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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WOMEN AND VIOLENCE: A CROSS-JURISDICTIONAL ANALYSIS OF GENDER-BASED OFFENCES

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Abstract:

Indian legislature provides protection to every citizen of the country irrespective of their gender which includes Right to equality (Articles 14-18). Gender based discrimination is against the fundamental rights of every citizen but still it is present not only in India but in the world. The fact is that Gender based crimes against females are flourishing because of social protection in advanced welfare societies. Sexual, Physical or emotional violence against women in our country is a serious problem which needed to be addressed by our legal system. To provide appropriate protection to females at individual level, it is important to know about the various forms and intensity of this crime. Preventing gender-based violence has become one of the major challenges for the Criminal Justice Systems worldwide. It is the prime duty of the State to tackle GBV by establishing a strong policy against this crime. To frame effective policy it is important to discuss the types, causes and negative effects of this crime. The recognition of this crime at international level was done after second world war because focus for protecting human rights was increased. In 1993 United Nations Declarations on the elimination of Violence Against Women was the first officially attempt to provide protection to every female. It is important to explore the countries where this crime is flourishing. Through this study researcher will analyse the situation of other countries regarding GBV and lastly will provide the ways to eradicate this crime from our society.

Keywords: Indian legislature, discrimination, sexual violence, recognition, effective.

1. INTRODUCTION

Gender based crimes especially against females is a serious problem at the international level. The United Nations has also identified gender-based violence against female as global health and development issue.

The relevant policies are also host by the organization which include public education and action programs aimed for reducing this crime. Women in Asia and the Middle East are killed in the name of family honor. Girls in West Africa undergo genital mutilation in the name of custom. African rape offenders commit this heinous crime and infect the victim with HIV/AIDS with the mindset that this is the only way to cure themselves from this disease. The Gender Based Violence against female includes various types of crime Dowry Death, Rape, honor killing, female feticide, domestic violence and so on. In India Rape crime is still increasing even after stringent laws also marital rape crime is not even recognized by the legislature. There are several after effects of GBV on the survivor of this crime. The global situation of this crime is very drastic, countries like Norway and Turkey found 18 and 58 percent respectively facing this crime. In Switzerland found that 21 percent of female are assaulted by males in an intimate relationship. In North London thirty percent of women faces the crime of domestic violence.⁽¹⁾

Countries like Canada, United States and Australia also have the similar high ratio. In United States one third of females are murdered by their husbands/living partners. Family violence and domestic violence are very frequently referred to as a “silent epidemic” in Australia. The correct definition of GBA is “An umbrella term for any harmful act that is perpetrated against a person’s will and that is based on socially described differences between males and females.” The definition covers cases of violence related to inequitable gender norms and can include physical or sexual violence against females. Addressing and reducing crimes against women is considered a prolonged endeavor, spanning at least a generation, if not more, according to widespread belief. Despite this, it remains crucial to heighten awareness about the pervasive issues of violence against women and foster education among men to perceive women as essential life partners. Effectively preventing violence necessitates the adoption of non-violent methods for conflict resolution among all members of society. Relying solely on a legal approach, characterized by the implementation of special laws and heightened punishments, is deemed insufficient in curbing the escalating atrocities against women.

2. CAUSES OF GBV

Females, spanning all age groups, face diverse forms of violence, starting from prenatal sex selection before birth and extending to the mistreatment of widows and elderly women. Sexual violence is a pervasive threat across all age brackets. The evolving dynamics of relationships

for women and girls—with family, peers, and authorities—and the varying contexts in which they navigate, such as home, school, work, and community, expose them to distinct forms of violence at different life stages. Crimes against women have become prevalent on a global scale, with distinct forms of victimization correlated to the woman's age. These offenses span from the heinous act of pre-natal sex determination to incidents of rape and murder. Crimes identified against females in Indian Penal Code, 1860: -

- ✓ Rape
- ✓ Kidnapping & Abduction, trafficking and prostitution
- ✓ Killing for Dowry, Dowry Deaths or their attempts
- ✓ Mental and Physical Torture
- ✓ Molestation
- ✓ Offences related to Marriage
- ✓ Acid Attacks
- ✓ Honor Killing

The Beijing Conference held in September 1995 pinpointed the following key areas of concern regarding the persistent challenges faced by women : -

- ✓ The enduring and escalating impact of poverty on women.
- ✓ Disparities, inefficiencies and unequal accessibility in education and training for women.
- ✓ Disparities, inadequacies and unequal access to healthcare and related services for women.
- ✓ Instances of violence against women.
- ✓ The repercussions of armed conflicts or other forms of strife on women, including those residing under foreign occupation.
- ✓ Disparities in economic structures, policies all forms of productive activities and access to resources.
- ✓ Disparities between men and women in power-sharing and decision-making at all levels.
- ✓ Insufficient mechanisms at various levels to foster the progress of women.
- ✓ Lack of regard for and insufficient promotion and safeguarding of the human rights of women.
- ✓ Stereotyping of women and disparities in women's access to and participation in all communication systems, especially in the media.
- ✓ Gender inequalities in the management of natural resources and in environmental preservation.
- ✓ Persistent discrimination against and violation of the rights of the girl child.

Factors Influencing GBV Society/Politics/Culture:-

- ✓ Discrimination legal, cultural or religious regulations norms, and practices that marginalize women and girls, neglecting to uphold their rights.
- ✓ The use of gender stereotypes as justifications for violence against women. Cultural norms frequently prescribe that men exhibit aggression, control and dominance while women are expected to be submissive, subservient and reliant on men for support. Such norms may contribute to a climate of outright abuse.
- ✓ The breakdown of family, social and community structures along with disrupted roles within the family often exposes women and girls to risks. This breakdown can also limit coping mechanisms and avenues for protection and redress.

Challenges within the Judicial System

- ✓ Limited accessibility to justice institutions and mechanisms, fostering a culture of impunity for acts of violence and abuse.
- ✓ Insufficient availability of affordable legal advice and representation.
- ✓ Inadequate mechanisms for the protection of victims/survivors and witnesses.
- ✓ Deficiencies in the legal framework, encompassing national, traditional, customary and religious laws that exhibit discriminatory practices against women and girls.

Individual obstacles

- ✓ Fear or apprehension of stigma, social ostracization and further violence from perpetrators, communities or authorities including the risk of arrest, detention, ill-treatment and punishment.
- ✓ Limited awareness about human rights and lack of knowledge regarding avenues for seeking redress.
- ✓ Gender based violence stands as a significant barrier to women's progress due to the following factors :-
- ✓ It profoundly impacts all facets of women's health-physical, sexual, reproductive, mental and behavioral hindering them from reaching their full potential.
- ✓ Violence and the threat of violence impede women's active and equal participation in various social and political spheres.
- ✓ Workplace harassment and domestic violence hinder women's engagement in the workforce and their economic empowerment.
- ✓ Sexual harassment curtails the educational opportunities and achievements for girls.

Evaluations relied on self-reported data, and there is a likelihood of recall biases, suggesting that the actual prevalence of violence might be underestimated. It's important to acknowledge the potential instances of women resorting to physical violence as a means of self-defense and due to fear.

3. DIFFERENT FORMS OF GBV

The Gender based Violence could be distinguish into five inter-related types of violence's: -

- **Physical violence⁽²⁾** : - This violence encompasses actions such as beating, burning, kicking, punching, biting, maiming or causing harm through the use of objects or weapons. Certain classifications also encompass human trafficking and slavery within the realm of physical violence, as the initial coercion experienced often leads to further victimization during enslavement. The essence of physical violence lies in attempting to cause or causing pain and/or physical injury. Similar to other forms of violence, the primary objective of the perpetrator may not solely be to inflict physical pain but also to constrain the victim's self-determination. Physical violence serves as a clear assertion of power by the perpetrator, sending a message to the victim that unwanted actions can be inflicted upon them. This form of violence often reflects disparities in social power or aims to advance specific demands, sometimes systematically using coercion. Intimate relationships, commonly known as domestic violence, frequently witness instances of physical violence, persisting as a prevalent issue across all countries. Physical violence within private spheres also impacts young individuals. Witnessing one parent abusing another can lead to severe psychological trauma in children.

Children and young people present during spousal abuse may inadvertently get injured, either accidentally or when attempting to intervene.

In some cases, young men may resort to criminal acts against the abusive parent, usually fathers, to protect their mother and siblings. Moreover, children often become targets of retaliation by the abuser against the mother. Notably, some mothers are compelled to remain in abusive relationships due to the abuser's threats to harm or kill the children if she attempts to leave.

- **Verbal violence (including hate speech):** - Several cultures feature sayings or expressions suggesting that words are benign, and there exists a longstanding tradition urging us to overlook verbal assaults. Nevertheless, when these verbal attacks become consistent, deliberate, and specifically aim at someone's vulnerabilities, the target of such attacks has every

right to perceive themselves as victims of verbal abuse. Verbal violence encompasses issues tailored to an individual, including private or public put downs, ridicule, the use of particularly discomfiting swear words, disparaging remarks about the individual's loved ones, and threats of other forms of violence, either directed at the victim or someone dear to them. Alternatively, verbal abuse may be linked to the victim's background, such as their religion, culture, language, perceived sexual orientation, or traditions. Abusers often consciously choose to target these emotionally sensitive areas in a manner that inflicts pain, humiliation, and intimidation upon the victim.

The majority of verbal violence directed at women due to their gender is often sexualize and falls under the category of sexual violence. In the public domain, gender-based verbal violence is closely linked to established gender roles, involving comments and jokes about women that may objectify them or depict them as sex objects (e.g., jokes about sexual availability, prostitution, or rape). A significant portion of bullying pertains to the perceived sexuality of young individuals, particularly boys. The frequent negative use of terms like 'queer' or 'fag' can be highly distressing for those identified as gays and lesbians. This likely contributes to the fact that many individuals within the LGBTQ+ community choose to disclose their sexual orientation only after completing secondary school. Hate speech based on gender primarily targets women, often termed as sexist hate speech, and members of the LGBT+ community based on sex, gender, sexual orientation, or gender identity, both in private and public spheres, including the Internet.

Even private communication channels such as e-mails or online messaging platforms may serve as avenues for this form of gender-based violence. Various manifestations of gender-based hate speech exist, ranging from jokes and spreading rumors to threats, slander, incitement of violence, or hatred. Its objective is to humiliate, dehumanize, and instill fear in an individual or a group. Similar to other types of violence, gender-based hate speech can be profoundly detrimental to the targeted person, causing feelings of helplessness, unease, fear, and a loss of self-confidence. In extreme cases, individuals subjected to hate speech may even contemplate suicide. Furthermore, hate speech has the potential to escalate into hate crimes—crimes driven by prejudices against individuals with identities different from the perpetrator's. Such crimes can manifest as physical violence, property destruction, arson, or even homicide, deliberately targeting victims based on perceived characteristics that differ from the perpetrator's own.

- **Psychological violence:** - Every manifestation of violence encompasses a psychological dimension, as the primary objective of such behavior is to inflict harm upon the integrity and

dignity of another individual. In addition to this, there are specific forms of violence that employ methods not easily classified elsewhere, falling into a category that can be considered a purer form of psychological violence. This encompasses actions such as isolation or confinement, withholding information, disseminating misinformation, and exhibiting threatening behavior. Within the private sphere, psychological violence involves menacing behaviors devoid of physical violence or verbal elements. Examples include actions referencing past instances of violence or purposeful ignorance and neglect of another person. In the public domain, a common example of such violence involves isolating young individuals who deviate from traditional gender roles. Peers often employ isolation, but responsible adults, such as teachers and sports coaches, can also be perpetrators. Typically, this isolation entails exclusion from certain group activities and may involve intimidation, resembling psychological abuse in the private sphere.

- **Sexual violence:** - With an increasing wealth of information on the context of sexual violence, it is evident that, akin to other forms of violence, sexual violence constitutes an abuse of power. Sexual violence encompasses a range of actions, such as engaging in non-consensual penetration (vaginal, anal, or oral) with another person using any body part or object, participating in other non-consensual sexual acts, or compelling someone to engage in non-consensual sexual activities with a third party.

Sexual violence also includes marital rape and attempted rape. Examples of forced sexual activities involve coercing someone to witness masturbation, compelling someone to masturbate in front of others, enforcing unsafe sex, engaging in sexual harassment, and perpetrating abuses related to reproduction (e.g., forced pregnancy, abortion, sterilization, and female genital mutilation). Certain types of sexual violence are linked to a victim's personal boundaries and are more prevalent in the private sphere. Perpetrators intentionally transgress these boundaries, examples being date rape, coercion into specific sexual activities, using the withdrawal of sexual attention as a form of punishment, or forcing others to observe (and sometimes imitate) pornography. It is crucial to note that all forms of sexual violence can manifest in both private and public spheres.

- **Socio-economic violence:** - Experiencing socio-economic deprivation can heighten an individual's susceptibility to various other forms of violence and may even serve as a catalyst for the infliction of other violent acts. Global economic data unmistakably indicates that one of the repercussions of globalization is the feminization of poverty, rendering women generally

more economically vulnerable than men. However, economic vulnerability is not only a global phenomenon but also manifests on a personal level. In numerous abusive relationships, economic vulnerability has been recognized as a distinct phenomenon, warranting its own category. Even when the power dynamic is reversed, and a woman holds a higher economic status in a relationship, this doesn't necessarily eradicate the threat of violence. Conflicts over status and emasculation may still arise, especially in relationships already marked by abuse. Common manifestations of socio-economic violence include depriving the victim of their earnings, restricting them from having a separate income (assigning them a housewife status or compelling them to work in a family business without remuneration), or rendering the victim unfit for work through targeted physical abuse.

Additionally, there are two distinct categories of violence: domestic violence and (sexual) harassment, both of which may encompass a combination of the five types of violence mentioned earlier. In actuality, multiple forms of violence can coexist simultaneously, especially within abusive relationships. These various forms of violence can manifest in both the private sphere (within families and intimate relationships) and the public sphere, perpetrated by unknown individuals in public spaces or by organizations, institutions, and states.

4. CRIME AGAINST WOMEN IN AUSTRALIA (1500)

In Australia, various terms are used to describe violence against women, such as domestic violence, family violence, intimate partner violence, coercive control, online abuse, stalking, workplace sexual harassment, street harassment, and sexual assault. Our comprehensive definition encompasses all these manifestations of violence against women. Addressing gender inequality is crucial for preventing violence against women, and in Australia, various forms of gender disparity persist. Here are some examples:-

- ✓ The gender pay gap in Australia stands at 22.8% with women earning an average of \$26,600 less annually than their male counterparts.
- ✓ Despite constituting 47.4% of the workforce, women remain underrepresented in managerial roles across all industries, including those traditionally female-dominated. Only 14.6% of chair positions and 28.1% of directorships are held by women and they make up only 18.3% of CEOs and 32.5% of key management personnel.
- ✓ Women dedicate nearly 32 hours per week to household labor and childcare, a significantly higher commitment compared to men, who spend nearly 19 hours on these responsibilities.

- ✓ While there has been some improvement in Australia's attitudes towards gender inequality, concerning proportions of the population still hold beliefs that undermine women's leadership, reinforce rigid gender roles, limit women's autonomy, normalize sexism and deny the existence of gender inequality as a problem.

Advancing in Australia

While violence against women remains a significant challenge in Australia, it is essential to emphasize that it is not an inevitable issue; it is preventable. Encouragingly, there have been notable strides towards addressing this problem, including: -

- The development and endorsement of the National Plan to End Violence against Women and Children (2022-2023) by the Commonwealth, state and territory governments. This comprehensive 10 years plan signifies a collective commitment to taking action, fostering partnerships and preventing violence against women across the country.
- Growing attention to perpetration and engagement with men and boys in the prevention efforts. Frameworks like change the story men in focus, and the national plan outline essential actions for involving men and boys in the fight against violence towards women.
- Increased emphasis on establishing prevention infrastructure to ensure the effectiveness of efforts and contribute to lasting social change. This includes sustained political leadership, policy reform, regulatory changes, legislative adjustments and the implementation of national monitoring and reporting mechanisms as outlined in change the story.
- The Tracking Progress in Prevention report offers a comprehensive measure of the strides made over a decade in preventing violence against women in Australia. The report grounded in sound evidence, reflects encouraging signs of progress. It serves as a valuable resource for those involved in primary prevention efforts providing insights to inform strategies and investments for maximum impact and continued advancement.

While strides have been taken in Australia, the journey towards ending violence requires ongoing efforts. Recognizing that no single person or organization can accomplish this alone, a collective, national commitment is essential. Addressing the root causes of violence against women across diverse facets of society is imperative. The roles of individuals, families, communities, organizations, and systems, including the legal system, are integral in this

collective endeavor to create a society free from violence.

5. SUGGESTIONS TO CONTROL GBV

During the annual 16 Days of Activism against Gender-based Violence, UN Women stands in solidarity with survivors, activists, decision-makers, global citizens, and the UN system. Together, we are shining a spotlight on the critical necessity for substantial funding, crucial services, and financial support for prevention initiatives and data collection that inform more effective responses to gender-based violence. Putting an end to violence against women is a collective responsibility. Here are ten ways you can contribute to making a difference safely and with a significant impact :-

- ✓ Attentively listen to survivors and demonstrate belief in their experiences and narratives.
- ✓ Engage in educating the upcoming generation while embracing the opportunity to learn from them as well.
- ✓ Advocate for responses and services that are tailored to meet specific needs and purposes.
- ✓ Thoroughly comprehend the concept of consent, acknowledging its nuanced and critical aspect.
- ✓ Acquire a comprehensive understanding of the indicators of abuse and empower yourself with the knowledge of how to offer assistance.
- ✓ Initiate a detailed and meaningful conversation.
- ✓ Take a detailed stand against the perpetuation of rape culture.
- ✓ Provide detailed support by funding organizations that focus on women's initiatives.
- ✓ Establish a detailed commitment to mutual accountability within the community.
- ✓ Thoroughly understand the available data and advocate for increased data transparency and accuracy.

Empowering women and girls throughout their life journey involves various key strategies: -

- ✓ **Ensuring Educational Continuity:** Keeping girls in school to foster their personal and intellectual development.
- ✓ **Economic Empowerment:** Empowering women economically, providing opportunities for financial independence and self-sufficiency.
- ✓ **Feminist Approaches for Gender Equality:** Utilizing feminist approaches to address gender inequality, particularly within domestic spheres.
- ✓ **Safe Spaces:** Creating safe spaces for women and girls to foster a sense of security and well-being.

- ✓ **Financial Support:** Providing direct cash support to women, enabling financial autonomy.
- ✓ **Engaging Male Allies:** Encouraging the involvement of male allies in promoting gender equality.
- ✓ **Inclusive Decision-Making:** Ensuring the inclusion of women in decision-making processes at leadership levels.
- ✓ **Support for Women-led Organizations:** Supporting local women-led and women's rights organizations to enhance community resilience.
- ✓ **Comprehensive GBV Services in Crisis:** Rapid establishment of comprehensive Gender-Based Violence (GBV) services during crises to protect women and girls, minimizing their exposure to violence and promoting recovery and resilience.
- ✓ **Feminist Approach in Humanitarian Programming:** Integrating a feminist approach into humanitarian programming, recognizing and addressing the power imbalances between genders when designing interventions for crisis-affected populations.

Despite recognizing the gravity of Gender-Based Violence (GBV), understanding its severe consequences and the potential for prevention and response, there is an alarming lack of prioritization during humanitarian responses. In 2021, only 28% of GBV funding requirements were met, marking the lowest proportion in the past four years and a decrease from 32% in 2020. Urgent attention and increased support are crucial to effectively combat GBV and ensure the safety and empowerment of women and girls during humanitarian crises.

6. CONCLUSION

There is no universally perfect data source for studying gender-based violence; each method, including official data, victimization surveys, and self-reported surveys, has inherent limitations in measuring such violence. Nevertheless, the data compiled by India's National Crime Record Bureau (NCRB) stands out as a commendable model for collecting official information on gender-based violence, potentially offering insights for other nations. The NCRB's section on Crimes against Women encompasses a diverse range of gendered offenses, featuring categorizations based on location, motive, and cultural context. Notably, the classifications of crimes against women by the NCRB have undergone progressive evolution over the years.

The current study suggests that an increased presence of women police stations and women police personnel has contributed to a higher rate of reported crimes against women.

Additionally, empowerment initiatives, such as enhanced human development and education, appear to have a positive influence on reporting. In regions where women might be hesitant to report crimes committed against them, implementing gender-sensitive measures, such as establishing women police stations and increasing the representation of women in law enforcement, can encourage reporting.

Gender-based violence is a multifaceted issue influenced by various causal and facilitating factors. A thorough comprehension of GBV requires an examination of its long-term trends, patterns, and nature. The persistence of patriarchal culture fosters tolerance towards gendered violence, while societal changes introduce new opportunities for such crimes, rendering women vulnerable targets.

Preventing Gender-Based Violence necessitates addressing both the cultural underpinnings of patriarchy and the structural opportunities that facilitate such crimes. While achieving comprehensive cultural and social change may take time, immediate and practical solutions to crimes against women can be implemented through situational crime prevention at various intervention levels. This approach aims to address the immediate context and circumstances that contribute to gender-based violence

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