

Sexualised Violence in India

Debates – Laws – Education

(Last Update February 2024)

a) Laws on (sexualized) violence

Indian Penal Code (IPC): The IPC criminalizes various forms of sexual violence, including rape, sexual harassment, and molestation. The IPC defines rape as sexual intercourse without the consent of the victim.

Protection of Children from Sexual Offences Act (POCSO): This Act came into force in 2012 for the protection of children below the age of 18 from sexual abuse and exploitation. It is accepted as one of the most comprehensive law in India that criminalizes sexual offences against children. The POCSO Act covers a wide range of sexual offences against children, including sexual assault, sexual harassment, and pornography involving children. (POSCO Act I (d)) The Act also provides for the establishment of child-friendly procedures for reporting, recording, and investigating such offenses, as well as for the rehabilitation of child victims.

In addition to the POSCO Act, the government of India has also put several policies and laws to address gender-based and sexual violence in action. Some of these supplementary and autonomic acts are as follows:

- Dowry Prohibition Act
- Indecent Representation of Women (Prohibition) Act
- Medical Termination of Pregnancy Act
- Immoral Traffic (Prevention) Act

b) Feminist Debates

One of the key debates in the feminist movement in India is the issue of consent and agency. According to Kalika Mehta and Avantika Tiwari the failure of adding the definitional distinction between “passive submission” and “consent”, as it was suggested by the Women’s Organization in India, in the Law Commission Report of 1980 made the juridical procedures as well as medical treatment of the victims difficult therefore the perspective had to be shifted to “harm” rather than consent. (Mehta, Tiwari 2021)

In her empirical study *Sexual Violence in India* (2013), Arun Ignatius examines the intersection of these identities and its role to contribute to the sexual violence. Focusing on the role of the caste in preventing and taking action in the case of sexual violence by the state authorities Ignatius concludes that “the police will respond to cases when the perpetrators are from the lower sections of the society with lower class/caste” while commonly the police “fails to respond when the perpetrators are from the authority and the position of power structure in society are higher than those of the victim”. (Ignatius 2013)

There are also wide variety of feminist and women’s organization in India that also fight against sexual violence. These organizations often work to raise awareness about sexual violence, provide legal and medical assistance and advocate for stronger laws and policies to address the problem:

- National Commission for Women (NCW)
- One Stop Centers (OSCs) and Women Helpline (WHL)
- Public network services Swadhar Greh
- Delhi Commission for Women
- Mumbai-based NGO Majlis
- Kolkata-based NGO Sanlaap
- Action Aid India

c) Legal protection against sexualization, e.g. criminal law on sexual offences or a right on self-determination

The question of sexual determination also continues to be a controversial issue regarding LGBTQI+ communities in India. Here again, as it is explored in the previous part the intersectionality of identities such as caste, class and religion become an important aspect to determine the sexual self-determination and somatic and mental autonomy. In their article "Garnering an In-depth Understanding of Men Who Have Sex with Men in Chennai, India: A Qualitative Analysis of Sexual Minority Status and Psychological Distress," Matthew Mimiaga, Elizabeth Closson et al. indicate that "men who have sex with men (MSM) in India are a hidden and largely understudied population" and do experience mild to extreme "social marginalization" and correspondingly suffer largely from "negative psychosocial conditions". Furthermore, the empirical findings also indicate that sexual self-determination for gay men socially not widely accepted practice. As the authors state that their "participants described sources of psychological distress and low self-worth related to gender non-conformity and sexual minority status. These included stigma from society, pressure to marry, lack of familial acceptance, childhood sexual abuse, and the imperative to keep sexual minority status a secret". (Mimiaga et al. 2015)

The **Transgender Persons (Protection of Rights) Bill** implemented in 2019 "prohibits discrimination against a transgender person, including unfair treatment or denial of service in relation to: (i) education; (ii) employment; (iii) healthcare; (iv) access to public goods and facilities; (v) right to movement; (vi) right to rent or own property; (vii) opportunity to hold public or private office; and (viii) access to a government or private establishment which has custody of a transgender person". This Bill also outlines the principles of self-determination as having right to determine "one's gender" as a part of "the fundamental right to dignity, freedom and personal autonomy guaranteed under Article 21 of the Constitution. Further, the Court upheld the right of transgender persons to determine their self-identified gender as a man, woman or as third gender. This particular indication of (sexual) self-determination proposes to protect transgender persons right to live with dignity and respect.

d) Sexual education at school

One of the most important campaigns that achieve to capture public and state's attention to the issues of sexual violence in schools was "Safe Schools for Girls" campaign. This campaign was launched by the Ministry of Human Resource Development (MHRD) in collaboration with UNICEF. The campaign aims to create a safe and enabling environment for girls in schools and colleges, including by preventing and addressing incidents of sexual violence.

Other important campaigns that explicitly aim to combat against Gender based Sexual Violence in Schools are "**Beti Bachao, Beti Padhao**" (Save the Daughter, Educate the Daughter) which a national campaign launched by the Government of India in 2015 to address the declining child sex ratio and promote the education of girls. As part of the campaign, the government has implemented measures to address issues such as gender-based violence and sexual harassment in schools. "**Ruk Jana Nahi**" (Don't Give Up) is a campaign launched by the MHRD to provide support to girl students who have dropped out of school due to various reasons, including sexual violence. The campaign aims to encourage girls to return to school and complete their education. "**Stand Up for Education**" is a campaign launched by UNESCO in collaboration with the MHRD and other partners to promote the right to education, poverty and address issues such as gender-based violence in schools in a global scale.

One report published by the **National Commission for Protection of Child Rights (NCPCR)** in 2018 found that a significant number of children in India experience sexual violence in schools. The report also noted that many schools do not have appropriate policies and procedures in place to prevent and respond to such incidents, and that survivors often face barriers to seeking help and justice. Another report published by the **Centre for Social Research (CSR)** in 2019 found that nearly half of all girls in India have experienced some form of sexual violence, including in schools.

Sources

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