷ Justice J.S. Verma Committee, “Report on Amendments to Criminal Law” (2013).

⁵⁸ *Supra* note 42, s. 3.

⁵⁹ *Supra* note 2 at 134.

⁶⁰ Ravinder Kaur, “The Tragedy of Dowry in India” 27(2) *Indian Journal of Gender Studies* 210 (2020).

⁶¹ Law Commission of India, “Report on the Review of the Dowry Prohibition Act, 1961” (2012).

The 2012 Nirbhaya gang rape case⁶², though not directly related to dowry, ignited nationwide protests that spotlighted systemic apathy toward GBV. Yet, dowry-related atrocities persist, exemplified by the 2021 suicide of Vismaya Nair, a Kerala medical student who documented dowry harassment before her death⁶³. Her case underscores the lethal consequences of cultural complicity and institutional inertia.

VIII. CULTURAL NARRATIVES AND INTERSECTIONAL VULNERABILITIES

A. Media and Popular Culture

Bollywood's storytelling often reinforces patriarchal norms through narratives that glorify male dominance and reduce women to passive, one-dimensional roles. The "victim-heroine" trope, for instance, frames women as either helpless victims requiring male rescue or self-sacrificing figures who endure suffering to uphold familial "honor." Films like *Kabir Singh* (2019) romanticize toxic masculinity, portraying the protagonist's stalking and aggression as expressions of romantic passion. Such narratives do not trivialize abuse but also normalize the idea that love justifies control. Conversely, female characters in "empowered" roles, such as the titular spy in *Raazi* (2018), often remain exceptions, overshadowed by a sea of films that prioritize male narratives.⁶⁴

Item songs, a staple of Bollywood, further entrench gendered stereotypes by reducing women to objects of male desire. Tracks like *Fevicol Se* from *Dabangg 2* (2012) juxtapose vulgar lyrics with hyper-sexualized choreography, reinforcing the male gaze. While newer films like *Pink* (2016) challenge these tropes by advocating consent, their impact is diluted by the industry's broader reliance on regressive formulas. Television serials, particularly daily soaps, amplify this by dramatizing abusive marriages as tests of a woman's "devotion," subtly teaching audiences to conflate suffering with virtue⁶⁵.

The brutal gang rape and murder of an 8-year-old Dalit Muslim girl in Kathua, Jammu,⁶⁶ laid bare the intersection of caste, religion, and gendered violence. The child, belonging to the nomadic *Bakarwal* community, was targeted by upper-caste Hindu men seeking to displace her tribe from land contested for economic and political control. Her body became a site of terror, with the assault designed to intimidate her community into fleeing the region⁶⁷. The case ignited national outrage but also revealed deep-seated bigotry: right-wing groups organized rallies in support of the accused, framing the crime as a defense of Hindu identity against "outsiders." This politicization underscores how marginalized women's vulnerabilities are exploited to advance majoritarian agendas.

⁶² *Mukesh v. State of NCT of Delhi & Ors*, AIR 2017 SC 2161.

⁶³ "Kerala Dowry Death: Vismaya's Father Demands Justice" *The Hindu*, June 23, 2021.

⁶⁴ Shoma A. Chatterji, *Gender and Popular Indian Cinema* 98–102 (Routledge, 2015).

⁶⁵ Lakshmi Menon, "Television and the Reinforcement of Gender Roles" 54(22) *Economic and Political Weekly* (2019).

⁶⁶ *Supra* note 6.

⁶⁷ "Kathua Rape Case: A Timeline of Events" *The Indian Express*, June 11, 2018.

B. Khap Panchayats: Enforcing Patriarchy in Rural India⁶⁸

In rural North India, *khap panchayats* (caste-based councils) wield unchecked authority over women's lives, issuing edicts that curtail education, mobility, and marriage choices. In 2022, a Haryana *khap* banned women from wearing jeans and using mobile phones, claiming these "modern" practices eroded traditional values⁶⁹. Such diktats are enforced through social boycotts or violence, as seen in the 2020 honor killing of a Dalit man in Tamil Nadu for marrying an upper-caste woman. These councils operate parallel to the legal system, reflecting a broader societal tolerance for extrajudicial patriarchal control.

C. Muslim Women: Navigating State and Familial Oppression

Muslim women in India face layered oppression from patriarchal family structures and discriminatory state policies. The 2019 Citizenship Amendment Act (CAA), which fast-tracked citizenship for non-Muslim migrants, heightened their vulnerability by framing Muslims as "outsiders." During the Shaheen Bagh protests (2019–2020), Muslim women emerged as symbols of resistance, occupying public spaces to demand equality. However, they faced backlash from both conservative religious leaders, who criticized their visibility, and Hindu nationalist groups, who labeled them "anti-national."⁷⁰ This dual marginalization exemplifies how Muslim women's agency is stifled at the intersection of communal politics and gendered expectations.

D. Dalit Women: The Dual Burden of Caste and Gender

Dalit women endure systemic violence as both caste and gender oppression converge. The 2020 Hathras gang rape case, where a 19-year-old Dalit woman was assaulted by upper-caste Thakur men, highlighted how sexual violence serves as a tool of caste domination. Despite laws like the SC/ST (Prevention of Atrocities) Act, 1989, institutional apathy persists: police delayed filing her complaint, and her body was forcibly cremated without family consent⁷¹. Dalit feminists argue that mainstream feminist movements often overlook caste-specific struggles, prioritizing issues like workplace equality over the life-worlds of Dalit women who battle manual scavenging, caste-based prostitution, and landlessness.

IX. GRASSROOTS RESISTANCE AND FEMINIST MOVEMENTS

A. Reclaiming Agency

i) The Pink Sarpanch Initiative: Women in Local Governance

The Pink Sarpanch Initiative, led by women elected as village council heads (*sarpanches*) in Rajasthan and Haryana, challenges patriarchal dominance in rural governance. Over 12,000

⁶⁸ Charusheel Tripathi, "Women and Community: A Case Study of Khap Panchayats in Haryana" 7(2) *International Journal of Research in Social Sciences and Humanities* 43 (2017).

⁶⁹ "Haryana Khap Bans Jeans, Mobile Phones for Women" *The Times of India*, Mar. 15, 2022.

⁷⁰ Zoya Hasan, "Shaheen Bagh and the Politics of Resistance" 55(8) *Economic and Political Weekly* 10–14 (2020).

⁷¹ *Supra* note 32 at 156.

women sarpanches have spearheaded projects addressing gender-sensitive issues, such as banning child marriage, constructing toilets for women, and improving access to maternal healthcare⁷². For instance, Chhavi Rajawat, India's first MBA graduate sarpanch, transformed her village by installing water harvesting systems and advocating for girls' education. These leaders often face backlash, including threats from male-dominated councils, yet their visibility inspires broader participation of women in grassroots politics.

ii) Dalit Feminist Organizations: Amplifying Caste-Gendered Struggles

Dalit feminist groups like the National Federation of Dalit Women (NFDW) center caste-specific violence in their advocacy. The NFDW's 2020 report, *Voices of the Unheard*, documented how 72% of Dalit women face caste-based sexual violence at worksites like agricultural fields and construction zones⁷³. By organizing marches and collaborating with transnational movements like the *Dalit Mahila Swabhiman Yatra*, these groups pressure policymakers to enforce the SC/ST (Prevention of Atrocities) Act and address underreporting of crimes.

B. Legal Advocacy and Awareness Campaigns

i) #MeToo India: Digital Activism and Accountability

The 2018 #MeToo India movement harnessed social media to expose sexual harassment in workplaces, media, and politics. Survivors like journalist Priya Ramani publicly named powerful figures, including former Union Minister M.J. Akbar, sparking national debates on consent and institutional accountability⁷⁴. While the movement faced criticism for privileging urban, upper-caste narratives, it prompted corporations to adopt anti-harassment policies and emboldened rural women to share testimonies via community radio.

ii) NGOs Supporting Survivors: Swayam and Majlis

Kolkata-based *Swayam* provides crisis intervention, legal aid, and shelters for survivors of domestic violence and trafficking. Its *Nari Shatru* (Women Against Enemies) program trains survivors as peer counselors, fostering grassroots leadership. Similarly, Mumbai's Majlis Legal Centre, led by lawyer Flavia Agnes, offers free legal representation in complex cases like marital rape and custodial violence. Their 2021 study revealed that 60% of litigants in dowry cases were unaware of their rights before seeking help⁷⁵.

iii) Case Study: Pinjra Tod Movement against Hostel Curfews

The *Pinjra Tod* (Break the Cage) movement, founded in 2015 by Delhi University students, challenged discriminatory hostel rules imposing early curfews and mobility restrictions on women. Through protests, graffiti campaigns, and viral hashtags like #LetHerFly, the collective

⁷² UN Women, *Women's Leadership in Local Governance in India* 23 (United Nations, 2018).

⁷³ National Federation of Dalit Women, *Voices of the Unheard: Caste-Gender Violence in India* 15 (NFDW, 2020).

⁷⁴ "#MeToo in India: A Year Later" *The Hindu*, Oct. 05, 2019.

⁷⁵ Majlis Legal Centre, *Access to Justice for Survivors of Domestic Violence* 9 (MLC, 2021).

highlighted how such policies infantilized women and normalized surveillance. Their advocacy pressured universities like Jamia Millia Islamia to abolish curfews in 2019, though institutions like Lady Shri Ram College retain regressive norms⁷⁶. Pinjra Tod's intersectional approach linked curfew fights to broader demands for safe public transport and accountability for campus sexual harassment.

X. MODERNIZATION AND ITS DISCONTENTS

A. Urbanization and Education: Progress and Paradoxes

India's rapid urbanization and educational expansion have created opportunities for women's empowerment, yet these advancements coexist with entrenched patriarchal norms. Female labor force participation in urban areas rose to 24% in 2021, driven by sectors like IT, healthcare, and education⁷⁷. Cities such as Bengaluru and Hyderabad report higher rates of delayed marriages, with the average age of marriage for women increasing to 22.8 years, reflecting greater emphasis on career and autonomy⁷⁸. However, this progress is uneven. Urban professional women often face the "double burden" of employment and domestic responsibilities, with 68% reporting workplace discrimination in a 2022 International Labour Organization (ILO) survey⁷⁹.

The 2012 Nirbhaya gang rape case ignited nationwide urban protests, leading to landmark reforms like the Criminal Law Amendment Act, 2013, which expanded definitions of sexual violence and mandated faster trials⁸⁰. However, rural areas lag in such consciousness. NFHS-5 data shows that only 12% of rural women report domestic violence to authorities, compared to 18% in cities, reflecting fear of stigma and lack of institutional trust. While urban movements leverage digital platforms for advocacy, rural regions remain dominated by conservative institutions like *khap panchayats*, which resist gender equality reforms.

B. Persistent Regressive Traditions

i) Dowry Demands in Educated Urban Households

Modernization has not eradicated regressive customs like dowry, which persists even among educated urban elites. A 2021 study reported in *Economic and Political Weekly* found that 35% of marriages in Delhi and Mumbai involved dowry transactions exceeding Rs. 10 lakhs, often disguised as "gifts."⁸¹ High-earning professionals, including engineers and doctors, perpetuate this practice, viewing dowry as a status symbol. In 2023, a Bengaluru tech worker's suicide note revealed relentless dowry harassment from her husband's family, despite their affluent background⁸².

⁷⁶ "Pinjra Tod: The Students Fighting Patriarchy One Hostel at a Time" *BBC News*, Mar. 08, 2020.

⁷⁷ *Supra* note 1 at 276, 312.

⁷⁸ Census of India, "Marital Status and Age at Marriage" 44 (Office of the Registrar General, 2021).

⁷⁹ International Labour Organization (ILO), "Women in the Workforce: India Case Study" 19 (ILO, 2022).

⁸⁰ *Supra* note 47.

⁸¹ Rukmini Sen, "Dowry in Urban India: A Study of Elite Households" 56(31) *Economic and Political Weekly* 48 (2021).

⁸² "Bengaluru Techie's Suicide Note Blames Dowry Harassment" *The Hindu*, Jan. 15, 2023.

ii) Technology-Facilitated Gender-Based Violence

Digital advancements have introduced new forms of abuse, such as cyber- stalking, deep-fake pornography, and online harassment. NCRB data recorded 10,730 cybercrime cases against women in 2021, a 45% increase from 2019⁸³. Marginalized groups like Dalit and Muslim women are disproportionately targeted, as seen in the 2022 case of a Tamil Nadu student who faced casteist trolling after a viral speech on discrimination⁸⁴. Despite the Information Technology Act, 2000, enforcement remains weak, with only 12% of cybercrime cases resulting in convictions.

XI. TOWARD DECOLONIZING NORMS: SOLUTIONS AND RECOMMENDATIONS

A. Policy Interventions

i) Strengthening Law Enforcement and Gender-Sensitive Training

India's legal system requires institutional reforms to address systemic apathy toward GBV. A 2022 study by the Commonwealth Human Rights Initiative revealed that only 12% of police stations in India have dedicated women's help desks, and fewer than 8% of officers receive gender-sensitivity training⁸⁵. Mandatory workshops on survivor-centric protocols, trauma-informed interrogation, and anti-discrimination laws (*e.g.*, PWDVA, 2005) must be implemented. States like Kerala have pioneered community policing models, where female officers mediate domestic disputes, reducing underreporting by 22% in pilot districts.⁸⁶

ii) Criminalizing Marital Rape and Revising Inheritance Laws

The exemption of marital rape under section 375 of the IPC perpetuates patriarchal control over women's bodies. The Justice Verma Committee in 2013 recommended criminalizing marital rape, aligning India with UN conventions like CEDAW⁸⁷. Simultaneously, inheritance laws under the Hindu Succession Act, 1956, and Muslim Personal Law must be amended to eliminate gender-discriminatory practices. For instance, despite the 2005 amendment granting daughters equal coparcenary rights, 40% of rural women remain unaware of their entitlements, necessitating awareness campaigns⁸⁸.

B. Cultural Shifts

i) Community-Led Education Programs

⁸³ *Supra* note 2 at 210, 215.

⁸⁴ "Dalit Student Faces Online Abuse After Viral Speech" *The News Minute*, Aug. 10, 2022.

⁸⁵ *Supra* note 55 at 34.

⁸⁶ Kerala Police, "Annual Report on Community Policing Initiatives" 17 (Government of Kerala, 2021).

⁸⁷ *Supra* note 57.

⁸⁸ National Council of Applied Economic Research, "Gender and Inheritance Rights in Rural India" 22 (2020).

Grassroots initiatives like GEMS (Gender Equity Movement in Schools), implemented in Maharashtra, engage adolescents in dialogues challenging regressive norms like dowry and early marriage. A 2021 evaluation found that 64% of participants in GEMS schools actively intervened to stop gender-based harassment⁸⁹. Similarly, rural *nukkad natak* (street plays) in Uttar Pradesh have reduced acceptance of domestic violence by 18% in communities where they were staged.⁹⁰

ii) Engaging Men and Boys in Gender Equity Dialogues

Programs like UNFPA's "Yuva" initiative collaborate with young men to dismantle toxic masculinity. In Rajasthan, workshops using role-playing scenarios to challenge stereotypes saw 52% of male participants rejecting rigid gender roles afterward.⁹¹ Corporate tie-ups, such as Tata Steel's *gender equity councils*, further model inclusive workplaces by addressing unconscious biases in hiring and promotions.

Policy frameworks must prioritize the lived experiences of Dalit, Muslim, and queer women, who face compounded discrimination. The Dalit Women's Collective in Tamil Nadu, for instance, integrates caste literacy into GBV workshops; ensuring legal aid reaches manual scavengers and landless laborers⁹². Similarly, the All India Queer Association (AIQA) advocates for inclusive laws addressing cyber-bullying and corrective rape faced by LGBTQ+ individuals⁹³. Legislative processes should mandate representation from marginalized groups in drafting committees, as seen in Kerala's *Gender Park* consultations⁹⁴.

XII. CONCLUSION

GBV in India is a systemic crisis deeply rooted in patriarchal structures, cultural traditions, and legal ambiguities. This study reveals how practices like *kanyadaan*, dowry exchanges, and caste hierarchies institutionalize women's subordination, framing violence as a mechanism to uphold familial "honor" and social order. Despite progressive legislation such as the Protection of Women from Domestic Violence Act (2005) and the criminalization of triple *talaq*, enforcement remains inconsistent, perpetuated by cultural complicity and institutional apathy. The exemption of marital rape under Section 375 of the Indian Penal Code exemplifies how legal systems prioritize patriarchal norms over women's bodily autonomy, leaving millions without recourse.

Cultural narratives, reinforced through Bollywood tropes, religious rituals, and caste-based honor codes, normalize violence by romanticizing female sacrifice and male dominance. Case studies like the 2018 Kathua gang rape and the Shaheen Bagh protests underscore the intersectional

⁸⁹ Population Council, "Evaluating the Effect of the GEMS Programme on Gender Related Attitudes and Behaviours Amongst Youth in Bihar and Uttar Pradesh, India" 15 (Evaluation Report, Population Council, 2021).

⁹⁰ Centre for Social and Behaviour Change, "Using Edutainment to Shift Attitudes and Behaviours Towards Gender and Caste Norms in Uttar Pradesh" 7 (Working Paper, Centre for Social and Behaviour Change, 2020).

⁹¹ Institute for Social and Behavioural Research, "Evaluating the Impact of Gender Sensitization Workshops in Rajasthan: A Pre and Post Intervention Study" 22 (Research Report, 2022).

⁹² Dalit Women's Collective, "Annual Report on Caste-Atrocities and Legal Intervention in Tamil Nadu" 15-18 (Chennai, 2022), *available at*: <https://dalitwomenscollective.org/reports/> (last visited on Oct. 26, 2023).

⁹³ All India Queer Association, "Policy Brief: Addressing Cyber-Bullying and Hate Crimes against the LGBTQ+ Community in India" 7 (New Delhi, 2021), *available at*: <https://aiqa.in/policy-briefs/> (last visited on Oct. 26, 2023).

⁹⁴ UNFPA India, "Evaluating the Impact of the Yuva Initiative" 45 (2021).

vulnerabilities faced by Dalit, Muslim, and other marginalized women, who endure compounded oppression from both societal and state structures. Grassroots resistance movements, including the Pink Sarpanch Initiative and Dalit feminist organizations, demonstrate the potential of community-led advocacy in challenging systemic inequities.

The paradox of modernization is stark: urbanization and education foster avenues for resistance, yet regressive traditions persist, particularly in rural areas. Dowry demands thrive even among urban elites, while technology facilitates new forms of abuse like cyber- stalking. Dismantling GBV necessitates decolonizing cultural norms, bridging the urban-rural divide, and centering intersectional feminist frameworks that amplify marginalized voices.

A. Recommendations

To address GBV holistically, the following measures are critical:

i) Policy Reforms

- a. **Criminalize Marital Rape:** Align India with international standards by abolishing the marital rape exemption in IPC under section 375, as recommended by the Justice Verma Committee (2013).
- b. **Strengthen Law Enforcement:** Mandate gender-sensitive training for police and judiciary, ensuring survivor-centric protocols and accountability mechanisms. Kerala's community policing model, which reduced underreporting by 22%, offers a replicable framework.
- c. **Revise Inheritance Laws:** Enforce equitable property rights for women across all personal laws, coupled with nationwide awareness campaigns to combat illiteracy about legal entitlements.

ii) Cultural Interventions

- a. **Community Education Programs:** Scale initiatives like Maharashtra's Gender Equity Movement in Schools (GEMS), which reduced acceptance of gender-based harassment by 64% among adolescents.
- b. **Media Accountability:** Encourage Bollywood and media to challenge regressive tropes and promote narratives of female agency, as seen in films like *Pink* (2016).
- c. **Engage Men and Boys:** Expand programs like UNFPA's *Yuva* initiative, which successfully shifted 52% of male participants in Rajasthan toward rejecting rigid gender roles.

iii) Intersectional Approaches

- a. **Center Marginalized Voices:** Integrate Dalit, Muslim, and queer women into policymaking processes, as demonstrated by Kerala's *Gender Park* consultations.
- b. **Support Grassroots Movements:** Allocate resources to organizations like the Dalit Women's Collective and *Pinjra Tod*, which address caste-gender violence and institutional patriarchy.