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Gender Stereotypes and Provisions in Indian Penal Code

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ABSTRACT

This study explores how ingrained social norms affect legal interpretations and outcomes in gender-related situations by examining the relationship between gender stereotypes and the Indian Penal Code (IPC). Even with progressive legal reforms designed to safeguard women's rights, patriarchal attitudes frequently make it difficult for these laws to be put into practice. In order to identify situations where gender prejudices are present in court rulings and law enforcement actions, we examine particular sections of the IPC, such as those that deal with domestic abuse, sexual assault, rape, cruelty and dowries. In spite of being a vital framework for addressing gender-based violence, the research paper contends that the IPC frequently reflects and reinforces pre-existing stereotypes through a qualitative analysis of case studies and legal documents. Our objective is to make a contribution to the current discussion on gender justice in India by promoting a more sophisticated view of gender in legal situations and proposing reforms that tackle both cultural attitudes and legal structures. This study emphasizes how important it is to tackle legal reform holistically, giving gender sensitivity first priority and combating discriminatory practices in the legal system.

Keywords: Rape, Cruelty, Abuse, Dowry, Assault.

I. Introduction

There is no denying the fundamental significance of criminal law in society. Professor Wechsler, a renowned criminal law expert, accurately asserts that criminal law serves as the final line of defence against the most severe harm that human behaviour can inflict on individuals. Its ability to destroy equals its promise of safety. Basic human interests are at risk when penal law is feeble or ineffectual. Those who are entangled in its web suffer egregious injustice if it is severe or capricious in its effects³.

Indian Penal Code is the central pillar of criminal law and overall criminal justice delivery system. Declaration of an act depends upon various factors, such as, whether the act is *per se*

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³Herbert Wechsler," The challenge of a Model Penal Code" 65(7) HLR 1098(1952).

criminal (*malum in se*) and threatens the peaceful co-existence *e.g.* murder, rape etc.; whether the acts are otherwise dangerous and need to be prohibited (*malum prohibitum*) *e.g.* blackmarketeering, hoarding adulteration etc. and whether the acts tend to affect the moral, familial and social fabric of the society *e.g.* bigamy, unnatural offences etc.

The UN Human Rights Commission defines gender stereotyping as the act of assigning to a particular woman or man particular traits, qualities, or roles solely because of their membership in the social group of women or men. When gender stereotyping leads to a violation or violations of fundamental freedoms and human rights, it is wrong. Stereotypes about gender emerge from gender socialization. Boys and girls are frequently chastised by their parents or peers if they behave differently from how they are expected to and how they have been trained to behave.

Gender stereotypes are deeply rooted societal ideas that set expectations for people based on their gender and define roles, behaviours, and roles. Legal frameworks and societal standards are influenced by these stereotypes, which also impact individual identities. The Indian Penal Code (IPC) is a key tool for tackling issues of discrimination and violence against women in India. But prevalent misconceptions that support injustice and inequality can frequently hinder the efficacy of this legal protections. In order to obtain legal remedy, sections of the IPC that address sexual assault, domestic abuse, and dowry harassment are essential. However, these sections must deal with cultural narratives that frequently minimize the seriousness of such offenses⁴.

This paper explores the relationship between gender stereotypes and IPC legislation, examining the ways in which conventional gender norms are interpreted and applied. We hope to expose the problems caused by preconceptions and promote a more sophisticated view of gender justice in the judicial system by dissecting particular IPC sections that deal with crimes against women. To promote a more equal society in which everyone may exercise their rights without prejudice and discrimination, it is ultimately imperative that these misconceptions be addressed.

(A) Literature Review:

Flavia Agnes, groundbreaking study examines how legal systems frequently reflect and perpetuate societal preconceptions about women, critically analyzing the IPC's provisions pertaining to gender violence. Agnes says that in order to properly defend women's rights and

⁴ Choudhry, A. (2021). Revisiting Gender Justice: Legal Reforms and Societal Change. Journal of Gender Studies, 15(3), 245-258.

fight ingrained practices, legal reforms are imperative.⁵

Rukmini Sen's anthology, critical essays exploring the relationship between gender and law in India are compiled. One particular area of focus is how the Indian Penal Code's legal definitions perpetuate gender stereotypes, especially when it comes to sexual assault and discrimination.⁶

UpendraBaxi highlights how prejudices affect how the law is interpreted when talking about the IPC's shortcomings in addressing gender concerns. Comprehension the wider effects of law on social justice and gender equality requires a comprehension of his analysis⁷.

According to Srinivasan S, the socio-legal factors impacting women are the main topic of this paper, which also offers reform recommendations and critiques the ways in which legal frameworks like the IPC reinforce gender stereotypes⁸.

Using an emphasis on the prejudices that shape legal interpretations and decisions, Archana Parashar examines the ways in which family law and the IPC interact. The impact of these misconceptions on women's rights and legal position in India is highlighted throughout the book⁹.

(B) Main Objective

Describe the existence of gender stereotypes in Indian society as well as its definition.

Examine how gender-related concerns, such as laws prohibiting violence and discrimination, are addressed in the IPC analysis.

Bring Attention to Inconsistencies and the discrepancies between societal perceptions and legal protections, demonstrating how prejudices affect how the law is applied.

Raise awareness and educate people about the importance of these two strategies for destroying stereotypes and building a more just society.

(C) Hypothesis

Null Hypotheses H0: Gender stereotypes have no effect on opinions regarding the application of IPC provisions.

Alternative Hypotheses H1: Attitudes on the application of IPC provisions are influenced by

⁵ Agnes, F. (1999). Law and Gender Inequality: The Politics of Women's Rights in India. Oxford University Press.

⁶ Sen, R. (2006). Gender and Law in India: A Reader. Oxford University Press.

⁷ Baxi, U. (1982). The Crisis of the Indian Legal System. Vikas Publishing House.

⁸ Srinivasan, S. (2016). "Gender Justice and Law: An Indian Perspective." In Journal of Indian Law Institute, 58(2), 123-144.

⁹ Parashar, A. (1992). Women and Family Law in India. Sage Publications.

gender stereotypes.

(D) Research Questions

- 1. What impact do gender norms have on the way that domestic abuse-related sections of the Indian Penal Code are implemented?
- 2. How are accused and victim in sexual assault cases treated under IPC provisions? What part do gender norms play in this regard?
- 3. What effects do gender stereotypes have on the IPC's reporting and prosecution of crimes against women?

(E) Research Methodology

Based on both primary and secondary data, the current study provides a descriptive and critical examination. Through the use of Google Forms, surveys were used to gather primary data, which was then coded into tables using the proper statistical software. For the secondary data, the literature has been thoroughly reviewed in addition to additional sources including news articles and official reports.

II. IMPORTANCE OF HAVING GENDER EQUALITY

Gender equality doesn't seem possible these days. Statistics from organizations like UN Women depict a dire picture, despite the fact that progress has been made. The employment opportunities for over 2 billion women worldwide are not equal to those of men. If current trends continue, it will take almost a century to eliminate the global wage gap. Women and girls make up over 70% of all victims globally, however both sexes can fall prey to human trafficking. Gender equality needs to be a primary concern in light of this knowledge.

(A) Gender Norms and Indian Culture

India, the place where we worship Goddess Durga and Kali to ward off evil, is also the nation where 2,39,000 more women than necessary pass away before the age of five every year as a result of neglect brought on by prejudice based on gender. How ironic! In India, girls are viewed as an economic liability. Thanks to the ideas of "Dowry," India has the highest rate of female foeticides worldwide even with the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994.

Girls are raised to believe that their home is "her husband's house." A "beautiful" woman will marry a male who has built a house and earned money, whereas the girl is persuaded that boys must provide for their aging parents. It is impossible to overlook how gender is socialized in

India. Men should have "talks" about the economics and significant home issues during family get-togethers, while women should serve the men. When a youngster witnesses their father physically abusing his mother, it sets a negative example for the child, implying that men are dominant and that women must submit. A child who observes these kinds of familial behaviours picks them up and perpetuates the inherited behaviour in the family. The same manner that their family members were treated, he or she treats people of differentgenders. Thus, the discriminating roles should be switched in order to improve the youngster in this area.

III. UNDERSTANDING GENDER BASED VIOLENCE AND VARIOUS PROVISIONS IN INDIAN PENAL CODE

(A) Rape

Preconceived notions about female sexuality and consent are reflected in the definition of rape under IPC Section 375. The legal definition of rape requires that there be no consent; nevertheless, this definition has historically been applied through a patriarchal prism, which has resulted in difficulties with prosecution.

Cultural standards usually emphasize on the victim's behaviour, attire, and lifestyle choices, placing the burden on them rather than the offender. This inclination to blame victims is founded in assumptions that say "respectable" women do not get assaulted. The importance of avoiding drawing conclusions about a victim's personality from cultural stereotypes was emphasized by the Supreme Court. The Court underlined that victims ought to receive dignified treatment regardless of their history or actions¹⁰. Victims may be scrutinized based on their behaviour, clothing, or lifestyle choices. For example, if a woman was drinking or dressed in a certain way, some may argue that she "invited" the assault. There's often an expectation that women should adhere to traditional notions of modesty and virtue. If they deviate from these norms, their credibility may be questioned.

In the offence of rape, non consensual penetration is the actus reus. Consent may be interpreted incorrectly by traditional viewpoints, which hold that consent is equivalent to the absence of physical resistance. The gravity of the crime may be diminished by this misunderstanding. Many people overlook the nuances of consent and the dynamics of power in sexual interactions, believing that the absence of physical resistance translates to consent. Intimate relationship stereotypes frequently imply that consent can be taken for granted. This spreads the harmful myth that continuous consent is not required. The Supreme Court challenged prevalent gender

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¹⁰State of Uttar Pradesh v. Naresh, (2011) 4 SCC 324

stereotypes in State of Punjab v. Gurmit Singh (1996) by emphasizing the necessity for sensitivity for women's evidence and consent in rape cases.

In certain cultures, sexual assault is accepted as a regular part of life and is often trivialized. This may foster an atmosphere in which victims feel unable to speak up or pursue justice.

In Nirbhaya case¹¹, The Supreme Court affirmed the accused's death sentence after a young woman in Delhi was brutally raped by a gang, and this led to major changes in the IPC's rape regulations. Strong laws against sexual assault are desperately needed, as this case demonstrated.

(B) Cruelty

The crime of cruelty committed by a spouse or his family members against a woman is covered under Section 498A of the Indian Penal Code (IPC). This part seeks to safeguardwomen's safety in married relationships and to shield them from domestic abuse. However, the application and understanding of this regulation are heavily influenced by gender stereotypes.

It is a common assumption of gender stereotypes that women in marriages should be docile and accepting. The social pressure placed on women to put up with abuse rather than ask for assistance or make complaints—which could be seen as shameful—can result from this cultural background. In a situation where the wife, who comes from a respectable, orthodox family, was humiliated and insulted by her highly suspicious husband, who also called her a prostitute, denied her family comfort and life, and prevented anyone from meeting her, all of this was deemed sufficient evidence to support the husband's conviction under the section¹². Court interpretation of cases under Section 498A raises questions since it frequently reflects prevailing gender biases. The protective purpose of the law may occasionally be undermined by judges who place a higher priority on the family unit than on the rights and security of the woman. Police are required to carry out an initial investigation before to executing Section 498A and arresting a spouse or his family members. This indicates a recognition of the possibility of abuse but also of the suffering of real victims¹³.

Laws such as Section 498A may be unfairly scrutinized in circumstances when women are stereotyped as abusing them for personal grudges. This belief can deter women from pursuing justice because they fear they will be called "liars" or "manipulators."

¹¹Mukesh &Anr. v. State of NCT of Delhi, (2017) 6 SCC 1.

¹²Sarojakshan v. State of Maharashtra, 1995 Cr LJ 340 (Bom).

¹³ Rajesh Sharma vs. State of U.P., (2017) 3 SCC 169

Preeti Gupta vs. State of Jharkhand¹⁴, The Supreme Court underlined how crucial it is to make sure the clause is not abused. The Court recognized the need for a fair strategy that protects real victims without demonizing males who have been wrongly accused of cruelty.

In Geeta Mehrotra vs. State of Uttar Pradesh, the Court stated that guilt is not always implied by the existence of a criminal case filed under Section 498A. This ruling made clear that, while acknowledging women's rights, thorough examination is necessary to prevent abuse 15. Addressing domestic abuse and defending the rights of women are important goals of Section 498A of the IPC. But gender norms can have a big impact on how it's implemented and how women who seek justice feel it. An increasing understanding of gender dynamics in the legal system is reflected in legal precedents that point to the need to strike a balance between safeguards against abuse and victim protection. Making ensuring women feel confident enough to pursue justice without worrying about shame or retaliation is still a concern.

(C) Assault or criminal forces to women with intent to outrage her modesty

When it comes to attack or use of illegal force against women, gender stereotypes are important, especially when there is a desire to offend a woman's modesty. These stereotypes are cultural presumptions about the roles, conduct, and qualities that people should possessaccording to their gender. They frequently result in unfavourable presumptions and actions. Such preconceptions have the potential to affect how crimes are prosecuted in court as well as how victims and offenders are seen. A common perspective on women in many countries is one of modesty and purity. Cultural constructions of "modesty" can give rise to the notion that a woman's worth is determined by her conduct, appearance, and mannerisms. These ideas may lead one to believe that a woman's behaviour or looks is what initiates violence against her, which can either justify or diminish such acts. The appellants disrobing a tribal lady in broad daylight on the village road and then parading her in her undies was deemed a crime against the victim's honour, according to the Supreme Court¹⁶.

When a woman's behaviour is investigated rather than the perpetrator's acts, it might result in victim-blaming due to gender stereotypes. This attitude perpetuates gender inequality by reinforcing the belief that women must adhere to specific modesty standards in order to avoid being attacked.

An indecent assault upon a woman is also punished under this section. Rape is punished under

15 (2012) 10 SCC 741

^{14 (2010) 7} SCC 667

¹⁶ Kailas v. State of Maharashtra, (2011) 1 SCC 793: AIR 2011 SC 598

section 376; but the offence under this section is of less gravity than rape¹⁷. In this case the victim woman was brought into a room under false pretexts, the room was locked room outside, inside she was forced to drink, photographs taken in a naked state and raped. All the participants were held to be guilty of outraging her modesty¹⁸.

Conversely, men are frequently associated with aggressive or dominant stereotypes, which can serve as a justification or rationale for their violent tendencies. This perpetuates the toxic masculinity that views aggression as a standard feature of masculine conduct.

The Indian Supreme Court stressed in a decision that a key factor in judging an accused person's guilt is whether or not they intended to offend modesty. The court acknowledged that everyone has a different understanding of modesty, one that is influenced by cultural and personal views. The ruling made clear how important it is to comprehend the societal environment when evaluating these kinds of situations¹⁹.

In B.P. Singhal v. Union of India²⁰, The consequences of cultural norms and values on the interpretation of legislation pertaining to women's modesty were examined in this case. By acknowledging that legal interpretations must take into account societal changes, the court dispelled preconceived notions.

(D) Abetment of suicide

Abetment in suicide is the term used to describe supporting, assisting, or facilitating the suicide of another person in several legal contexts. The legal ramifications frequently touchon matters of accountability, compulsion, and mental health. Stereotypes related to gender can influence how these situations are viewed and handled in court.

Concerning responsibility, intent, and the social setting in which suicides take place, Section 306 poses significant queries. Determining what exactly qualifies as "abetment" is a difficult task, particularly in a patriarchal environment when attitudes of intent and accountability are influenced by gender stereotypes.

Women have historically been perceived as homemakers and caregivers, which has contributed to the misconception that they are more emotionally fragile. This preconception can lead to a perception that women are more likely to succumb to mental health difficulties, which may be used in court situations. K. D. K. v. State of West Bengal²¹, The notion of abetment was

¹⁷ Madan Lal V. State of Rajasthan, 1987 Cr LJ 257 (Raj).

¹⁸ Raju Pandurang Mohale V. State of Maharashtra, (2004) 4 SCC 371: AIR 2004 SC 1677

¹⁹ State of Punjab v. Dalbir Singh, (2003) 2 S.C.C. 682

²⁰ B.P. Singhal v. Union of India, (2010) 6 S.C.C. 403

²¹ K. D. K. v. State of West Bengal, AIR 1973 SC 227

scrutinized by the court in this landmark case concerning a lady who killed herself as a result of purported harassment by her spouse and in-laws. The Supreme Court ruled that psychological pressure and emotional abuse could qualify as aiding and abetting under Section 306. This case serves as an example of how gender preconceptions about expectations and roles in marriage can affect the decisions made by judges.

(E) Dowry Death

The implementation and interpretation of Indian legal provisions pertaining to dowry deaths are considerably influenced by gender stereotypes. The way society views women is shapedby these stereotypes, which frequently portray them as dependent and submissive. This has an impact on legal decisions as well as the efficacy of society's legal system.

Women's traditional duties as caregivers and homemakers are often the lens through which many Indian cultures perceive them. These misconceptions support the idea that women should bring a dowry to marriage as a sign of their economic standing and importance to the family.

In Kaliyaperumal v. State of Tamil Nadu, Shortly after marriage, the victim, who had been harassed for the dowry, passed away inexplicably. The prosecution must establish a clear connection between the woman's death and the abuse, the Supreme Court stressed. The decision reflected the impact of gender stereotypes in the interpretation of the evidence, emphasizing the need to prove that the death happened under suspicious circumstances and that a dowry was demanded²².

Sikandar v. State of U.P, The case concerned the death of a young bride who was allegedly harassed because of her dowry. Established gender stereotypes have a significant impact on society and can result in systematic failures to safeguard women, as the Court recognized. When deciding instances involving dowry deaths, the court must take into account the backdrop of these societal beliefs, according to the verdict, which also reaffirmed the state's duty to dispel these misconceptions²³.

(F) Word, gesture or act intended to insult the modesty of a woman

Acts meant to offend a woman's modesty are covered by the Indian Penal Code (IPC), specifically Section 354. In addition to having a significant impact on how society views women, gender stereotypes also have an impact on the frequency of crimes and the responses of the law to them.

²²Kaliyaperumal v. State of Tamil Nadu, (2008) 7 SCC 750

²³Sikandar v. State of U.P., (2017) 2 SCC 160.

Women are typically portrayed by society standards as being weak and in need of protection. Nevertheless, the objectification and sexualisation of women can result from these same norms, which can also fuel actions that violate their modesty.

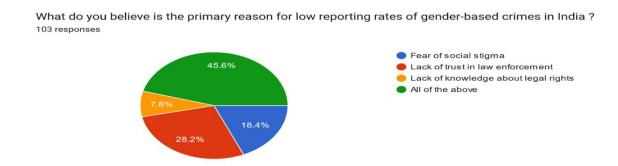
The belief that women should be held accountable for the harassment they endure because of their behaviours, appearance, or social interactions are frequently reinforced by gender stereotypes. Because they worry about being judged by society, victims may become reluctant to disclose offenses.

Although the legislation seeks to safeguard women's modesty, prejudices that shape perceptions of what is modest and suitable behaviour for women might compromise the rule's efficacy.

State of Punjab v. Major Singh²⁴, a complaint was filed in this instance against a guy for using gestures meant to belittle a woman's modesty. The Supreme Court ruled that, regardless of whether physical force is employed, any action that has the effect of demeaning a woman's modesty is protected under Section 354 of the law. The decision stressed how crucial it is to uphold women's dignity and how the law must be interpreted in the context of cultural attitudes regarding gender.

Mohan Lal v. State of Punjab²⁵, making lewd gestures toward a woman was the charge brought against the accused under Section 354. The Court emphasized the need of taking into account the context and the meaning of the gesture. It rejected the idea that multiple infractions must occur before one is prosecuted, affirming that a single act might be considered an insult to modesty.

A survey has been conducted for the purpose of this research to show how prevalent gender stereotypes are and how IPC acts in society against such discrimination. 105 response from legal fraternity have been participated in the survey by answering the proposed questions through Google form. The results have been discussed below:



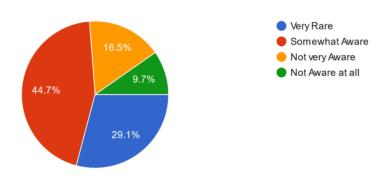
²⁴ AIR 1967 SC 63

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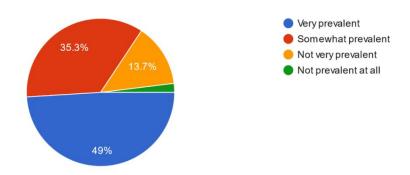
^{25 (2010) 1} SCC 546

How would you rate your awareness of the provisions related to gender-based violence in the Indian Penal Code?

103 responses

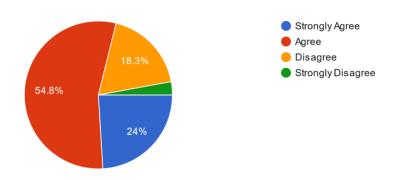


In your opinion, how prevalent are gender stereotypes in Indian society. 102 responses



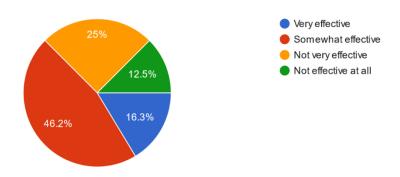
Do you think that gender stereotypes influence judicial outcomes in cases of gender-based violence ?

104 responses

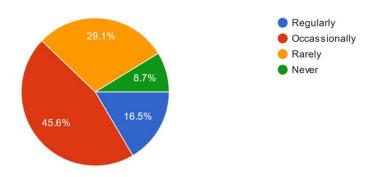


How effective do you believe the current IPC provisions are in protecting individuals from gender-based violence?

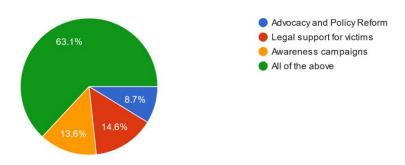
104 responses

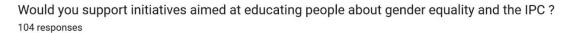


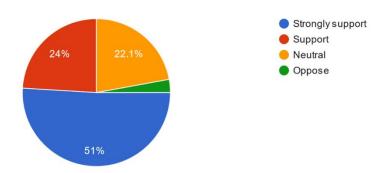
How often do you discuss issues related to gender stereotypes with friends or family ? 103 responses



What role do you think NGOs should play in addressing gender stereotypes related to the IPC ? 103 responses







From the survey we can concluded that awareness of the provisions related to gender-based violence under the Indian Penal Code is minimal, and Gender Stereotypes remain deeply ingrained in Indian society. The study indicates that the low reporting rates of gender-based crimes can be attributed to societal stigma, a lack of trust in law enforcement and a general lack of knowledge about legal rights. These factors contribute to underreporting and hinder effective legal recourse for victims of gender-based violence.

IV. FINDINGS

- Expectations and standards within culture: Gender stereotypes impact individual behaviours as well as society roles by portraying women as submissive and men as dominant. Conventional wisdom has the potential to normalize prejudice and violence against women.
- Influence on Legal outcomes: Law enforcement and judicial institutions' perceptions and handling of cases of gender-based violence are influenced by stereotypes, which frequently result in victim-blaming or leniency towards offenders.
- Impact on Law: The IPC's rules, especially when it comes to incidents of marital rape, sexual harassment, and domestic abuse, may be biased towards certain groups in society and provide insufficient protection for victims of gender-based violence.
- Consciousness and Education: The persistence of prejudices and obstacles to justice are facilitated by a lack of knowledge about legal rights and obligations.
- Crimes Are Underreported: Fear of shame, social reaction, or skepticism about the efficiency of the judicial system might make victims reluctant to report crimes.

V. SUGGESTIONS AND CONCLUSION

- Organize public awareness programs that highlight gender equality, the need of reporting crimes, and the detrimental effects of gender stereotypes.
- Promote legal rights and available support systems by working with non-governmental organizations and community groups.
- In order to inform upcoming policy and legislative changes, support thorough study on the effects of gender stereotypes on legal outcomes and societal views.
- Encourage cooperation between policymakers and academic institutions to develop evidence-based approaches to gender issues.
- Engage men and boys in conversations about gender equality, advancing virtuous
 masculinity and dispelling damaging stereotypes that impact people of all genders.
 Create initiatives to tackle issues like consent and respect in relationships, as well as to
 alter people's ideas of what it means to be a man.
- Clarify the definition of gender-based violence in the IPC and make sure that all forms of abuse, including emotional and psychological abuse, are covered by the laws.
- Enact legislation specifically addressing marital rape, as there is still a substantial legal framework deficit in this area.
- Improve victim support services, such as counselling, legal aid, and safe havens, to promote reporting and offer essential help.
- Reduce access barriers by developing a streamlined procedure for reporting and handling cases of gender-based violence.
- Incorporate gender studies into the curriculum of schools to combat prejudices at a young age and advance an egalitarian and respectful environment.
- Promote critical thinking around gender norms and stereotypes within educational environments.
- To reduce prejudices and enhance responses to situations of gender-based violence, police and court personnel should participate in gender sensitivity training programs.
- Encourage police forces to create specialized units to deal with these kinds of cases in a sensitive manner.

The way that the Indian legal system and gender stereotypes interact is a reflection of larger

social problems in India. Even if laws have been passed to prevent discrimination and violence against women, there are still issues to be resolved in dispelling myths and guaranteeing equality for people of all genders. Changing cultural perceptions and boosting the efficacy of legal protections need ongoing law reform, education, and public awareness initiatives. The legal system in India is greatly influenced by gender stereotypes, which also influence how laws are interpreted and applied. Even though the IPC has provisions to protect women and address gender-based violence, prejudices and societal attitudes nevertheless pose problems. It will take ongoing efforts at societal transformation, education, and legislative reform to dispel these myths and guarantee equality and justice for people of all genders.

In India, the legal system and public views are greatly influenced by gender stereotypes, which are especially evident in the Indian Penal Code (IPC). The IPC contains a number of laws intended to protect women and combat gender-based violence, but their efficacy is frequently hampered by the enduring customs.

The relationship between society views and the law can result in prejudices in the interpretation and application of the law, which affects the efforts made by victims of gender-based violence to get justice. Even with important legal developments and seminal decisions that refute these misconceptions, obstacles like victim-blaming, poor execution and cultural opposition continue to be common.

A multimodal strategy that incorporates public awareness campaigns, legislative changes, and education to change cultural perceptions is needed to address these issues. We may progress toward a legal system that genuinely protects the rights of every person, regardless of gender, by promoting an atmosphere of equality and respect. In the end, eradicating damaging stereotypes is crucial to attaining justice and making sure that the protections provided by the IPC result in actual, equitable outcomes for everybody.

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