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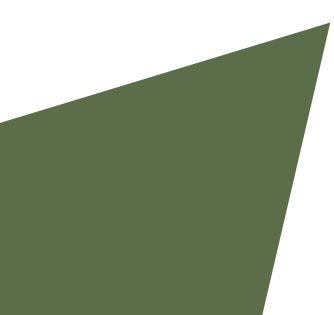
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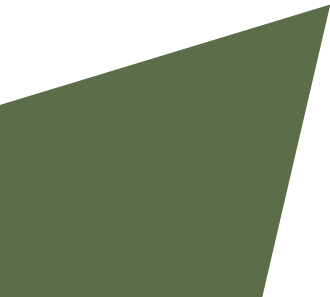
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**Intimate Partner Violence through Legal and Social Dimensions**

**Disha Nayak**

## OVERVIEW

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The concept of “*Intimate Partner Violence*” (IPV) is not globally unfamiliar. Intimate partner violence means any kind of verbal, physical, mental, sexual, or emotional abuse that is observed among couples. Intimate partner violence, too, is deemed to be a form of domestic violence. Sexual abuse was never perceived as a form of human rights violation before 1993. However, in the year 1993, it was the United Nations World Conference on Human Rights, Vienna which recognized sexual abuse as a form of “*human rights violation*”.

Women, from time immemorial, are treated merely as objects. The same is evident in the writings of an ancient sage Manu. In Manu Smriti, women were always looked down upon, their stature was always portrayed to be low. This gave rise to a lot of inferiority complex that women faced in all the walks of life; especially in the intimate bond, they shared with their partner.

This chapter on IPV focuses on the concept of violence that takes place in an intimate ambiance whether the two individuals have been married, unmarried, separated or even the ones faced in a live-in relationship. The partners may be from the same sex or opposite sex but the trauma they undergo is the same on point of the abusive relationship that affects their psyche- the health, may it be physical or mental, etc. The victims who face such kind of violence are often women.

However, the said chapter limits and restricts its scope to the Intimate Partner Violence that takes place in the Indian Sub-Continent only. Further, an attempt is made to cover the various allied categories of intimate violence and the fall-outs it has on either of the partners. The legislations in India do not specifically address this issue as much, as some of the offenses that are covered under the larger concept of Intimate Partner Violence are not recognized as an offense or a crime in the Indian legal framework. In furtherance to this, in a country like India, the key emphasis has been laid on traditions, customs and practices which have led to the fruition of social stigma, concerning Intimate Partner Violence wherein the society is not considerate to accepting Intimate Partner Violence as a crime nor is it open to healthy debates and discussions, on the same. However, the issue is critically grave and needs to be addressed, applied, and adhered to in its entirety.

## METHODOLOGY

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To compile this chapter, the author will be using the ‘Doctrinal Method’. In the said method secondary source of research will be used for the analysis of statutes and rules presented using an assortment of matter from statutes, rules, articles, books, commentaries, case laws, journals, online databases, etc with references.

## OBJECTIVES

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1. To study, analyze, and present an insight into the various types of Intimate Partner Violence and related legislations and conventions (if any) to that effect.
2. To point out the innumerable significant consequence/s that it has on the partners.
3. To put forward practical solutions to mitigate the cases which are a result of such violence.

## INTRODUCTION

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The basic Human Rights assert that all human beings are created equal. It is we, the human beings, who have created the superfluous barriers among ourselves which create life-altering issues for us all. It is mandatory to understand that men, as well as women, have equal rights, duties, and opportunities. It is the societal delusions based on the ethnic traditions, customs, and practices that create the superiority-inferiority complex among the genders. Owing to misconceptions that society has created, the female gender, in particular, have been facing subjugation by their male counterparts.

*“A woman has to be regarded as an equal partner in the life of a man. It has to be borne in mind that she has also the equal role in the society i.e. thinking, participating, and leadership.”<sup>1</sup>*

However, with changing times, women are more aware of their rights and have stood up against any wrong/s that come their way. The same can be appreciated through four waves of feminism<sup>2</sup>, wherein women came out stronger than ever and voiced out their opinions.

The first wave of feminism was felt in the United States of America in the late 19<sup>th</sup> and early 20<sup>th</sup> century. This wave emerged as the women fought for their voting rights and their right to be represented along with the men at the Senate. Thereafter, the second wave of feminism strived to achieve equal pay for equal work at par with men. This wave was initiated somewhere in the 1960s and went up to the 1990s.

Soon after this, in the mid-90s, there came the third wave of feminism that fought against the patriarchal society, and lastly, the fourth wave of feminism is still new and an enchanting silhouette. It began by a way of a campaign on social media, under the hashtag of ‘me too’ which tried to

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<sup>1</sup> Voluntary Health Association of Punjab Vs. UOI; AIR 2016 SC 5122

<sup>2</sup> *Four waves of feminism* (accessed on 13/07/2020); <https://www.pacificu.edu/about/media/four-waves-feminism>



expose workplace harassers and negatively interfere in the daily lives of women. With regard to men, they were always treated as 'the superior gender'. However, even men have felt the need to be protected in society as the laws in some spheres are women-centric and have not taken into consideration the opinions of men which makes the laws to be easily misused by some women and when such incidents occur, in an intimate relation, it is complicated for men to voice out their grievances.

Intimate Partner Violence (IPV) is a heinous crime that not just affects an individual's physical body but has severe and dire effects on the mind and psychology of a person. The issue however aggravates especially if it is committed within a marital union. Hence, the concept of IPV evolves. It is not just a crime against the individuals in the marital union or bond but it is a crime against the entire society enveloping and affecting the families on either affected sides. With the onset of urbanization, there have been tremendous changes in ethics and morals due to the lifestyle, standards of living, and unequal economic growth, which in turn have led to a rise in offenses against humankind.

Due to a patriarchal society, in which we live, women are often made to believe that it is her primary obligation to offer her body for the sexual pleasures of her spouse; and failing to do so would result in societal conflicts and would be against the family ideals.<sup>3</sup> In an intimate union, it is even possible that a man can face atrocities by his significant other. However, chances of men voicing out such incidents are quite less due to the prevalent patriarchal society that creates an illusionary superiority complex among men which creates a bar towards expressing such happenings thereby making them feel that their stature in society may degrade. In addition to this, the law does not in its entirety protect such rights of men as it does with regards to women.

Intimate partner violence is a form of domestic violence. The same can be carried out in numerous abusive arrangements ranging from sexual, physical, emotional, and verbal platforms. Moreover, it is an extremely serious and preventable public health problem faced by society at large. The concept of IPV is defined by the World Health Organization (WHO) as any behavior within an intimate relationship that causes physical, psychological, or sexual harm to those in the relationship, including acts of physical aggression, sexual coercion, and psychological abuse and controlling behaviors<sup>4</sup>. This form of violence is seen primarily among couples whether they have

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<sup>3</sup> Freeman, *The Marital Rape Exemption Re-Examined*, 15 FAM. L.Q. 1, 29 (1981)

<sup>4</sup>Krug, Etienne G.; Dablberg, Linda L.; Mercy, James A.; Zwi, Anthony B.; Lozano, Rafael (2002). World report on violence and health(PDF) Geneva, Switzerland: World Health Organization. ISBN 9789240681804.

been married, unmarried (wherein the man and woman are romantically inclined towards each other), separated, or even live-in partners. The partners may be from the same sex or opposite sex but what they go through is equivalent to the point of an abusive relationship that affects their psyche and health, - may it be physical or mental.

In a country like India where major emphasis is laid down on platforms like traditions, customs, and practices, a solid social stigma has culminated with regards to Intimate Partner Violence wherein the society is intolerant to crimes that take place within an intimate union of partners nor is it open to discussions on the same. Hence, society at large intentionally or unintentionally has tried to normalize the concept of IPV even though there has been legislation enacted to that effect and which are ineffective without any societal backing.

Furthermore, in a society that has an orthodox mindset like that of India, socio-legal issues like these which are controversial are never adhered to even though the legislature has taken steps to cover almost all possible forms of violence and provide safety to individuals in an intimate bond which may arise on account of either marriage or a live-in relationship.

In India, “Marriage” is considered to be a sacred, timeless union between two souls. It is perceived to be made in heaven and culminated on earth. It is an institution that admits two people in family life. Marriage as an institution in India is as old as the Indian Society itself. It is considered to be a sacrament.<sup>5</sup> Nevertheless, there have been rising cases of intimate partner violence that have taken place and still do take place in such unions.

Most of the time, it is the female counterpart who suffer violence in an intimate relationship. Though, the possibility of men being abused cannot be ruled out.

Women, as well as men, have the right to life & liberty; further, they also have the right to be respected and treated as equal citizens. The honour & dignity of any human being cannot be touched or violated for the simple reason that everyone has the right to lead an honorable and peaceful life.

As per the 2018 National Family Health Survey<sup>6</sup>, more than 80 percent of married women who have experienced sexual violence named their current spouse as the perpetrator. But there is no such survey conducted for men, wherein the sexual violence faced by them has been recorded.

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<sup>5</sup>Paras Diwan; Family law; Allahabad law agency; 10<sup>th</sup> ed.; pg. 254-56

<sup>6</sup> Government of India. (2018, march 26). Retrieved July 3, 2020-National Family Health Survey: [rchiips.org/nfhs/pdf/List%20of%20NFHS-4%20News%20Articles.pdf](https://rchiips.org/nfhs/pdf/List%20of%20NFHS-4%20News%20Articles.pdf)

## CONCEPTS OF INTIMATE PARTNER VIOLENCE

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The concept of IPV is not unknown. It is a problem that we face globally. The basis of this concept can be understood by the following theories.

- a) Theory of consent: According to this theory, IPV occurs in intimate bonds due to irrevocable consent that is implied by the mere fact that two individuals are in a union.
- b) Theory of unities: As per this theory, when two individuals are in a relationship they are considered to be one. Hence, they cannot bring in any action against the other.
- c) Theory of property: In this theory, women were considered merely as objects or property of the husband, because of which the husband will dominate her and she has in no way an exit from such atrocities over her.
- d) Theory of modern privacy: Privacy is one of the basic rights of a human being. Moreover, it has attained the position of a Fundamental Right under the umbrella concept of Right to Life and Personal Liberty. However, according to this theory, partners in an intimate bond do not have this right of privacy and hence the wings of the government do not have a say in such matters and cannot prosecute the partners.

## FORMS OF INTIMATE PARTNER VIOLENCE IN INDIA

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*“With changing social norms of legitimacy in every society, including ours, what was illegitimate in the past may be legitimate today.”<sup>7</sup>*

Intimate Partner Violence takes place not just between married couples, but also partners in a live-in relationship who may or may not be of the opposite sex. In India, rights of a live-in couple are the same as that of a married couple as held in the following landmark cases of

- S.P.S. Balasubramanayam V. Suruttayan<sup>8</sup>,
- Badri Prasad V. Dy. Director of Consolidation<sup>9</sup>,

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<sup>7</sup> Former Hon.J. A.K. Ganguly: *Revanasiddappa v. Mallikarjun*; (2011) 11 SCC 1

<sup>8</sup>1994 SCC (1) 460

<sup>9</sup>1979 (1) SCR 1

- D. Valuswamy V. D. Patchaimmal<sup>10</sup>,
- S. Khushboo V. Kanniammal & Anr<sup>11</sup>,
- Indra Sarma V. V.K.S. Sarma<sup>12</sup>

In addition to this, live-in partners who belong to the same sex or persons belonging to the LGBTQ community are also granted certain protections under the law when it comes to IPV. Sexual orientation rights of the LGBTQ community are recognized though the right to get married is still not.

Following are some of the violent acts that are often seen among intimate partners:

## 1. Marital Rape

*“Forcible Sex, unnatural or natural, is an illegal intrusion in the privacy of the wife and amounts to cruelty against her.”<sup>13</sup>*

Marital rape has been defined as “unwanted intercourse by man on his wife obtained by force, threat of force or physical violence or when she is unable to give consent for it.”<sup>14</sup> Such acts can result in physical, sexual, mental, and emotional abuse. The problem arises when such a definition is gender-biased and may be prone to misuse by women.

The concept of marital rape has not attained criminality in India because of the notion of irrevocable consent which is presumed in a marital union. Irrevocable consent is one which states that a person once in a marital union, he or she is presumed to have binding consent to the sexual intercourse which follows thereby.

It can be hence defined as an act of unwanted sexual intercourse or sexual acts committed by one spouse over the other and such intercourse or acts can be a result of force, threat to force, or physical violence or when the spouse is unable to give consent for it.

However, in India, there is no law that criminalizes marital rape. Though, the Domestic Violence Act, 2005 and Section 375 under exception 2 of the Indian Penal Code, 1860 provides some relief in this regard only to women.

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<sup>10</sup>Crl. Appeal Nos. 2028-2029 of 2010

<sup>11</sup>(2010) 5 SCC 600

<sup>12</sup>Crl. App. No. 2009 of 2013; 2013 (14) SCALE 448

<sup>13</sup>Sanjeev Gupta Vs. Ritu Gupta, First Appeal no. 269 of 2018

<sup>14</sup>Prof. N.V. Paranjape; Criminology, Penology with Victimology; Central Law publications; 16th ed; 2014; page no. 234.

*“Marital rape is in existence in India, a disgraceful offence that has scarred the trust & confidence in the institution of marriage. A large population of women has faced the brunt of the non-criminalization of the practice. Marital rape refers to unwanted intercourse by a man with his wife obtained by force, threat of force, or physical violence, or when she is unable to give consent. It is a non-consensual act of violent perversion by a husband against the wife where she is abused physically & sexually.”<sup>15</sup>*

A woman in India can safeguard her right with regards to life & liberty, but the position is not the same when it comes to her body, within her marriage. If the husband lays an assault on his wife, then that act can be established as a crime under the IPC. If the very same husband lays an assault & forces his wife to have sexual intercourse, he would be liable for assault but not for an offense of rape only because there is a valid marriage between them.

This in a way is tapering down her Fundamental Right of Life & Personal Liberty, under Article 21 of the constitution & is a major infringement of her basic human rights. But when it comes to the position of men, he has no such rights to bring any action against his wife for cruelty, but he can seek remedy if he is the victim of unnatural sex on him by his wife.

## **2. Sexual Intercourse During Separation**

During the separation of partners, the intimate bond between the two is broken. However, if the husband tries to have sexual intercourse with such a wife with whom he has separated, then her consent to be given to him irrevocably cannot be presumed and hence it will be an offense punishable under sec 376A of IPC.

## **3. Bigamy**

Bigamy is an offense under the IPC under section 494 and 495. If a man/woman conceals the fact of prior valid marriage or gets married for the second time when he/she is already married, then the person can be punished under the code. Committing such offense is not just legally wrong but is considered immoral and unethical and hampers a partner’s mental health.

## **4. Adultery**

*“Even though adultery is not a criminal act, it is however immoral and unscrupulous.”<sup>16</sup>*

In India, sec 497 of IPC dealt with adultery. Before decriminalization of adultery, the provision was that if any man tried to have sexual relations with the wife of another without the consent of

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<sup>15</sup> Nimeshbhai Bharatbhai Desai v/s State of Gujarat, R/CR.MA/26957/2017

<sup>16</sup> Joseph Shine V. UOI, WRIT PETITION (CRIMINAL) NO. 194 OF 2017

her husband then he would be deemed to commit the offense of adultery; Provided that the women had consented to such sexual intercourse or else it would attract provisions of rape under section 375 of IPC.

That is to say that it exempted punishment to a man if he received consent from the husband of such a woman. Also, the woman was exempted from punishment and was not considered as an abettor.

However, the PIL filed by Joseph Shine against the Union of India reversed the prior position of section 497.<sup>17</sup>

In this case<sup>18</sup>, section 497 was struck down as unconstitutional as it violated the fundamental rights of a woman under Article 14, 15 & 21.

## 5. Cruelty & Dowry

Cruelty is a sadistic behavior in which harm or suffering is inflicted on the partner which affects him/her mentally, emotionally, or physically. Sadly, in India, the law is gender-biased and punishes a man only for inflicting harm that is cruel. The main reason why women suffer such cruel behavior is mainly because of dowry. They are often ill-treated, beaten, tortured, and even killed for dowry. Section 304B & sec 498A of IPC deal with the same.

In the case of Inder Raj Malik vs. Sunita Malik,<sup>19</sup>, the SC defined cruelty and mentioned a list of grounds that would amount to cruelty by the husband. Cruelty by vexatious litigation, deprivation, and wasteful habits, persistent demand, extra-marital relations, harassment for non-dowry demand, etc. However, cruelty is the ground for divorce available to both men as well as women.<sup>20</sup>

## 6. Unnatural Offenses

*“Unnatural sex, sodomy, oral sex & sex against the order of the nature, against the wishes of women or wife or anybody is not only a criminal offence but also a marital wrong & amounts to cruelty which is a good ground for dissolution of marriage. Any such thing which brings the wife to indignity & causes physical & mental agony & pain is cruelty.”<sup>21</sup>*

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<sup>17</sup>Joseph Shine V. UOI, WRIT PETITION (CRIMINAL) NO. 194 OF 2017

<sup>18</sup> Supra 10

<sup>19</sup>1986 (2) Crimes 435; 1986 (92) CRLJ 1510; 1986 RLR 220

<sup>20</sup>Naveen Kohli V. Neelu Kohli, AIR 2004 All 1

<sup>21</sup> Sanjeev Gupta Vs. Ritu Gupta, First Appeal no. 269 of 2018

It is immaterial whether the partner belongs to the same sex or not when it comes to obtaining the consent of the partner in case of sexual intercourse. The historic judgment laid down in the case of Navtej Singh Johar V. UOI<sup>22</sup> decriminalized section 377 and held that consensual sex between 2 adults whether belonging to the same sex or not shall not constitute an offense. However, when there's no consent it is punishable under the code.

The consequences faced by individuals in the scenarios mentioned above are numerous. However, the major effects on an individual are as follows:

1. Health deterioration- may it be physical health or mental health, violence faced by partners in a domestic relationship affects the health of the person.
2. Homicides and suicides- individuals facing violence in their domestic relationship often try to end their lives or attempt to kill the partner inflicting harm on them.
3. Self-harm - is a common tendency seen among couples who are in a toxic relationship. Harming oneself seems to be the only option due to the mental conditioning of the individual in that particular situation.
4. Alcohol and drug abuse- partners often resort to this which is the consequence of continuous ferocity faced by the individual and resorting to alcohol or drugs lets the individual forget his/her sorrows for a temporary period.
5. Post-traumatic stress disorder- this is the most common consequence and is seen coupled with the rest above mentioned consequences. The partner is in trauma due to the atrocities he/she faces.

Further, the consequences are not just faced by the partners but also other members living with them like children, aged members in the house, etc.

## **CONVENTIONS, LEGISLATIONS AND LAW COMMISSION REPORTS**

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### **1. The International Bill of Human Rights**

#### **A. Universal Declaration of Human Rights (UDHR):**

Every human being is born free and requires to be treated with dignity, equality and there can be no discrimination whatsoever on any ground of caste, race, place of birth, sex, etc. Moreover, every person has the right to life, liberty, and security and no person can be

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<sup>22</sup>Writ petition (criminal) no. 76 of 2016

subjected to torture or harsh and cruel, inhuman, or degrading treatment. Taking this into consideration IPV is in totality an infringement of Human Rights.

B. International Covenant on Civil & Political Rights (ICCPR):

This is a multifaceted treaty adopted by the U.N. General Assembly. Its signatories were to enact legislation per the covenant with regards to the political and civil rights of its citizens and it also included rights and freedoms in respect of life, speech, religion, electoral rights, and fair trial.

C. International Covenant on Economic, Social & Cultural Rights (ICESCR):

This is also another multifaceted Treaty that was adopted by the U.N. General Assembly. It strives to achieve social, economic, and cultural rights including the right to education, health, adequate pay, and standard of living to the citizens of its signatory members.

## **2. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**

It is often seen that women do not enjoy equal rights like that of men when it comes to the political, social, economic, cultural, or civic front. Hence, the need to adopt a convention that would prohibit all forms of discrimination against women was necessary. India being a signatory to the said convention has enacted laws like dowry prohibition and made reservations for women on all fronts of life to provide them equal opportunity and help them to be on an equal footing with men.

## **3. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

It was adopted in the year 1985 and it deals with victims of crime, compensation, justice, and fair treatment in entirety. It defines "Victims" as persons who, individually or collectively, suffer harm which includes physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

## **4. The Indian Constitution, 1950**



Article 21 of the Indian Constitution states that *“No person shall be deprived of his life & personal liberty except according to procedure established by law.”* Both women and men have the right to life & personal liberty; likewise, they have the right to be respected & to be treated as equals. The honor & dignity of any human being cannot be touched or violated because everyone has the right to lead an honorable & peaceful life. IPV does not just involve a breach of fundamental rights under Article 21 of the Indian Constitution but also the basic human rights of an individual. Article 21 of the Constitution which guarantees *‘right to life’*, also includes *‘protection of life & liberty’* of all members of the society. Article 21 is breached when the State fails to safeguard its citizens by way of enacting legislation in lines with the constitutional framework.

Furthermore, the constitution under part IV deals with the state’s directive principles that have to be kept in mind before drafting and enacting laws. One such principle laid down under Article 38(1) imposes a duty upon the state to provide for the economic, social, and political welfare of its people.

It is essential and a laid down principle of law that Fundamental Rights have to be construed per the Directive Principles to procure social order and justice.<sup>23</sup>

## **5. The Protection of Human Rights Act, 1993**

This is an enactment that came into force on the 28<sup>th</sup> of September 1993 with the main objective of protecting the basic Human Rights and is per the International covenant on civil and political rights (ICCPR) & the International Covenant on Economic, social and cultural rights (ICESCR) to which India was a signatory and which was adopted by the U.N. General Assembly in 1966. Under the Act, the Government and the Centre and that State have to constitute commissions to deal with any grievance which is an infringement of human rights.

## **6. The Protection of Women from Domestic Violence Act, 2005<sup>24</sup>**

Chapter II of the Act under section 3 defines domestic violence. It states that if the respondent does any act, omission, commission, or conducts those results in physical, sexual, emotional abuse by a way of harming or injuring health whether mental or physical or by threatening the aggrieved person or any other person related to her to achieve the said consequences.

## **7. The Indian Penal Code,1860<sup>25</sup>**

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<sup>23</sup> Paramati Educational and Cultural Trust & Ors. V. UOI; (2014) 8 SCC 1

<sup>24</sup>Bare Act; The protection of women from Domestic violence Act, 2005; Universal’s Publication- Delhi

<sup>25</sup>Bare Act; The Indian Penal Code,1860; Universal’s Publication- Delhi

Indian penal code deals with offenses that take place in marriage. The provisions of IPC that are attracted are:

Exception 2 to Section 375 that states that if a man has sexual intercourse with his wife who is not under the age of 18 then it is not rape.

Section 376A deals with a provision that if a man has sexual intercourse with his wife during their separation without her consent, he can be punished under this section with imprisonment which can extend to 2 years and fine.

Section 494 states that if during the lifetime of the husband or wife either of them gets married subsequently then he/she shall be punished. In short, it bans the practice of bigamy. Further, section 495 consists of similar statements with an additional condition of concealment of marriage.

Sec 497 dealt with adultery. However, now the provision has been struck down as violative of fundamental rights.

Sec 377 deals with unnatural offenses. The SC recently recognized LGBT rights thereby modifying the interpretation given to this section. It decriminalizes carnal sex between same-sex provided there is consent.

Sec 498A deals with cruelty and punishes a husband and his relatives if they treat the women cruelly. Any kind of harassment, torture, or beating can fall within the ambit of this section if it affects her health whether being mental or physical.

Sec 304B punishes the husband or his relatives for dowry death caused by injuries to a woman under abnormal circumstances and within 7 years of marriage.

## **8. Dowry Prohibition Act, 1961<sup>26</sup>**

The Act punishes the giving and taking of dowry and is to be read along with the provisions mentioned in the penal code of 1860. The Act even punishes the mere demand for dowry and mentions penalties for the same.

## **9. The Indian Evidence Act, 1872**

Sec 113A & 113B lay down presumptions with respect to women in case of her abetment to suicide and cases of dowry death. If it occurs within 7 years of marriage the courts can presume the same.

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<sup>26</sup><http://wcd.nic.in/act/dowry-prohibition-act-1961>

Sec 114A states that if a woman contends to be raped then it can be presumed that she had not consented to it and the onus of proving consent lies on the accused.

These provisions are to be read with other specific laws and provisions of IPC.

## **10. 172nd Law Commission Report**

The 172nd recommendations put forward some of the following amendments to be made to the existing law:

Section 375 of the Indian Penal Code defines rape to be replaced with sexual assault thereby making the section gender-neutral. *“Sexual assault includes Penetrating the vagina (which term shall include the labia majora), the anus, or urethra of any person with any part of the body of another person or an object manipulated by another person, Manipulating any part of the body of another person so as to cause penetration of the vagina (which includes the labia majora), the anus, or the urethra of the offender by any part of the other person’s body; Introducing any part of the penis of a person into the mouth of another person; involving in cunnilingus or fellatio; or continuing sexual assault and if it is against person’s will, without his/her consent, by obtaining person’s consent either by putting her or any person in whom she is concerned about in under fear of death or hurt or if she is a female by making her believe that the man is her husband when in fact he is not or when person’s consent is obtained when he/she is unsound or intoxicated and unable to understand consequences of the act, with or without his/her consent, when he/she is under 16 years of age, when he/she is unable to communicate consent.”*

The two exceptions mentioned under this definition are: Firstly, Penetration to any extent is penetration for the purposes of this section and secondly, if a man has sexual intercourse with his wife who is not under the age of 16 then it is not rape.

## **11. The Women's Sexual, Reproductive and Menstrual Rights Bill, 2018**

This bill was introduced by a way of private members’ bill in the Lok Sabha on 2nd January 2019 by Shashi Tharoor. The main aim with which this bill was drafted and introduced was to alter enactments to highlight issues faced by women in the exercise of their sexual and reproductive rights. Under section 2 of the said Bill, an amendment to section 375 Of Indian Penal Code is proposed. The section emphasizes a lot on the concept of consent and states that religion, ethnicity, education, caste, clothing profession, social circle, personal opinion, entertainment preference, past sexual conduct, or any other related grounds shall not be a reason to presume her consent to the sexual activity. Additionally, exception 2 to section 375 has to be omitted.

## **ANALYSIS AND CONCLUSION**

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Taking into account and consideration the meaning, forms, and consequences of Intimate Partner Violence, it can be concluded that Intimate Partner Violence is not a new concept in India and has been going on for time immemorial. Right from the age of Smritis to the age of laws drafted and implemented this has been a common phenomenon. Emphasis can be laid on the Manu Smriti which was written by the ancient Hindu sage Manu who structured a woman's role in the family and household and often subjected them to the ill-treatment meted out to her by her husband and his family members.

Also, a woman's role was merely taking care of the household chores and adhering to whatever her husband does or asks her to do. This is how the trend of women being subjected to violence often in a matrimonial bond grew. A woman's position in society was never as strong as that of the man. However, with the ever-changing times, there were instances seen wherein the woman also took undue advantage of her partner and subjected him to cruelty and the husband was the victim of violence in the matrimonial tie.

However, society seems to be advancing and so also has the law to advance. The Hon'ble Supreme Court has taken several historic steps in some of its judgments to get men and women at parity thereby recognizing the third gender, LGBT rights, decriminalizing adultery, giving status to live-in relationships, etc. though some major issues like marital rape still stand unanswered.

There are numerous legislations enacted and implemented but the effectiveness of those legislations fails to be perceived in the Indian society because women, as well as men, often do not resort to standing up for their rights nor do they prefer talking about it as it is still a taboo in the Indian society owing to the traditional and cultural approach prevalent in the society.

There is a need to have gender-neutral laws and help groups in the interests of the victims of such violence, to combat the ever-increasing issues of Intimate Partner Violence.

## **SUGGESTIONS**

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Based on the above article and analysis of the same, following are the suggestions to combat the issue:

- a) Gender-neutral laws.
- b) Need for modifications in civil and criminal legal frameworks;
- c) Arranging campaigns on social media to raise awareness about the issue and existing laws;

- d) Reinforce all women's rights;
- e) Shape alliances of government and civic society institutions;
- f) Endorse social and economic empowerment of women and girls;
- g) Build a complete service that will respond to IPV survivors in society;
- h) Need to educate men and boys to encourage nonviolence and gender equality; and
- i) Deliver early-intervention services to at-risk families.