



## **Lok Sabha Background Guide**

**Agenda** :Review of laws in regard to women  
safety and digital stalking

## **Letter from the Executive Board**

Greetings Parliamentarians!

It gives us immense pleasure to welcome you to the simulation of Lok Sabha at Legge Rhythms International Model United Nations Conference. The agenda for the session being 'Review of laws in regard to women safety and digital stalking.'

This study guide is by no means the end of research, we would very much appreciate if the delegates are able to find new realms in the agenda and bring them forth in the committee. During the session, the executive board will encourage you to speak as much as possible, owing to the fact that fluency, diction or oratory skills have very little importance in contrast to the content you deliver. Just make sure you understand what you're speaking and present it with confidence. Also, we must remind you that as a Member of the Parliament, etiquette and decorum in the House is a sheer necessity. Quality research combined with good argumentation and a solid representation of facts is what constitutes an excellent performance.

This sitting in the House is not going to be an easy one, of this we assure you. The pressure of accusations and defence has never been easy to deal with. But, it is also not the sole purpose of the debate.

Thankfully for all of us, with the above comes another assurance, that of a productive session.

We are certain that the conference will prove to be a learning experience for both sides of the dais. In case of any queries feel free to contact us. We will try our best to answer your questions to the best of our abilities.

All the Best!

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**Speaker**

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*The problem of violence against women is multifaceted – Remember knowledge is power. Given the number of crimes that are committed against women, it is pertinent that women are aware of the laws that are in place to protect them.*

### **Status of Women in Free India**

Rightly did Swami Vivekanand say, '*Just as a bird cannot fly with one wing only, a Nation cannot march forward if the women are left behind.*'

Men and women are the two halves of a perfect whole. Strength is borne of their union their separation results in weakness. Each has what the other does not have. Each completes the other, and is completed by other. Etymologically, the word 'woman' mean - half of man. The relation of the male and female is very well illustrated in our *NyayaDarshan* by the analogy of mind and matter, which means that man and woman are closely associated with each other, as the soul and body. Therefore the women ought to be respected.

There is no doubt that we are in the midst of a great revolution in the history of women. The evidence is everywhere; the voice of women is increasingly heard in Parliament, courts and in the streets. While women in the West had to fight for over a century to get some of their basic rights, like the right to vote, the Constitution of India gave women equal rights with men from the beginning

Women in India now participate in all activities such as education, politics, media, art and culture, service sectors, science and technology, etc.

The Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42).

The Constitution of India guarantees equality of sexes and in fact grants special favours to women. These can be found in three articles of the Constitution. Article 14 says that the government shall not deny to any person equality before law or the equal protection of the laws. Article 15 declares that government shall not discriminate against any citizen on the ground of sex. Article 15 (3) makes a special provision enabling the State to make affirmative discriminations in favour of women. Moreover, the government can pass special laws in

favour of women. Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on the grounds of sex. Article 42 directs the State to make provision for ensuring just and humane conditions of work and maternity relief. Above all, the Constitution imposes a fundamental duty on every citizen through Articles 15 (A) (e) to renounce the practices derogatory to the dignity of women.

### **Women Rights in India: Constitutional Rights and Legal Rights**

The rights available to woman (ladies) in India can be classified into two categories, namely as constitutional rights and legal rights. The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights, on the other hand, are those which are provided in the various laws (acts) of the Parliament and the State Legislatures.

#### **Constitutional Rights to Women:**

The rights and safeguards enshrined in the constitution for women in India are listed below:

1. The state shall not discriminate against any citizen of India on the ground of sex [**Article 15(1)**].
2. The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women [**Article 15(3)**].
3. No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [**Article 16(2)**].
4. Traffic in human beings and forced labour are prohibited [**Article 23(1)**].
5. The state to secure for men and women equally the right to an adequate means of livelihood [**Article 39(a)**].
6. The state to secure equal pay for equal work for both Indian men and women [**Article 39(d)**].
7. The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [**Article 39(e)**].
8. The state shall make provision for securing just and humane conditions of work and maternity relief [**Article 42**].

9. It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [**Article 51-A(e)**].
10. One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [**Article 243-D(3)**].
11. One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [**Article 243-D(4)**].
12. One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [**Article 243-T(3)**].
13. The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [**Article 243-T(4)**].

### **Legal Rights to Women:**

The following various legislation's contain several rights and safeguards for women:

1. Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.
2. Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organised means of living.
3. Indecent Representation of Women (Prohibition) Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
4. Commission of Sati (Prevention) Act (1987) provides for the more effective prevention of the commission of sati and its glorification on women.
5. Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women.
6. Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.

7. Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
8. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female foeticide.
9. Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
10. Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
11. Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands.
12. Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
13. Indian Penal Code (1860) contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.
14. Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
15. Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
16. Legal Services Authorities Act (1987) provides for free legal services to Indian women.
17. Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.
18. Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men.
19. Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
20. Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.

21. The following other legislation's also contain certain rights and safeguards for women:

1. Employees' State Insurance Act (1948)
2. Plantation Labour Act (1951)
3. Bonded Labour System (Abolition) Act (1976)
4. Legal Practitioners (Women) Act (1923)
5. Indian Succession Act (1925)
6. Indian Divorce Act (1869)
7. Parsi Marriage and Divorce Act (1936)
8. Special Marriage Act (1954)
9. Foreign Marriage Act (1969)
10. Indian Evidence Act (1872)
11. Hindu Adoptions and Maintenance Act (1956).

22. National Commission for Women Act (1990) provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women.

23. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganized.

### **Subjugation of women**

Violence affects the lives of millions of women worldwide, in all socio-economic and educational classes. It cuts across cultural and religious barriers, impeding the right of women to participate fully in society. Violence against women takes a dismaying variety of forms, from domestic abuse and rape to child marriages and female circumcision. All are violations of the most fundamental human rights.

Human rights as an issue occupies centre stage in contemporary public debate. Part of the debate on Human rights is about the origin and significance of the notion itself. Changes in a society demand changes in the way of maintaining social order. The techniques of social control are also adjusted to changed situations, as no system of social control works perfectly. People often deviate from social and legal norms, although non-conformity varies greatly in form and frequency. Though deviation is perceived as a threat to social stability yet attitude towards deviants keeps on changing with change in beliefs in the causes of deviant behavior in general and crime in particular.

Almost every day there are chilling instances of violence, ethnic cleansing, heinous torture, child abuse, man slaughter and several other human rights violations. Despite the adoption of the Universal Declaration Human Rights (1948) and special covenants provided for the rights of children, women and disabled, crimes continue unhindered and unabated.

In India women constitute nearly fifty percent of our population. Women are denied human rights from the cradle to the grave. Infanticide is rampant in certain parts of the country where the birth of a girl child is not welcome. Nearly forty-one percent of the women abroad play an active role in the production process. In India the situation leaves much to be desired. Sexual abuse and flesh trade are gnawing evils, which threaten the existence of women as independent entities.

### **Crimes against women (Glimpses of India Penal Code,1860)**

- Kidnapping (Sec 359,360,366)
- Eve Teasing (Sec 509)
- Chain snatching (Sec 378)
- Rape (Sec 376,376A,376B,376C,376D)
- Sexual Harassment (Sec 354A)
- Domestic Violence (Sec 498A)
- Honor Killing
- Cyber Crimes (Bullying, Abuse, Violence, Pornography) (Sec 354A, 354D)
- Dowry deaths (Sec 304B)
- Acid Attacks (Sec 326A,326B)
- Stalking (Sec 354D)
- Assault to outrage modesty (Sec 354,354B)
- Women trafficking (Sec 370,370A,372,373)

### **Kidnapping**

The term kidnapping refers to either kidnapping from India or kidnapping from lawful guardianship. Sec 360 of the IPC states that whoever conveys any person beyond India without his consent is said to kidnap that person from India and whoever takes away a minor (16yrs in case of male and 18yrs in case of female) without his consent or the guardian's consent is said to kidnap that person from lawful guardianship (Sec 361). The punishment for this purpose is upto 7 yrs and fine. Sec 366 of IPC defines kidnapping,



abducting or inducing woman to compel her marriage and forceful sexual relations for which the offender can be punished with imprisonment upto 10 yrs and fine.

### **Eve Teasing**

Eve Teasing is a euphemism used for public sexual harassment or molestation of women by men. It is a problem in the current youth. It is a form of sexual aggression that ranges in severity from sexual remarks, brushing and catcalls to groping. Sec 509 of the IPC states that whoever intending to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object which intrudes upon the privacy of such woman shall be punished with imprisonment upto 3 yrs and fine.

### **Chain Snatching**

Theft against women confines to chain-snatching and other valuables. This is a common problem of modern society. Old-age women are the most affected class of these crimes. The offenders also disguise themselves as police officials and ask women to give their valuables for the purpose of safety. It is subjected to Sec 378 of IPC.

### **Rape**

Rape is a much broader term to be defined and its scope is of wider perspective. It is the most common crime against women and the Indian society and system has failed to end this heinous crime. The world is seeing India as a nation of rapists. The numbers have increased tremendously. The law system has failed purely. The offence can be categorized in various aspects as a rape of a minor girl, rape of a woman (Sec 376), rape with murder (Sec 376A), rape in families, rape by public servants (Sec 376C) , gang-rape (Sec 376 D), marital rapes (Sec 376B). The punishments for these offences range from imprisonment upto 7yrs to 20 yrs or Life imprisonment and also fine.

### **Sexual Harassment**

Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical harassment of sexual nature. It includes a range of actions from mild transgressions to sexual abuse or sexual assault, showing pornography to women against her will etc. Acc to Sec 354A of IPC if any person commits an act of sexual harassment, he shall be rigorously imprisoned upto 3yrs and fine.

## **Domestic Violence**

Domestic Violence is yet another term which is common in our country as women were and are considered to be the inferior strata of human society. The psychology was that the man earned and worked outside so he had the right to do anything with his wife. But with time, the trend changed and now women equally work. These acts of violence include beating, rape, forced sex etc. Sec 498A of Domestic Violence Act, 2005 defines 1yr punishment and fine.

## **Honor Killing**

A spate of murders and dishonourable crimes in the name of 'honour' whether of a family or caste or community are continuing to be reported. Though most of these killings and crimes are being reported from various states of India. A crime in the name of 'honour' is one of a range of violent or abusive acts including emotional, physical, and sexual abuse and other coercive acts. The panchayats or associations, through various kinds of coercive and punitive actions, want to create terror and stop marriages and associations on the basis of choice from taking place. These actions are also violative of certain fundamental rights in the Constitution of India, including the right to life, and liberty which includes the right to bodily integrity, and the right to choose whom to associate with.

## **Cyber Crimes**

In the world of technology, India too had advanced itself in technology and the women are an equal part of it. But the diseased minds have not left any chance to offend women in the cyber world too. There are several cybercrimes such as bullying, abusing, pornography etc which are happening each day against women. These crimes have several punishments under the Information Technology Act, 2000 which ranges from imprisonment upto 3yr to L.I. and fine.

## **Dowry Deaths**

The evil practice of taking dowry in marriage is still common in the rural areas of India which if opposed results to deaths of women gradually. The number of such deaths has increased in the recent years. Section 304-B of the Indian Penal Code provides punishment for dowry death.

### **Acid Attacks**

However sale of acids without proper information have been banned by the government of India, Acid attacks are still in trend to threaten women and hurt them. Sec 326A and 326B of IPC states that whoever voluntarily throws acid for grievous hurt or an assault shall be punished with imprisonment upto 7yrs to L.I. and fine.

### **Stalking**

Stalking is a new crime in trend against women. Stalking means breaching the privacy of women by following or regular contacts or monitoring on internet or any other electronic communication. Whoever does so shall be punished with imprisonment upto 3yrs to 5yrs and fine.

### **Assault to outrage modesty**

Whoever assaults or uses criminal force intending to outrage her modesty (1yr-5yrs imprisonment) or disrobing her or compelling her to be naked (3yrs-7yrs imprisonment) are liable under Sec 354 and Sec 354B respectively.

### **Women trafficking**

The concept of women trafficking started in the late 20th century in India and is still in existence. Sec 370 describes various modes of trafficking which includes trafficking of minor girls, trafficking for the purpose of exploitation etc. Sec 372 and 373 states the buying and selling minor for the purposes of prostitution. The imprisonment term varies in each offence and ranges from 3yrs to L.I. and also fine.

*Note—Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376B, 376C, 376D and 509 have been amended and inserted by The Criminal Law(Amendment) Act, 2013.*

These were several offences and their punishments under Indian Penal Code related to women. The government of India have made efforts in favor of women by bringing several act like Sexual harassment of women at workplace Act, 2013 ; Protection of children against sexual offences Act, 2013 etc recently. It has also amended the IPC and the Code of Criminal

Procedure. The government is keen to bring laws for Dowry related offences and for Honor Killing. Cyber crimes would be tackled sooner or later. In the recent years due to changes in society, women are now, ready to fight for themselves and they are getting a huge support. We wish to change our society but first we have to change our thinking.

### **Online harassment and digital stalking**

With an omnipresent monster such as the internet that stands within the reach of as many as 3.58 billion users globally, it is very important for female Indian users to know the laws that they can look to when in need.

In an attempt to secure the freedom of speech and expression of Indian internet users, the Supreme Court of India struck down Section 66A of the Information Technology Act in 2015 which encompasses the punishment for sending offensive messages through communication services.

However, in spite of the apex court's move, there exist laws in India that provide legal redressal to females who become victims of online harassment.

While it must be noted that not all such laws explicitly mention the term "internet", they can be interpreted in cases where a female individual is subjected to harassment on social media platforms or on e-mail.

Amendments were made to Section 354 of the Indian Penal Code in 2013 which criminalised the assault or criminal force to a woman with the intent to outrage her modesty.

Following are the laws that can be referred by victims of online trolling.

#### **Section 354A of the IPC:**

People posting lewd comments on social media are liable under this law and can be punished with one-year imprisonment and fine.

In addition, posting/messaging content related to pornography against the will of a woman or requesting sexual favours are punishable by a fine along with three years of imprisonment under the same provision.

**Section 354C of the IPC:**

This act deals with voyeurism which is a criminal offence under both the IPC and the IT Act. It deals with cases where a man, without the consent of a woman, captures an image/video of her engaged in a private act. Such an act is punishable by one to three years of imprisonment along with a fine. This provision can be referred to especially in cases when the woman does not expect to be observed by the accused.

**Section 354D of the IPC:**

This provision of the IPC deals with what is commonly referred to as “online stalking”. The provision covers the grounds of a case where an attempt to contact a woman is made via the internet, e-mail or any other form of electronic communication with the intention of establishing personal interaction despite her visible disinterest. Such an act is punishable with three years of imprisonment on the first count followed by five years of imprisonment on the second count both of which are in addition to a monetary fine.

**Section 503 of the IPC:**

In the case of an individual threatening a woman with the intention to either alarm her or malign her reputation, the former is liable to be penalised with a jail term of two years.

**Section 507 of the IPC:**

Under this provision, any individual who acts in the interest of intimidating or threatening a woman by anonymous communication is liable to be punished with two years in prison.

**Section 509 of the IPC:**

Under this provision, a person distinctly posting sexual remarks/pictures/videos comprising of sexual insinuations on social media is liable to three years of imprisonment along with a fine.

**Section 66E of the IT Act:**

Publishing a visual image of a person in print or electronic form that would result in the violation of the privacy of the individual would lead to three years imprisonment or a fine ranging from Rs 2 lakh to Rs 10 lakh.

According to this provision of the IT Act, while the first conviction would result in three years of imprisonment, a second conviction under the same provision can lead to a jail term spanning seven years along with a similar fine.

### **Section 292 of the IPC:**

Any book, paper, drawing, painting or figure used via an electronic medium that can be proved to contain “obscene” content falls under this provision. One can refer to Section 67 of the IT Act to gain more clarity about the territory that falls under the category of “obscene” content.

The Indian Information technology Act 2008 (amended) does not directly address stalking. But the problem is dealt more as an "intrusion on to the privacy of individual" than as regular cyber offences which are discussed in the IT Act 2008. Hence the most used provision for regulating cyber stalking in India is section 72 of the Indian information technology act ( Amended) , 2008 which runs as follows;

*Section 72: Breach of confidentiality and privacy: Save as otherwise provided in this Act or any other law for the time being in force, any person who, in pursuant of any of the powers conferred under this Act, rules or regulations made there under, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.*

And also section 72A of the Information Technology Act,2000(amended in 2008), which runs as follows:

*Section 72A: Punishment for Disclosure of information in breach of lawful contract (Inserted vide ITAA-2008): Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person shall be punished with imprisonment for a term which may extend to three years, or with a fine which may extend to five lakh rupees, or with both.*

In practice, these provisions can be read with section 441 of the Indian Penal Code, which deals with offences related to Criminal trespass and runs as follows: Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property , or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate , insult or annoy any such person, or with an intent to commit an offence, is said to commit criminal trespass.

If the cyber stalking is done only to annoy the victim and is not resulted to serious offences like severe defamation, sexual crimes, identity theft or even grave crimes like terrorism, it is treated as a bailable offence.

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However, after the December, 2012 Delhi gang rape incidence, the Indian government had taken several initiatives to review the existing criminal laws. A special committee under Justice Verma was formed for this purpose and basing upon the report of the committee, several new laws were introduced. In this course, anti-stalking law was also introduced. The Criminal Law Amendment Ordinance,2013 added S.354D to the Indian Penal Code to define and punish the act of stalking. This law is as follows:

S.354D of the IPC (as has been added by the The Criminal Law Amendment Ordinance,2013 ):

1. Whoever follows a person or contacts or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person or whoever monitors the use by a person of the internet, email or any other form of electronic communication or watches or spies a person in a manner that results in fear of violence or serious alarm or distress, in the mind of such person or interferes with the mental peace of such person, commits the offence of stalking.

Provided that the course of conduct will not amount to stalking if the person who pursued it shows

- i. that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention or detention of crime by the State , or
  - ii. that it was pursued under any enactment or rule of law, or to comply with any condition or requirement imposed by any person under any enactment, or,
  - iii. that in the particular circumstances, the pursuit of the course of conduct was reasonable.
2. Whoever commits the offence described in S.354D(1) shall be punished with imprisonment of either description for a term which shall not be less than one year but shall extend to three years and shall also be liable to fine.

Note : The Parliamentarians are expected to read the provisions as well as related precedents on the issue. We are not looking for existing solutions but a good thought process so as to amend the laws for better protection of women.