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## **UN report says India's infant mortality rates lowest in five years, four-fold decline in gender gap in girl child survival**

Opindia (18.09.2018) - <https://bit.ly/2MLB4sn> - The number of infant deaths reported in India for the year 2017 is the lowest in five years. According to reports, the United Nations Inter-Agency Group for Child Mortality Estimation (UNIGME) has stated in its report that 8,02,000 infants died in India in the year 2017, the lowest in five years.

The UNIGME report states that in 2016, 8,60,000 infants had died in India. Yasmeen Ali Haque, the UNICEF representative in India has stated, " India continues to show an impressive decline in child mortality deaths, with its share of global under-five deaths for the first time equalling its share of childbirths."

Yasmeen Ali Haque also reportedly stated that the efforts for improving institutional delivery along with a countrywide scale-up of newborn care units joined with robust immunisation drives have been instrumental in achieving the feat. According to reports, India's infant mortality rate was 44 per 1000 live childbirths. In 2017, the gender-specific mortality rate has come down to 39 per 1000 live male childbirths and 40 per 1000 live female childbirths. Haque added that the four-fold decline in the gender gap in the survival of girl children is even more heartening.

In 2012, a UN report had stated that the gender gap in child mortality in India is far worse than the global average in developing countries and as girls have biological advantages over boys for better adaptability and resistance to diseases, the child mortality rate of 56 boys for every 100 girls dying suggests a disturbing socio-cultural trend of neglect and lack of care for the girl child.

The recent UNIGME report states that globally a total of 6.3 million children had died in 2017, 1 in every 5 seconds. Most of these deaths were due to preventable causes. A majority of these deaths, 5.4 million is among children below 5-years of age. Laurence Chandy, the director of data, research and policy in UNICEF has stated that simple measures like access to clean water, sanitation, electricity and vaccines can drastically reduce the numbers. Chandy added that over half of the 5.4 deaths among children below five had occurred in sub-Saharan Africa and a further 30% In South Asia.

The UNIGME report states that most children under 5 die due to preventable causes like complications during birth, pneumonia, diarrhoea, neonatal sepsis and malaria. The report also stated that for children everywhere, the riskiest period is the first month after birth. 2.5 million of the 5.4 million deaths under were of infants in their first month. Even within countries, rural areas show a 50% higher rate in neonatal deaths than urban areas.

In India, the recent increase in awareness over sanitation and the government's drive to ensure toilets in every household is widely considered a strong factor in bringing down death rates among the population. A recent WHO report had stated that over 3 lakh deaths due to sanitation-related diseases were prevented in India due to the government's push for Swachh Bharat Mission. In Uttar Pradesh, an aggressive immunisation and awareness programme called Dasatk has been able to significantly bring down deaths due to Japanese Encephalitis. UNICEF India had praised UP CM Yogi Adityanath's government recently for successfully immunising every child in the state against Japanese Encephalitis.

## **To cut underage marriage, expand RTE, say experts**

By Ambika Pandit

The Times of India (12.09.2018) - <https://bit.ly/2OdGMVH> - A report on child marriage and teenage pregnancies that analyses the data from National Family Health Survey-4 (2015-16) shows a direct co-relation between underage marriages and educational status of girls.

Citing low prevalence rates where girls have completed secondary education, the report by National Commission for Protection of Child Rights and voluntary organisation Young Lives makes a pitch for making secondary level schooling a fundamental right.

Findings show the completion rate of secondary schooling is considerably higher among unmarried girls aged 15-19 years in almost all states. Even National Human Rights Commission secretary general Ambuj Sharma emphasised the need to extend the right to education from Class VIII to the secondary level.

The NHRC is also planning to recommend to the ministry of women and child development a uniform age for marriage for both men and women. In 140 countries, age of marriage is 18 for both men and women. Last month the law commission in a consultative paper on family laws suggested the legal age for marriage for both men and women across religions should be recognised at 18 years, the universal age for majority.

The study based on NFHS-4 data shows that of the 15 to 19 year old girls, who at the time of the survey reported to have been married before the legal age of marriage, 30.8% had never been to a school and 21.09 % had education up to the primary level. The percentage of girls who had secondary education and were married before 18 was 10.2%.

Those with higher levels of education were further down to 2.4%. While overall prevalence of child marriage declined from 26.5% in 2005-06 to 11.9% in 2015-16. Bihar is a case in point. The state recorded a significant decline in child marriages from 47.8% in 2005-06 to 19.7% in 2015-16.

The study also reveals that amongst the married girls aged 15 to 19 years, 31.5% girls were found to be have babies. Almost a quarter of the married girls in the age group of 15 to 16 years had at least one child.

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## **FGM: Court should not decide validity of religious practice on PIL: Dawoodi Muslim group**

Business Standard (26.08.2018) - <https://bit.ly/2LE3nZ6> - A group of Dawoodi Bohra Muslim community members today told the Supreme Court that the courts should not decide the constitutionality of a centuries-old religious practice of female circumcision through the public interest litigation (PIL) route.

The group said said female circumcision is practised by a few sects of Islam including the Dawoodi Bohra community and the validity of this be examined, if at all, by a larger Constitution bench.

A bench headed Chief Justice Dipak Misra, hearing a PIL filed by a Delhi-based lawyer challenging the practice of female genital mutilation (FGM) of minor girls of the Dawoodi

Bohra Muslim community, was told by senior advocate A M Singhvi that the validity of a religious practice cannot be examined in a PIL jurisdiction.

"The object of female circumcision (FC) and male circumcision (MC) is a religious practice in Islam and they are related to purity aspect," Singhvi, appearing for over 70,000 Dawoodi Bohra Muslim women, told the bench which also comprised justices A M Khanwilkar and D Y Chandrachud.

He said though male circumcision (MC) is followed by all sects of Islam, the FC is being observed by few sects including the Dawoodi Bohra community and the validity of this be examined, if at all, by a larger Constitution bench.

He said that if the government would have brought a legislation banning the FC then it could have been challenged on the grounds of violation of Article 14 (right to equality), but this recourse, would not be available to the community if the court decides to examine the validity of the practice.

He also referred to the apex court's judgement on right to privacy and said that the PIL petitioner has been entering into private area of the community.

Singhvi said that no affected Bohra Muslim woman has come to the court challenging the practice and to allege that it has harmed her emotionally and physically.

The advancing of arguments remained inconclusive and would resume on August 30.

Earlier, the apex court had said that the female genital mutilation (FGM) of minor girls of the community leaves a "permanent emotional and mental scar" on them and the practice may be held as violative of dignity of women as prescribed in the Constitution.

The apex court had also said that the fact that the FGM is being practised from tenth century is not "sufficient" to hold that this formed part of the "essential religious practice", which cannot be scrutinised by court.

Attorney General K K Venugopal, appearing for the Centre, had reiterated the government's stand that it was opposing the practice and said that this has been banned in many countries like the US, the UK, Australia and around 27 African nations.

The practice causes irreparable harm to girl children and has many health repercussions, the top law officer said and referred to Article 25 to highlight the point that a religious practice can be stopped if it was against "public order, morality and health".

The bench was hearing the PIL filed by Delhi-based lawyer Sunita Tiwari against the practice in the community.

Tiwari, in her plea, sought a direction to the Centre and the states to "impose a complete ban on the inhuman practice" of 'khatna' or "female genital mutilation" throughout the country.

Female genital mutilation is performed "illegally upon girls (between five years and before she attains puberty)" and is against the "UN Convention on the Rights of the Child, UN Universal Declaration of Human Rights of which is India is a signatory", the plea said, adding the practice caused "permanent disfigurement to the body of a girl child".

**HRWF note:** As stated in our report [Women's Rights and Religion](#), there is no legitimate justification – religious, health, or otherwise – for FGM/c. It is a dangerous and

sometimes deadly practice and illegal under international law. Religious leaders are key in movement to change community mindsets and end the practice.

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## **Women from the Bohra community are fighting against Female Genital Mutilation to win back their freedom**

***The women of the Bohra community are fighting against Female Genital Mutilation to win back their sexual and bodily freedom as heated debates are ensuing everywhere about the malpractice.***

News18 (15.08.2018) - <https://bit.ly/2LlwW1F> - India celebrates its 72nd Independence Day this year but the fight for freedom is far from over for several women of the Dawoodi Bohra Community, who are seeking a ban on the practice of Female Genital Mutilation/Cutting (FGM/C) -- a religious practice in the Bohra community which violates women's freedom to have control over their own body, their right to privacy, and their sexual freedom.

FGM/C, also known as Khafz, is the process of intentionally changing or causing injury to a girl or woman's genital organs for non-medical reasons. The operative words here being 'intentionally' and 'non-medical reasons'. The World Health Organization (WHO) has called this procedure a violation of human rights of girls and women.

Yet, routinely, six-year-old or seven-year-old girls of the Bohra community are made to undergo this process, where their clitoris hood is either cut or nicked without their consent. Until 2011, however, it wasn't known that FGM/C was a prevalent practice in India.

"In 2011, the first petition against FGM by Tasleem came out and it got some media attention," said Aarefa Johari, a journalist by profession, who had undergone FGC as a child.

"Then, I started speaking out. That also triggered a lot of reactions. In the next three to four years, Insiya Dariwala who was writing a script on the issue met me. Priya Goswami made a film on it called 'A Pinch of Skin'. Then, a few of us met online and a conversation began," she recalled. Johari, along with Dariwala, Mariya Taher and Priya Goswami is the founder of Sahiyo, an NGO that fights for women's rights and against the practice of FGM/C.

The conversation that Johari is talking about is not just fairly recent, but also anecdotal for the most part. In the last seven years, many women from the Bohra community have come out and spoken about their experiences of undergoing FGM/C. The Bohra community has a rich history of trading, they are popular for their cuisine, and the literacy rate is much higher among Bohra women.

However, regardless of it all, women of the community have been coerced into continuing this procedure for generations. Most women who have come out and spoken against FGM/C recall it to be a traumatic experience. Sift through the media reports on FGM/C, and you will find intricate personal accounts of women, unfolding the details of how they, as little girls, were taken by their mothers or grandmothers to midwives on the pretext of a party or shopping, and then pinned down and nicked or cut in their most private part, not just without consent but also without prior intimation.

Several women confessed that they felt betrayed, and the overall experience has had a negative psychological impact on them. However, the worst part about undergoing this

'irreversible' process is not just the post-traumatic stress but also several physical and sexual problems that they have to live with for the rest of their lives. In many women, Khafz curbs sexual desire, while others endure pain during intercourse and complications at childbirth. These women also face a high risk of urinary tract infections.

And yet, despite the obvious negative effects of FGM/C, getting rid of the practice in India, amending old laws or coming up with new ones to curb the practice is not as easy a task as one might think.

Currently, the Supreme Court, which is hearing PILs filed by lawyer Sunita Tiwari and two Bohra women, is in the process of deciding the legality of FGM/C.

Advocate Aanchal Singh, one of the advocates of the Lawyers Collective, who along with Indira Jaising is representing women who are against FGM/C, said that they have formulated their arguments around Article 14, 15 and 21 of the Indian constitution.

"We have argued that the practice of FGM/C is against Article 21 of the constitution, which guarantees the fundamental right to life, personal liberty, and dignity. Since the practice is also to curb the sexuality of a woman, and therefore, trying to control her, so it is against her right to equality as well...The practice is against her dignity and personal autonomy too."

However, Singh said that the Union of India claims that FGM/C is already an offence, as there are existing laws under Indian Penal Code and POCSO (Protection of Children against Sexual Offences) against it. Under IPC 319-325, the intent to 'hurt' or cause 'grievous hurt' covers FGM/C. While POCSO's Section 3 (penetrative sexual assault) and Section 5 (aggravated penetrative sexual assault) can be used to curb the practice.

"To implement POCSO, there has to be a sexual intent," said Singh. "However, in the case of FGM/C, there is no sexual intent of the midwives. It is done as a religious practice," she added. Therefore, neither of these laws inclusively covers FGM/C. Coming up with a new law or amending an already existing one, or coming up with specific guidelines to address FGM/C are some of the things that the apex court might have to look into in order to curb the practice in India, pointed out the lawyer.

The PILs against FGM/C are, however, facing opposition from the Dawoodi Bohra Women for Religious Freedom (DBWRF), a collective of 70,000 Bohra women, who have filed an intervention in the ongoing case saying that FGM/C falls under the right to practice their own religion which is guaranteed by Article 25 and 26.

"Why are people calling such a small procedure 'mutilation'?" asked the Secretary of DBWRF, Samina Kanchwala. "Do people not know the meaning of mutilation? This is my religious right, this is my basic religious tenet. It is very important for our spiritual being. This is not forced upon anyone, it's a choice that you make. There are people who do not want to do this, and that's fine. But why do you deny this right or this freedom to people who actually want to perform it? I should be given the freedom to practice my religion because this practice is completely harmless." she added.

Several survivors, however, tell a different story and often say that women who choose to speak out against the practice, or parents who decide not to make their daughters undergo FGM/C often face discrimination. Saleha Paatwala, who had undergone FGM/C as a child said, "Girls who don't go through this practice are sometimes not even invited to religious activities,".

"One girl had spoken against this practice and after that video was out, she and her family was asked to apologize to the clergy. She was told to remove herself from the video or she might face excommunication." Paatwala confessed.

Talking about how the community reacts as and when women speak out against FGM/C, Insia Dariwala, a co-founder of Sahiyo said, "I think it's very subtle...It's not like they are going to ostracise you or throw you out of the community because you are speaking against FGM/C. But it isn't accepted very nicely. They might not tell you that they are against what you are saying, but they make sure that you know. They try to get to you via your family, instead of directly talking to you. "

Another claim that DBWRF has made is that the process of FGM/C is harmless. "First and foremost, we do not touch the clitoris at all. What is done is just a nick on the prepuce (hood)," said Kanchwala.

"There are papers that also mention how it is beneficial and hygienic. It's about enhancing, it is not about curbing sexualism. Tell me one thing if it exposes your clitoris, should it enhance or should it decrease your pleasure? Any scientific mind will tell you that it is for enhancing the pleasure," she added.

Shujaat Vali, a gynecologist, and a surgeon, however, said that "I have also seen cases where the clitoris is either disfigured or very small in Bohra women. I examine them when they come for pregnancy-related treatment. I have seen that Bohra women, who have undergone FGM/C in their childhood, have a damaged clitoris which in turn does a lot of damage to their sexuality, and their arousal."

Vali also pointed out that Khafz is quite different from male circumcision. In male circumcision no harm is done to the penis, it is only the foreskin that is removed, however, in female circumcision the hood and the clitoris is so close that it is nearly impossible to remove the prepuce (hood) without hurting the clitoris. So in most cases, inevitably, the nick is not just of the clitoral hood.

After DBWRF filed the intervention in court, another debate on whether FGM/C is an essential or non-essential part of their religion has begun. Many of the women I interviewed said that the practice does not have any mention in Quran.

In fact, a woman (who doesn't wish to be identified by her real name) who had also undergone FGM as a child and is now supporting the movement to abolish the practice said, "Propagators of FGM cite religious texts to continue practicing Khafz. But researchers have found that the practice pre-dates Islam. While Khafz is mentioned nowhere in the Quran, these other religious texts being cited talk about religious purity and continuing this practice to pleasure the husband."

"However, in all the community discourses, this has not come forth. It has always been about religious purity. They conveniently leave out the part about FGM/C being done for the husband's pleasure." she added. Apparently, the clitoris hood is also referred to as the 'haraam ki boti' or an immoral lump of flesh which causes women to become promiscuous. Therefore, it is nicked/cut to curb any sexual desire.

Recently, the practice of FGM/C has stopped among the same community living in several western countries.

"Similar practice has been banned by the same community in several other countries, by their community heads called Syedna. In a recent judgment in New South Wales, a mother, a midwife, and a Sydena who propagated the practice of FGM/C, were accused and found to be culprits," pointed out Singh.

"After this judgment, there was a resolution passed by several Syednas across the world, where they have asked members of the community to follow the law of the land they live in and prohibited the process of FGM/C," she added.

So, the arguments that are being put forth by those who are against FGM/C are that it is not an essential practice because had it been essential, Syednas of different countries would not have exempted women from undergoing it. Also, if it is not an essential practice, then why should women in the Indian Bohra community still undergo this process?

One of the biggest hindrances for the women who have been fighting against the practice of FGM/C is the lack of data. The Ministry of Women and Child Development maintains that there is no data collected by the National Crime Records Bureau, and therefore, the ministry claims that FGM/C doesn't exist in India.

Masooma Ranalvi, who is a member of WeSpeakOut, the largest survivor-led movement against FGM/C said, "It was a secret practice for a really long time. Nobody knew about this, it is only when women started speaking out that people realized what had been happening in this community."

"The only way for the government to have data would be for the government to undertake research. The government can hear the women who are speaking out, who are saying that this has happened to them, who are survivors. The onus should be on the government to collect data," she added.

WeSpeakOut recently did a research on FGM/C, where they did field interviews of 94 participants and found that 75% of all daughters of the study sample were subjected to FGM/C, which means it continues to be practiced on little girls. They also found that 97% of women who remembered their FGM/C experience from childhood recalled it as painful.

"The verdict is still awaited in the ongoing case against FGM/C, but the observations by Supreme Court have been very positive so far. One of the observations being that no one has the right to tamper with the bodily integrity of a person. The tampering and cutting of genitals are irreversible. One has to live with it for all their lives. We are happy with the court's observations." added Ranalvi.

WeSpeakOut and Sahiyo are continuously trying to sensitize people about this practice. However, the Supreme Court judgment will play a crucial role in how the community continues to see FGM/C in future. The lack of knowledge about their sexual parts is common among most Indian women, including women from the Bohra community, therefore, sensitization on female anatomy is also a must.

"The Bohras are also devout followers of Syedna," pointed out Saleha Paatwala, "if he comes out and guides them to not practice FGM/C, people will most certainly obey," she added.

A few measures to curb FGM/C would be to talk to doctors and bringing out reports from the doctor's association which call this practice as harmful. Efforts need to be made to include this in the school curriculum for adolescents to make them understand why it is practiced, and an in-depth study by the government to prove its prevalence in the community will also go a long way in addressing FGM/C.



## **India's death penalty for rapists of young girls could push them to kill**

***With the majority of rapes committed by someone known to the victim, the new law could drive offenders to murder to avoid detection***

By Rituparna Chatterjee

The Guardian (24.04.2018) - <https://bit.ly/2qZ8CKP> - n Saturday India's government approved the death penalty for convicted rapists of girls under the age of 12, amid a groundswell of public outrage following the gang-rape and murder of an eight-year-old Muslim girl in Jammu and Kashmir state.

The shocking case involved a girl from the Bakarwal nomadic tribe, who was out grazing her horses when she was abducted, drugged and murdered after a week of torture and repeated rape. It led to a nationwide outcry for swifter justice.

However, the hastily issued executive order is facing criticism from activists and politicians, who say the death penalty, usually meted out for severe crimes in India, will not be a deterrent to child rapists without an overhaul of the criminal justice system.

"I am afraid this [executive order] has very little credibility because what is required is certainty of punishment," the leader of Communist Party of India (Marxist), Brinda Karat, told reporters.

According to the National Crime Records Bureau data from 2016, in 94.6% of cases, the perpetrator is known to the victim – usually a brother, father or someone from the family's social circle. Reporting rape in India's patriarchal family structure is often fraught with victim shaming and further alienation.

Child rights activists fear the introduction of the death penalty will make families more likely to cover up sexual crimes, and that rapists might kill their victims to avoid detection.

Critics are also concerned that the order, which was approved by Prime Minister Narendra Modi's cabinet on Saturday, makes no mention of boys. In a country where male children often grow up in an atmosphere that discourages them from showing vulnerability, experts say such a discriminatory legal provision will fail boys who have been sexually assaulted.

Unlike the current Protection of Children from Sexual Offences Act (Pocso) 2012, which is gender-neutral and defines any person under 18 as a child, the new ordinance will stop boys who have been sexually abused from seeking the same justice accorded to a girl of their age, says gay rights activist Harish Iyer.

"I principally stand against the death penalty. This discriminatory legislation implies what boys are taught growing up – that they have to be the protector and not the protected. Children are vulnerable to sexual assault, irrespective of gender," Iyer said.

A nationwide survey of crimes against children conducted by the ministry of women and child development in 2007 found that half of India's children had been sexually abused.

Iyer said the new executive order was a shortcut for an overhaul of a criminal justice system that often discriminates against the poor. "This is sexism of a different nature, it favours one gender. What about protection of intersex children? Unless the crime is

female foeticide, which is specifically gender-oriented, this is a shortcut for real measures.”

He said the government should prioritise fast-track courts, child-friendly police stations, and a national registry of sex offenders. The new law proposes stricter punishment for convicted rapists of children under 16 years of age. Its definition of the victims and proposed age limit has triggered a debate about categorising victims of the same crime.

“What’s the explanation for death penalty for ‘gang rape of children below 12 years’? The state is a man. Why else would the reproductive age of a girl be the determining factor for the kind of punishment meted out to the rapists?” journalist Kota Neelima wrote in a Facebook post.

In 2016 India recorded an alarmingly low conviction rate (18.9%) for crimes against women. In that year, of all the child rape cases that came before the courts under the Pocso, less than 3% ended in convictions.

An issue of such a grave nature should have had a public discourse with participation from civil society stakeholders. By its nature, an executive order can be announced by the president of India on recommendation from the federal cabinet and does not require consultation.

After the gang rape of Jyoti Singh in Delhi in 2012, India introduced tougher rape laws and launched fast-track courts, but the measures have not deterred violent sexual crimes.

In addition, homelessness and poverty increase the vulnerability of children to sexual predators as parents have to leave them on their own to go to work, making them easy targets.

In an election year, the ruling Bharatiya Janata Party (BJP) wants to be seen as proactive in taking strong steps to make India safer for women. However, it is implementation, the real challenge in India, that will determine its true intention.

**Further reading:**

[India's cabinet adopts death penalty for rape of girls under 12](#)  
[The death penalty ordinance has no leg to stand on](#)

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## **Indian Supreme Court to examine legality of polygamy**

***The practices of ‘nikah halala’ and polygamy are discriminatory, say women’s rights groups***

By Karuna Madan

Gulf News India (26.03.2018) - <https://bit.ly/2pGg50G> - Months after declaring the instant “triple talaq” form of divorce unconstitutional, India’s Supreme Court (SC) on Monday agreed to examine the legal validity of polygamy, as well as “nikah halala” — an Islamic process required to remarry one’s divorced wife.

A Constitution Bench of the court, comprising five of the most senior judges, will next month hear four petitions challenging the legal validity of the two practices.

Bharatiya Janata Party (BJP) lawyer Ashwini Kumar Upadhyay filed a petition, along with two Muslim women and another lawyer from Hyderabad, demanding a ban on polygamy and 'nikah halala'.

"Banning polygamy and 'nikah halala' is the need of the hour to secure basic rights for Muslim women. I know so many women who are victims of polygamy. We want the Supreme Court to look into the plight of thousands of Muslim women across the country," Upadhyay said.

Over the years, several women's rights groups have said the practices of 'nikah halala' and polygamy were discriminatory.

According to a Hyderabad-based petitioner, whereas the Muslim law allows a man to have multiple wives by way of the temporary marriages or polygamy, the same permission is not extended to women and therefore the law violates the fundamental rights of Muslim women.

While polygamy is the practice of being married to more than one woman, 'nikah halala' is a practice meant to curb divorce.

Under 'nikah halala', a man cannot remarry his former wife without her going through the process of marrying someone else, consummating that marriage and getting divorced.

Meanwhile, the court on Monday issued notices to the central government and Law Commission asking them to make their stand clear on several such petitions asking for the two practices to be abolished.

The court observed that the five-judge bench which examined instant 'triple talaq' last year had kept open the issues of polygamy and 'nikah halala'.

In its judgment, the top court had described instant 'triple talaq' as "bad in law". "Instant 'triple talaq' is not integral to religious practice and violates constitutional morality," the court had said.

In August last year, Chief Justice J.S. Khehar had said "we have taken a conscious decision to deal only with triple talaq and not polygamy or 'nikah halala'".

When the Attorney-General (AG) requested all three issues to be heard together, Justice Khehar had said, "It does not even happen in T20 cricket that one can take three wickets in one ball."

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## **Youth in India take on tribal elders to end virginity test of brides**

By Roli Srivastava

Thomson Reuters Foundation (06.02.2018) - <http://tmsnrt.rs/2Bf345x> - Vivek Tamaichikar didn't think of food and festivities when he started planning for his marriage this year in western India. He instead started a campaign against the virginity test that elders would impose on his bride.

The couple are members of the nomadic Kanjarbhat tribe, which is spread across states including Maharashtra. Members follow caste councils, comprised of elders who dictate rules including rituals performed on wedding nights.

Newlyweds are asked to consummate the marriage while elders sit outside their room.

The bride is first checked by women for any wounds she could possibly bleed from, and the groom is allowed into the room only after that.

Afterward, he tells the council if his wife was a virgin - a verdict that hinges on whether or not she bled during sex.

Young women who fail this test may be abandoned or face a "social boycott", even though Maharashtra has banned village councils from imposing such penalties.

Tamaichikar, 28, said his family told him that he and his bride would be ostracised by the community if they refused the test.

"I realised the societal pressure was huge and decided to speak publicly against it," Tamaichikar told the Thomson Reuters Foundation.

Childhood memories of a woman who failed the virginity test also contributed to his decision.

"I remember enjoying my cousin's marriage party one night, and seeing her being beaten up the next morning," he said.

Unelected caste councils hold sway in various communities in India, delivering judgements and punishments to those defying their rules. India's Supreme Court in 2011 described one such council in northern India as a "kangaroo court".

Nandini Jadhav of Maharashtra Andhashraddha Nirmoolan Samiti, which campaigns against superstitious practices, said the advocacy group has been fighting virginity tests for five years.

"Even women do not see anything wrong in checking a girl's virginity," said Jadhav, adding that more young men are now speaking out.

"The message is reaching a wider set of people." Tamaichikar's group has expanded from about half a dozen young members to about 60 since he started it in December.

This is the first time members of his community - where even doctors have obeyed the council's rules - are speaking against the ritual. "At least the doctors could have explained to the community that the virginity test was not scientific," Tamaichikar said. "But they didn't, fearing a boycott."

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## **India Supreme Court intervenes in 'love jihad' case**

***An Indian woman at the centre of an inter-religious marriage row may leave her father's custody and resume her studies, the Supreme Court has ruled.***

BBC (27.11.2017) - <http://bbc.in/2Bk3ch6> - Hadiya Jahan, who is in her 20s, was born into a Hindu family, but converted to Islam and married a Muslim man.

Her family alleges she was brainwashed as part of an anti-Hindu conspiracy. In May, her marriage was annulled.

The court did not accept that she did not know her own mind. It has still to rule on whether her marriage is legal.

Marriages between Hindus and Muslims have long attracted censure in conservative Indian families, but the attachment of a deeper, sinister motive to them is a recent phenomenon.

Hadiya Jahan, earlier known by her Hindu name Akhila Asokan, has always insisted that she acted out of her own free will.

She had asked the Supreme Court to let her husband, Shafin Jahan, be her guardian. But it named her college dean as guardian while the case continues.

Radical Hindu fringe groups have described her case as a typical example of "love jihad" - a term they use to accuse Muslim men of participating in a "conspiracy to turn Hindu women from their religion by seducing them".

Ms Jahan and her husband appealed after the high court in the state of Kerala annulled their marriage. The Supreme Court ordered an independent investigation.

She was summoned to testify by the top court on whether she had been forced to convert.

Ms Jahan told the three-judge bench, headed by Chief Justice Dipak Misra, that she wanted her freedom and to see her husband, who would support her financially.

"I want to complete my studies and want to live my life according to my faith and as a good citizen," she said, the Hindustan Times reports.

She also said that she had been kept in "unlawful custody" for 11 months by her parents. The court removed Hadiya from her father's custody and said she could live in the college hostel to finish her education. The judges also ordered police protection for her.

The next hearing is scheduled for late January.

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## **Sex with minor wife is rape, rules Supreme Court**

***Exception clause to the heinous offence of rape allows a man to have sex with his wife who is not aged below 15.***

By Krishnadas Rajagopal

The Hindu (11.10.2017) - <http://bit.ly/2yaPrRw> - The Supreme Court on Wednesday held that a man will be punished for rape if he is found to be guilty of having sexual intercourse with his minor wife.

A Bench of Justices Madan B. Lokur and Deepak Gupta read down exception 2 to Section 375 (rape) of the Indian Penal Code (IPC).

The exception clause to the heinous offence of rape allows a man to have sex with his wife who is not aged below 15.

## **Verdict ends disparity**

With this verdict, the court has ended the disparity between this exception to Section 375, which allows a husband to have sexual relationship with his 15-year-old wife, and the definition of 'child' in recent laws such as the Protection of **Children** from Sexual Offences Act, 2012, which includes any person below the age of 18.

The verdict also ends tacit acceptance of the exception clause in the IPC provided to child marriages, which was declared illegal and is a punishable offence, though a social reality especially in rural parts of the country.

The court had agreed with NGO Independent Thought, which filed the petition challenging the exception, on how when sexual intercourse with a minor aged below 18 with or without her consent amounts to rape under IPC, it is not so once she is married.

The NGO had argued that the exception was a violation of the fundamental right to life and equality of minors.

The judgment, though the Bench had said time and again that it did not want to delve into the issue of marital rape, now inevitably opens a window for law on marital rape.

The court had questioned the reason for Parliament to create an exception in the penal law declaring that sexual intercourse by a man with his minor wife is not rape.

It had asked the reason behind such an exception in the IPC when the age of consent was 18 years for "all purposes".

"We do not want to go into the aspect of marital rape. That is for Parliament to see if they want to increase or decrease the age of consent. But once Parliament decided that we have fixed 18 years as the age of consent, can they carve out an exception like this," a Bench of Justices Madan B Lokur and Deepak Gupta had asked the Centre during the hearings.

"When you [government] recognise the age of consent to be 18 years for all purposes, then why this exception," it had asked.

The government counsel had defended the exemption as something Parliament had given due thought and consideration about.

During the hearing, the Bench referred to the aspect of child **marriage** and said that despite there being law that held it illegal, the practice was still going on.

"Whether or not it [child marriage] is a social reality, for 70 years we have not been able to remove it," the Bench had observed.

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## **Young girls abused in south Indian temple rituals – rights commission**

***Rituals involve the girls being dressed as brides and then having their dresses removed "virtually leaving them naked"***

By Anuradha Nagaraj

Thomas Reuters Foundation (26.09.2017) - <http://tmsnrt.rs/2xWemtY> - The practice of keeping young girls in village temples to be worshipped as goddesses as part of rituals in south India amounts to abuse and slavery, the national rights commission said.

The rituals in which girls are dressed as brides and then "their dresses are removed, virtually leaving them naked" is a form of the banned devadasi system, the National Human Rights Commission said in a report published on Monday.

Practised in the southern states of Tamil Nadu and Andhra Pradesh and parts of western India, the devadasi system, which "dedicates" girls to a life of sex work in the name of religion, continues despite being outlawed in 1988.

"They are denied to live with their families and have education. They are forced to live in Mathamma temples, deemed to be ... public property and face sexual exploitation," the commission said in a statement.

The report was referring to a 15-day festival in parts of Tamil Nadu, which concluded on Tuesday, where local goddesses are worshipped and seven young girls are chosen by the community to stay in the temple.

The state government has denied accusations of abuse.

"Our child protection team has visited the temple in question and parents are there to take care of the girls," said K Veera Raghava Rao, the administrative head of Madurai district in Tamil Nadu.

"These are 200 year old traditions that are practised in many village temples across the region. We have not found any case of abuse and our officials are monitoring the functions. We have asked them to cover the girls with a shawl."

But campaigners said that in the name of tradition, hundreds of girls between the ages of seven and 10 years are made to stay in the temple premises during the festivities.

These girls, or Mathammas as they are referred to in parts of Tamil Nadu, are then forbidden to marry and must earn their living by dancing at the Hindu temples.

In some cases young girls being initiated into the practice have to be bare-chested with only garlands and jewels covering them, while in others they are made to carry pots of liquor as part of the celebrations, child rights campaigners added.

"As you travel through the region, the names keep changing, but the fact is that women are being forced into prostitution in the name of rituals," said Priyamvada Mohan Singh, a criminology professor who carried out a survey in 2016 on the devadasi tradition for the Indian government.

"The tradition exists in Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra. We have documented many cases during our research."

The National Human Rights Commission said the practices violated the children's rights and asked both the Tamil Nadu and Andhra Pradesh governments to respond in four weeks.

**Additional information:** [NHRC notice to the Governments of Tamil Nadu and Andhra Pradesh over allegations of continuance of Davadasi system like offering of girls to Goddess Mathamma \(25.09.2017\)](#)

## **"A feeble no may mean yes": Indian court overturns rape conviction**

***Activists say Delhi high court's decision in case of film director Mahmood Farooqui sets a worrying precedent on consent.***

By Michael Safi

The Guardian (26.09.2017) – <http://bit.ly/2y7UsNy> – An Indian court has overturned a rape conviction against a film director, ruling that a "feeble no" can signal consent, especially in cases where the alleged victim is well-educated.

Women's rights activists said the decision "muddies the water" around consent in a country struggling to curb high levels of sexual violence, rampant street harassment and deeply entrenched patriarchal attitudes towards sex.

Mahmood Farooqui was sentenced to seven years in prison in 2016 for sexually assaulting an American postgraduate student while she was visiting his home in Delhi.

The woman claimed Farooqui, the co-director of the 2010 Bollywood film *Peepli Live*, forced himself on to her while drunk, ignored her when she repeatedly said no and restrained her arms when she tried to prevent him from removing her clothes.

Appealing against the decision in Delhi's high court, lawyers for Farooqui argued that the encounter never took place and that if it had, he had not been aware the victim did not consent.

Justice Ashutosh Kumar overturned the conviction on Monday, concluding he had to give "the benefit of the doubt" to Farooqui on both arguments.

He found it was unclear whether Farooqui had known the alleged victim did not consent because, even though she testified that she had repeatedly said no to his advances and tried to physically resist, she accepted she had ultimately gone along with it.

"Instances of woman behaviour are not unknown that a feeble no may mean a yes," he said.

Karuna Nundy, a supreme court lawyer who advised on India's most recent reform of sexual assault laws, said she was concerned about the precedent the judgment set.

"It muddies the waters and will confuse a lot of the issues around consent," she said. "What the law says is that consent may be silent, it may be non-verbal, but it has to be unequivocal. And so when somebody says no – even when you think it's feeble – and there is no subsequent unequivocal yes, then there is no consent."

The alleged victim told the court she stopped resisting out of fear she could be harmed in the same manner as a Delhi physiotherapy student whose rape and murder in 2012 sparked international protests. Farooqui only released her when she feigned an orgasm in order to persuade him to stop, she said.

The judge said the alleged victim's conduct would have sent Farooqui a message that she consented, "even though wrongly and mistakenly".

"What [Farooqui] has been communicated is ... that the [alleged victim] is OK with it and has participated in the act," he said.



The judge argued that "in an act of passion, actuated by libido," consent could be complex, "and it may not necessarily always mean yes in case of yes or no in case of no".

He said a firm no was not necessarily required in cases where the people involved were strangers, "in some kind of prohibited relationship" or if one of the parties was "a conservative person".

"But [the] same would not be the situation when parties are known to each other, are persons of letters and are intellectually/academically proficient, and if in the past there have been physical contacts," he said.

"In such cases, it would be really difficult to decipher whether little or no resistance and a feeble no was actually a denial of consent."

The Times of India criticised the decision in an editorial, arguing that the court may have "set a potentially dangerous precedent that a no does not always necessarily mean no".

It said: "It is easy to see defence lawyers lapping this up in cases of rape and other sexual offences even where there the alleged victim has explicitly said no to argue that the accused may not have perceived it as a firm no. It is a slippery slope the court should have avoided stepping on to."

Vrinda Grover, the lawyer for the alleged victim, said the decision was "dishonest in law and fact". An appeal will be filed in the Indian supreme court.

It is the second legal decision to draw outrage in recent days, after three law students were granted bail last week while appealing against a sexual assault conviction from March.

The students were convicted of using nude photographs of a woman to blackmail her into having sex with them over an 18-month period. Releasing the students on bail, the Punjab and Haryana high court said the victim's behaviour could be interpreted as a "misadventure stemming from a promiscuous attitude and a voyeuristic mind".

The court said her story did not "throw up gut-wrenching violence that normally precede or accompany such incidents".

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## **The abuse of India's triple talaq verdict**

***Triple talaq, like the made-up 'Love Jihad', has become yet another anti-Muslim tool in the hands of the far right.***

By Flavia Agnes

Al Jazeera (04.09.2017) - <http://bit.ly/2yoArPL> - The triple talaq judgement pronounced by the Constitution bench of five judges of the Supreme Court of India has been hailed as "historic" by all concerned. While the operative part of the elaborate ruling comprising of three different and diverse judicial opinions captured in 395 pages is just one line: "By a majority of 3:2 verdict the practice of talaq-e-biddat - triple talaq is set aside", it provides sufficient scope for diverse ideologies to lay a claim to it.

It is understandable that Muslim women who have suffered the indignity of triple talaq (or instant divorce by saying the word "talaq" three times) and those who helped them to approach the court are rejoicing because the judgement is a clear victory to the position espoused by them: that the Supreme Court must declare the practice of instant and arbitrary triple talaq as invalid.

However, the judgement itself is not path-breaking, as there was an earlier ruling in 2002 which held that triple talaq is invalid and it has been followed by several High Courts. Since there was no media hype back then as the one we are witnessing today, the 2002 judgement was overlooked by women's groups and individual women. But an astute lawyer could have used it to bring respite to victims of triple talaq.

The opposing faction, i.e. members of the All Indian Muslim Personal Law Board (AIMPLB) who argued that the government should not interfere with the right of minorities to their tradition, culture, belief, and faith are also rejoicing since Chief Justice Jagdish Singh Khehar (concurring by Justice S Abdul Nazeer) declared that personal laws are an integral part of the freedom of religion guaranteed under Articles 25-26 of the Indian Constitution, which the courts are duty-bound to protect.

On the other hand secular women's groups are rejoicing on the ground that the judgement pronounced by Justice Rohinton Fali Nariman (for himself and Justice Uday U Lalit) has struck down triple talaq as unconstitutional and has given a boost to the view that family laws must be state governed and gender just distanced from any religious ideology. However, the verdict of Justice Nariman is in the minority as the crisp 27-page verdict delivered by Justice Kurian Joseph dissented from it. It is his verdict that helped to clinch the issue and maintain the delicate balance between striking down triple talaq and securing freedom of religion.

Even while declaring triple talaq invalid, Justice Joseph preferred to stay within the confines of Islamic law and examined whether instant triple talaq forms an essential core religious practice. Since a 2002 judgement had already declared instant triple talaq invalid, he had no hesitation in concluding that triple talaq is not an essential core of Islamic law in India and hence declared it invalid. So this became the majority view only to the extent of holding it invalid.

On the other hand, he also concurred with Chief Justice Khehar and Justice Nazeer that personal laws of minorities are protected by the Constitution as fundamental rights, which helped to make this a majority view, a clear statement against the enactment of a uniform civil code, contained in Article 44, which is a mere directive principle of state policy.

### ***A minority-bashing exercise***

However, the Hindu majority has projected this carefully crafted and delicately poised judgement as an anti-Muslim verdict and a clear signal to bring in a uniform civil code, a demand which has been on the radar of the ruling Bharatiya Janata Party (BJP) as a whip with which to beat the Muslim community.

The challenge to patriarchal monopoly has been transformed into a minority-bashing exercise by BJP supporters who claim that it was the support of Prime Minister Narendra Modi to the cause of Muslim women's rights that gave the Supreme Court the courage to pronounce a clear verdict against triple talaq.

The right wing Muslim bashing politicians were quick to express their views. The Chief Minister of Uttar Pradesh, Yogi Adityanath, known for his anti-Muslim views, wasted no time in welcoming the judgement. Calling for an end to the Muslim practice of triple talaq, the chief minister also advocated the enactment of uniform civil code. Another Hindu extreme-right outfit Vishwa Hindu Parishad (VHP) attacked the AIMPLB on triple talaq, saying the Islamic body was not ready to give equal rights to women, whom they treat as an "object".

VHP's international working president, Pravin Togadia, said in a statement that the government should enact a law against triple talaq to ensure justice for Muslim women

and for the nation's taxpayers. A law should also be drafted for banning more than two children and ushering in the common civil code.

### **Public lynching of Muslims**

While the issue of triple talaq has received wide publicity from the right-wing politicians, there has been a marked silence on a corresponding issue affecting the Muslim community - that of public lynching of Muslims. Even though Prime Minister Modi in his address to the nation from the Red Fort mentioned the issue of Muslim women and triple talaq, there was a total silence on the issue of public lynching of Muslims.

The lynching of Muslims on the mere suspicion of slaughtering cows, storing beef or merely because they "look Muslim" has gone on unabated and reached a new low with the stabbing of 16-year-old Junaid Khan on June 23.

At the same time, the government is today poised to introduce a new "gender just" law to replace the Muslim Personal Law based on Islamic law - in the name of saving Muslim women from the tyranny of their archaic laws. The words uttered by an important minister in the Modi government, Mr Venkaiah Naidu (now vice president of India) on May 20, the day after the Supreme Court hearing on triple talaq concluded, are revealing: "It is for the society to take up the issue and it will be good if the [Muslim] society itself changed the practice. Otherwise, a situation may arise where the government will have to bring in a legislation [banning triple talaq]".

The government was not trying to "interfere" with personal matters but was only trying to ensure justice to all women and equality before the law, he added. Coming in the wake of the lynching of Muslims, the assurance sounds hollow.

The issue of Muslim bashing has another curious implication in the "Love Jihad" bogey which gets whipped up during election campaigns. Far-right Hindu groups allege that "Love Jihad" is a conspiracy by Muslim groups to lure Hindu women into marriages with Muslim men and to convert them to Islam. They encourage parents of Hindu girls to file cases against their daughters' Muslim boyfriends.

The recent judgement of the Kerala High Court in the case of a 24-year-old Hindu girl who had converted to Islam and had married a Muslim is a cause for concern. The High Court held that the girl, under the influence of her Muslim husband, was not in a state to give free consent to the marriage. And further, the ruling declared that the consent of parents and their presence during the marriage is crucial. When the husband approached the Supreme Court against this ruling, it rejected the plea that the girl should give evidence in court and instead directed that the case should be investigated by the National Investigation Agency (NIA) to explore whether it is a ploy by an Islamic terrorist organisation to convert Hindu women.

Strangely "Love Jihad" and "uniform civil code" make contradictory claims yet both are being used within a majoritarian public discourse to attack the Muslim community.

The flip side of this discourse is that the myriad ways in which the rights of Hindu women are violated including child marriage, the plight of widows and gruesome violence due to dowry demands are all being made invisible.

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## **Patriarchy doesn't harm women alone**

***If men are engaged in the process of empowering women and towards a gender-equitable, violence-free world, it will benefit both***

By Harish Sadani

LiveMint.com (25.01.2017) - <http://bit.ly/2kqMhEc> - At least five or six cases of various forms of violence against girls and women from different cities are being reported every day since reports of the New Year's eve incident in Bengaluru led to an outcry. Drawing attention to the seriousness of gender-based violence, there is a demand for stronger punishment for male offenders. But very little attention has been focused on what is being done to address the root cause of the issue.

If men and their attitudes are "part of the problem", can we address the problem effectively without involving men as "part of the solution"? In our vision of a gender-just society where there is peaceful coexistence of men and women, does a person belonging to the "oppressor" gender have a role?

If yes, what would be that role? Are the empowerment and assertion of the oppressed and the sensitization and transformation of the powerful, mutually exclusive agendas?

Gender issues, including gender-based violence, are seen largely as "women's issues" by all concerned—a majority of policymakers, women's groups, funding agencies and media. This approach insulates men from the process of transformation, reinforces masculine stereotypes and deepens the gender divide.

Patriarchy disadvantages women but it also brings a set of behavioural norms and responsibilities that hinders men from expressing their pressures to perform in adherence with traditional notions of masculinity. Masculinity, in its current form, harms not only women but also men in the long run. Men cannot cry or express emotions freely, they have to be always winners/achievers, bread-earners, caretakers, etc. They have to perform at various stages from bedroom to boardroom. They cannot do household chores without the fear of being labelled "sissies".

If gender is a social construct, then men are not born violent and aggressive. It is faulty socialization and upbringing that promotes a macho image. Do we find alternatives to this model of masculinity?

There may be umpteen examples of women as role models for girls who are growing up, but there is a woeful dearth of positive role models among men; role models who can embody a gender-sensitive society and engage adolescent boys and young men in the discourse. We have examples of sportsmen like Roger Federer who have expressed what "healthy relationships" mean to them personally, but when did we last hear sportsmen in India talking about gender?

We need to address how men analyse perceptions of masculinity and create appropriate alternatives. But to do this, men must first feel the need to do so. Men can introspect on the existing dominant model of masculinity when they are able to relate to the issue; when they know the "costs" of increasing violence on women to them individually and socially.

If men are involved in any intervention that seeks to stop or prevent violence against women, it may help in making the lives of women safer and healthier, but what's in it for them? What are they going to get out of it? Unless this is answered seriously, we will not come up with any meaningful strategy of engaging men in the long term.

A paradigm shift in looking at women's issues as gender issues, which are equally men's issues, is not going to be easy. With all our social sub-systems—family, religion,

governance and media—reinforcing patriarchal, male-dominated attitudes, it will definitely be a process that will face periodic threats, hiccups and setbacks.

Apart from addressing men as a group, it calls for simultaneous interventions with different groups of men. For instance, we need to address men in the police not just as law-enforcing agents but also as men. Similarly, we need to reach out to men in the corporate and healthcare sectors, in Parliament, male bureaucrats, male journalists, religious leaders, school and college teachers and administrators.

A couple of token gender-sensitization programmes for these men is not going to change the male mindset. What is required is focused, long-term intervention with a clear vision and purpose of "process-oriented" work by all stakeholders. There has to be a pool of male facilitators in all sectors who can engage men in a gradual process of transformation and humanization. It calls for investment, financial and otherwise.

The moot question is: Do we have a sizeable number of people who would like to invest their time and effort in engaging men towards addressing gender issues? Even if a handful of them do (like this writer, who has been working on the issue for 24 years), there is a dearth of people who would strengthen their efforts.

If men are engaged in the process of empowering women and towards a gender-equitable, violence-free world, it will benefit both. Men also would be liberated from the shackles of patriarchy. If they are liberated, their own lives would become humane, enriching and harmonious.

Gender-based crimes against girls and women will increase in this neo-liberal society of ours in the coming years. What will change is only the nature and forms of violence. There will certainly be more crimes by minor boys.

It would then be, perhaps, too late for all concerned to seriously examine the root cause of the problem.

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## **Only a new law will guarantee Indian women have rights to land: scientist**

By Rina Chandran

Reuters (21.12.2016) - <http://reut.rs/2hr94LY> - India must pass a law granting women equal rights to land as men if the country is to ensure more food is grown for its more than 1 billion people and greater respect for the environment, a leading scientist said.

M.S. Swaminathan is known as the father of India's 'Green Revolution' for developing high-yielding varieties of wheat in the 1960s that helped make the country self-sufficient in food.

As a member of the upper house of parliament he drafted a bill in 2011 to protect the rights of women farmers. Although the bill lapsed when his term ended in 2013, Swaminathan, 91, has not given up hope that a similar law will be passed.

"We need to increase awareness of the need for equal rights for women farmers, but we also need a law that guarantees it," he told the Thomson Reuters Foundation in an interview.

India's constitution gives women equal rights but rarely do they exercise those rights when it comes to land ownership - "a complex social issue that is tied to how we treat the girl child versus the boy child," Swaminathan said.

"The father may say: 'I am giving my daughter dowry for her marriage, so I don't have to give her land.' They are afraid they will lose control of the land if they give it to the daughter," he said in an interview at his office in the southern Indian city of Chennai.

Women make up more than a third of India's agriculture workforce, yet only about 13 percent of farmland is owned by women, according to official data.

Land is usually transferred through inheritance in India, and it is almost always men who inherit land.

While a Hindu woman is entitled to a share of land owned by her father, she is generally under pressure to give up this right when she gets married.

Some states issue joint titles when they allocate land to the landless poor. But rarely are women added to old titles.

### **Destitution**

As more men from villages migrate to urban areas in search of jobs, their wives and daughters tend to the land.

But land titles are almost always in the man's name, and women farmers are denied loans, insurance and other government benefits because their names are not on the titles.

"Men may do the plowing, but the rest of it - including harvesting, threshing, storage - is done by women," said Swaminathan, who was named by Time magazine in 1999 as one of the 20 most influential Asians of the 20th century.

Women farmers tend to grow more food crops rather than cash crops, and are more sensitive to the environment and to their children's long-term needs, Swaminathan said.

"But we are slow to acknowledge the important role of women, and slow to give them rights," he said.

India ranked 130 of 155 countries on the UNDP's gender inequality index, worse than countries including Cambodia and Zimbabwe, on parameters such as infant mortality and education.

Swaminathan studied agriculture after witnessing the terrible effect of the 1943 Bengal famine, which is estimated to have killed more than 3 million people.

In more recent years, he said he has been struck by the plight of widows of farmers who killed themselves in western Maharashtra state following crop failures.

"The land is immediately claimed by his father or brothers, and the woman is left destitute. It is heart rending," he said.

### **Other reading:**

[Women in India are paid 33% less than men, says International Labour Organisation](#)

## **Transgender women in India face bias despite laws, says activist**

By Rina Chandran

Reuters (06.12.2016) - <http://reut.rs/2gBCBII> - Transgender women in India face persistent bias that denies them education and jobs despite India having progressive laws for transgender people, according to a leading activist.

In a landmark judgment in 2014, India's Supreme Court ruled that transgender people had equal rights under the law, and granted legal status to the third gender.

Alongside the right to marry and inherit property, they are also eligible for quotas in jobs and educational institutions.

But most of India's estimated 2 million transgender people face discrimination from a young age with transgender women particularly abused, reflecting the entrenched patriarchy in the country, said Laxmi Narayan Tripathi, a founder of the Asia Pacific Transgender Network.

She said many transgender people are thrown out of their homes by their families, lack a formal education and are denied jobs. They are forced into sex work, begging or dancing at weddings to make a living.

"We have among the most progressive laws for transgender people: the 2014 judgment gives us the right to choose our gender identity, so if I believe I'm a woman, I'm a woman," Laxmi said at a panel hosted by the Thomson Reuters Foundation and Asia Society on Monday.

"But people are still biased. That's why no one will hire us, except in the non-profit sector, and we have no choice but to beg or do sex work."

Laxmi, who prefers to go by her first name, was born into an orthodox Brahmin family. She became one of the most flamboyant advocates for transgender people, petitioning to recognize the category on all official documents including passports.

Transgender women, known as hijras, have long been considered auspicious in India. They are featured in Hindu mythology, and their blessings are sought at weddings and births, even as abuse and exploitation are common.

### ***Treated as inferior***

Transgender people were included in India's census survey of 2011 for the first time. There are 490,000 transgender people in the country, according to official data, a number that activists say is only a fraction of the real number.

But there are moves to extend more benefits to the community. The eastern state of Odisha this year became the first to give transgender people welfare benefits such as pension and housing.

India is also revising its rehabilitation scheme for bonded laborers to include transgender people.

Laxmi said while the law is supportive, biases against transgender women reflect the entrenched patriarchy in India, where the mistreatment of women has become a major issue in recent years.

Indian women face a barrage of threats ranging from child marriage, dowry killings and human trafficking to rape and domestic violence, largely due to deep-rooted attitudes that view them as inferior to men.

"When to be feminine itself is not acceptable, then everything becomes taboo: red lipstick is taboo, being flamboyant is taboo, dressing a certain way is taboo," said Laxmi, wearing a bright orange saree with chunky jewelry, and her trademark scarlet lipstick and red sindoor on her forehead.

"When a woman still becomes powerful, the patriarchy assassinates her character and calls her names."

But the community cannot wait for laws to improve its lot, and must continue to fight for its rights, she said.

"No one will bring us our rights to our doorstep; we have to lobby, we have to all be activists. We have to demand and take our rights," she said.

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## **The Indian caste where wives are forced into sex work**

***For girls and women from the Perna caste, entering the sex trade is a normal next step after marriage and childbirth.***



By Maya Prabhu

Al Jazeera (28.11.2016) - <http://bit.ly/2fCTxfb> - When Sita\* comes home in the morning, her husband is usually still asleep. She has worked through the night, selling sex on the highways tracing Delhi's periphery, but she will bathe, cook breakfast, and get the children ready for school before getting some rest herself.



Here, in a tumble-down corner of Najafgarh, a patch of urban villages stitched into the Indian capital's fraying hem, what Sita does for a living is no secret. Sita belongs to Perna caste, and among the women and girls of this acutely marginalised community, entering the sex trade is a usual next step after marriage and childbirth.

"My first child died shortly after being born. When [my second-born] daughter was around one year, that's when I started this work," she says. Married in her mid-teens to a Perna man she hadn't met before, she estimates that she was 17 when she became the sole earner in her young family.

Now in what she guesses to be her late 20s, Sita still leaves the Perna basti (settlement), each night with other women from the community to tout for customers in "random places": bus stops, lay-bys and parks far from their own neighbourhood and out of view of the police. They travel in a group, sharing the rickshaw fare and the risk of assault.

"We try to get it done quickly," Sita explains. They conduct encounters in cars or hidden outdoor nooks. While one woman is with a client, a friend will make sure to stay within shouting distance. Each client pays between 200 rupees and 300 rupees (\$3-\$4.50). In a night, the women can expect to make as much as 1,000 rupees (\$14.60), or as little as nothing.

### ***'Born into poverty'***

Leela\*, a mother of four in her late 30s, has known since she was "very little" that her community was engaged in what is termed "intergenerational prostitution". Unlike Sita and many others, she only entered the sex trade when she was widowed, and moved back to Dharampura locality in Najafgarh, her childhood home.

For her, it was the natural path for a woman looking for work: her own mother died young, but she remembers that her aunties used to "go out at night".

Husbands herded goats, or didn't work at all. "I don't know why. You can say it is the traditional way," she says. But it is less a ritual than a remedy for an inherited economic need. "This work is our compromise. It's our way to make a living," Leela explains.

"A Perna woman is born into poverty, into a marginalised caste, and she's female - so she's already thrice oppressed," says Ruchira Gupta, the founder of the anti-trafficking NGO Apne Aap, which has been working with the Najafgarh Perna community for more than five years.

"As soon as she gains puberty, she is married, and after the first child, the husband pimps his wife. And she can't resist - she only has this community. She feels she has no path of escape. She is consumed for eight or 10 years, and then she is asked to put her daughter into prostitution."

Gupta explains that girls who resist prostitution are often physically abused by their in-laws, who expect their son's wife to contribute to the family finances. Leela's own daughter - now a stay-at-home mum living elsewhere in Najafgarh - moved back in with Leela for a short period to flee her new family's pressure to start sex work.

"They were threatening her, 'We will tear your clothes, we will put you on the streets naked,'" Leela says.

With Apne Aap's backing, she was able to convince an informal community court that her daughter should be allowed to make the choice independently. But one NGO worker explains: "We don't often meet women as courageous as [Leela]."

Sita pre-empts suggestions that her husband or in-laws pressure her into the work she does, saying: "It's my own choice," and pointing out that recently, her husband has found regular work as a driver and earns at least as much as she does.

But even in the absence of coercion, choice is a fraught concept in a community which is not only economically and socially marginalised, but historically excluded from the rights and freedoms of citizenship.

### ***An historic disadvantage***

Zoom out from this small community at the edge of India's capital, and the Pernas become just one dot among many thousands, scattered on the map of what a 2008 government-commissioned report described as "the most vulnerable and disadvantaged sections of Indian society".

These are the DNTs, or Denotified and Nomadic Tribes of India, who are still more commonly recognised in mainstream society under their colonial-era classification: the Criminal Tribes.

Historically itinerant traders, entertainers, and folk-craft practitioners, DNT communities are often compared with the Roma in Europe. Like "gypsies" elsewhere in the world, whose lifestyles made them difficult to bring under state control, the wanderers were regarded with suspicion by India's British rulers.

After the Criminal Tribes Act of 1871, a raft of castes were "notified", that is, branded "hereditary criminals", alienated from traditional sources of income, and made vulnerable to a range of state-sanctioned abuses.

Following India's independence in 1947, the stigmatised tribes were "denotified", but these communities have been unable to shake what academic Meena Radhakrishna calls their "historic disadvantage".

Welfare programmes have been offered to the most marginalised communities - those social groups classed as the Scheduled Castes (SCs) and Tribes (STs).

But even officially eligible DNT communities, such as the Pernas, who are recognised as "SC", often do not gain access to these opportunities.

"It is difficult for these people to stake a claim to the government programmes because of the stigma of being labelled as ex-criminal tribes," says Subir Rana, an anthropologist who has spent time among the Pernas of Najafgarh.

Not only has their past taught the community to be wary of the state, but their alienation from mainstream society has meant many of them are ignorant of their rights.

For example, getting a caste certificate - the necessary proof of eligibility for benefits - is difficult when many community members hold barely any government identification of any kind.

When Apne Aap began a campaign for improved documentation, only four or five individuals in the Perna community had certification of their "SC" status. With NGO intervention, this number has swollen into the 30s - but, workers say, it has been a struggle.

"Government always tries its level best to reach these people," says BK Prasad, Member-Secretary of the temporary National Commission for Denotified, Nomadic and Semi-Nomadic Tribes, "but even these people have to come to the government. Most of the time, these people do not come."

He recognises that DNTs may require "a special approach".

An earlier DNT commission, responsible for the 2008 report, issued a slew of suggestions for government, centring on the recommendation to address the needs of DNTs separately from other disadvantaged social groups. Upon release the report was, in the words of civil servant and consultant to the commission Pooran Singh, "put into the almirah [closet]".

The new Commission is making a priority of addressing a deep information gap: at this point there is zero reliable, countrywide demographic information on denotified communities, a state of affairs which gives credence to Rana's sense that "they have become the lowest of the low; they are invisibles".

While the first order of business is the creation of a comprehensive list of DNT communities, the ultimate goal, according to Prasad, is that "they should be mainstreamed into society in a way that is not too much of a change for them".

Mainstreaming will be a trickier proposition for DNT communities that have found their way into the sex trade. "Once you become associated with a trade like this, it is very hard to integrate," says Anuja Agrawal, a sociologist who has studied DNT communities involved in intergenerational sex work.

"Giving up [sex work] happens only when a very concerted effort is made; when other opportunities then become available."

### ***First signs of change***

Back in Najafgarh I speak to a young woman from the Sopera caste, a DNT community traditionally involved in snake-charming and wedding-drumming, who describes the stigma that follows her Perna neighbours.

She has nothing bad to say about them, she explains. "It's their occupation. How will they survive without it?" But, she concedes, "general caste [non-DNT] people get angry that they do such kind of 'wrong work'."

Apne Aap's field workers report that Pernas are ignored, avoided and barred from certain shops.

Prasad's proposal is to remove young girls from their familial contexts: "If we can wean children away, get them admitted to [state] residential schools - because beyond a certain age, slowly, slowly, they will follow their parents. Children imbibe what is happening around [them]."

He adds: "This change will happen slowly. It is true that everyone who is educated up to high school does not get a job." He estimates that if 10 percent try for a new sort of life, perhaps 2 percent will succeed.

This mirrors Ruchira Gupta's approach.

Now 14, Leela's younger daughter is on one of several Apne Aap scholarships to a private boarding school. She has already progressed further in her education than anyone else in

her family. Her classmates don't know much about her background but they know what's relevant: she's bright, and a really good dancer.

I meet her when she is home for a weekend. She is a gazelle of a girl, as nice as Leela, with a gently teasing sense of humour she practises on me, in English, over WhatsApp. Unlike her mother, who never went to school, or her older sister who dropped out to become a wife, she won't marry until she's in her 20s, Leela says.

"My daughter says when she gets a job, we'll go away," says Leela. For her family, it's the first glimpse of an alternative path.

Leela's children - the schoolgirl and the housewife - are not the only signs of a gradually broadening field of options.

Nowadays, Sita tells me, it's becoming normal to send your daughters to school: "That's the first stage."

***\*Names have been changed to protect the privacy of individuals.***

**Other reading:** [India: 6% girls experience harassment before age 10, 41% before age 19](#)

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## **Witch-hunts in India: We don't talk about this form of violence against women**

First Post (05.11.2016) - <http://bit.ly/2fdftvN> - In Assam, two women, both related, were pushed into a well and buried alive on the night of 31 October. They were murdered after being branded as witches. According to one of the three men accused of the crime, their actions were justified because the women had "used black magic to infest with insects the well from which we drink water".

This news made us all do a double take: are women still being murdered because someone thought she was a witch, or decided to call her a witch? Depressingly, this isn't a stray crime — according to these completely horrifying statistics, a 'witchcraft'-related death is reported almost every third day in India. The National Crime Records Bureau (NCRB) data shows that 2,290 people — mostly women — were killed in India between 2001 and 2014 for witchcraft, and we can guess what these numbers have become in 2016.

But the lack of conversations around witch-hunting is also telling. We don't talk about this form of violence against women in the way we have finally come to heatedly discussing sexual violence in India. The Assam murders on Monday remains just a news report that people chanced upon Tuesday morning. It isn't any different in other parts of the country that report a high rate of violence against women branded and persecuted as witches.

Earlier this year, the National Human Rights Commission (NHRC) had to issue a notice to the Rajasthan Chief Secretary and the Director General of Police, demanding a report on the action taken on cases where women have been victims of witch-hunts. This came after it took suo motu cognisance of the issue, suddenly realising that women like Mangi Devi in Bhilwara district of Rajasthan had not seen any justice after she was called a witch and attacked with red-hot iron rods in 2014.

But a witch-hunt goes far beyond hunting for so-called witches. Often, branding women as witches and using this compelling superstition to target them is a sinisterly easy way to get hold of their property, or money, or simply for revenge. In Bhilwara, where the family of a woman, stoned to death on this pretext in 2010, still hasn't seen justice. Her son, explaining the hidden agenda, says his mother was killed by the 'upper' caste people she worked for when she asked for payment. He also says that this 'upper' caste family had been pressuring her to give up her land. Now, after her tarring and murder as a witch, they have usurped her property, he alleges.

A friend from Bihar tells me that when he was a teenager, he grew up seeing witch-hunts in areas like Madhuban, Bariarpur and Kharagpur. He remembers stories of women raped in the fields, and if they protested, they would sometimes be branded as witches to cover up the possibility of a police complaint. Sometimes, they would be murdered. Other times they were compelled into taking a kind of shame walk, where they were forced to admit to being witches; or the shuddhikaran, where they were coerced into drinking cow piss and eating human shit.

The matter-of-factness with which he tells these stories — stories that he says often make the front pages of local newspapers — is alarming. It is as though this threat of being branded a witch has become so normal for women in parts of India that no law seems to make a difference. Unbelievably, the Assam Witch Hunting (Prohibition, Prevention and Protection) Bill 2015 was passed as recently as in August last year, and in Rajasthan it was passed four months before that. Reports of women attacked after being branded witches, like the five killed in two weeks in Bhubaneswar this September, or the one in Jharkhand who was stripped, beaten, and then gang-raped in June, or the woman who was publicly tortured in a Malda bazaar this February, seem to have come and gone with none of us responding.

So why is there this strange silence around violence against women in the form of witch-hunting? There is the unsettling sense that our way of looking at this sort of lynching is as though it is something exotic and unreal, perhaps as something that we once read about in history textbooks and forgot. Or is it that we just don't want to think about it because it happens in places that we only occasionally talk about in our conversations on violence against women?

Every year, data about the huge number of reported cases of women killed in witch-hunts are released by the NCRB, and every year there are reports comparing these statistics among various States. In the midst of all this number crunching, we don't seem to have even begun to talk about this horrendous crime in the way we have finally started to talk about other kinds of violence against women. There is an urgent need to open up these conversations, because without them there is no way of addressing it, and we cannot keep ignoring these women.

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## **A dark trade: Rape videos for sale in India**

***In kiosks in Uttar Pradesh, videos of what appear to be rapes from around the country are sold for less than \$3.***

Al Jazeera (31.10.2016) - <http://bit.ly/2eAE7CJ> - In this industrial northern state, you can buy footage of a woman being raped for the price of a cheap meal.

Al Jazeera found several videos that appeared to depict rape for sale across the state. They cost from Rs 20 to Rs 200 (30 cents to \$3) and are transmitted to a customer's mobile phone in a matter of seconds.

The faces of the women are visible in these films. Their voices are clear. The attacks on them are brutal.

In Meerut, a city in western Uttar Pradesh, an area mostly known for the manufacturing of sporting goods, local contacts indicated that the movie files, marketed as "rape videos", were available in nearby villages.

With shopkeepers cautious about selling them to non-locals, one local man in the village of Incholi - roughly 15km from Meerut - agreed to buy one and show it to Al Jazeera.

Shahnawaz, who declined to use his real name, said that the videos are not generally made with the intention of being sold on the open market. Still, he's heard a lot about them.

"They make it to blackmail the victims [of rape] ... so that they don't go and file a complaint in the nearest police station," Shahnawaz explained.

Sometimes, he said, the videos are stolen from the perpetrator's phone when he takes his device to a shop for repairs. The stolen footage is then sold to anyone who asks for it.

Most shopkeepers are careful to sell the videos only to locals, and generally deny any knowledge of them. Some, however, agreed to share explicit videos, including rape clips, with Al Jazeera.

One of them admitted that he had many such "local films", as the videos are euphemistically referred to. There are watchwords in the trade - akin to a secret handshake - that let the sellers know that a customer seeks rape videos - as opposed to other pornography, which the kiosks also sell.

Once a rape video reaches one dealer, it spreads like wildfire, through applications such as WhatsApp, to other parts of the country. In fact, "WhatsApp sex videos" is one term used for rape videos in this part of the country.

In the village of Saharanpur in western Uttar Pradesh, one man who readily admitted that he frequently purchases pornography - particularly videos of rape - told Al Jazeera that he buys them from other nearby villages.

The videos he buys at shops and kiosks come mainly from other customers who sell the footage to the shopkeepers, he explained. He has a collection of these films on his laptop and described the rape footage as "pornography".

He watches the videos, he said, because they give him "peace of mind".

### ***'Rape video, what is this?'***

While customers seem to be savvy to the availability of the latest rape video, local police appear to be oblivious.

When Al Jazeera contacted the District Inspector General of Police for Saharanpur Range, A K Shahi, he said he did not know what a rape video was.

"Rape video ... ye kya hota hai (Rape video, what is this)?" he asked.

Upon being informed, he said that if provided with the video, he would take action.

The Inspector General of Police for Meerut Range, Ajay Anand, told Al Jazeera that he was too new to the job to know anything about the videos.

"I have been posted here recently. Hence I don't have any idea of these rape videos being sold in the market," he said.

"I am not in a position to comment. I don't know the authenticity of these rape videos. I need to see them first before making any comment."

Al Jazeera was able to buy several of the videos with relative ease from different locations.

A senior leader of the Bhartiya Janta Party, Sanjeev Balyan - who is also a member of parliament for Muzaffarnagar in Uttar Pradesh - said that he believes the government's insensitivity towards women is a major factor in the rise of sexual violence in the country.

"In my constituency, I have heard about such videos being sold but police have taken no concrete action to stop this social malice. This proves how insensitive this government is towards the safety of women and their dignity," he said.

"In states like Uttar Pradesh, there is no supremacy of rule and order. Police act at the orders of politicians; even local politicians have an influence on police forces," he added.

### ***Dominance and extortion***

The videos Al Jazeera saw were deeply disturbing, and included what appeared to be a minor. One woman begged her rapists to stop, saying that her only recourse would be suicide. Another begged her assailants to at least stop recording the attack.

Anti-rape activists said the making of such videos is largely a display of dominance.

Mangla Verma, a Delhi High Court lawyer, who also works with the Human Rights Law Network, explained: "Rape is seen as an assertion of power by a man over a woman. It is in this process that he films the act, showing that he can not only commit rape, but also record the same and circulate it among others."

"This is how patriarchy works," she added.

While it is difficult to confirm that all of the videos show footage of actual rape rather than emulating rape, their presence on the market is particularly troubling given the prevalence of sexual assault in the country.

"This reflects a culture of rape in this country. Rapes are not just being committed but also glorified through [the] sale of such videos. It is shameful that such a market exists right under the nose of the governments and there are buyers of such videos," said Brinda Karat, a former member of parliament in Rajyasabha and also a Politbureau member of the Communist Party of India.

"The state machinery has completely failed to curb it. It is ironical [sic] that ... a country where there are governments which are sending people to jail for possessing bottles of alcohol is so insensitive towards such crimes committed against women."

Indeed, despite introducing stringent laws to curb crime against women after the high-profile 2012 gang rape case, crimes against women continue to rise.

According to the National Crime Record Bureau of India, in 2014 a total of 337,992 incidents of violence against women were recorded, showing an increase of 9 percent over the previous year.

In 2015, the number of rape cases declined by 5.6 percent to 34,651 reported cases, down from 36,735 in 2014. However, other sexual offences, such as sexual harassment, stalking, voyeurism and "assault on women with intent to outrage her modesty", increased by 2.5 percent.

The news that such rape videos are being sold is of particular concern to victims of the crime, who fear that they will further perpetuate violence against women.

Sixteen-year-old Shikha (not her real name) is a victim of rape. She told Al Jazeera: "It is obnoxious to know that now such videos are being sold. I can only imagine the ordeal of those victims who have been filmed while being raped."

After she was raped in her village in March 2015, Shikha endured "shaming" by her classmates and had to drop out of school.

Her family pressed charges against her alleged rapist, who is currently incarcerated, awaiting trial.

"[The videos] will bolster the morale of the perpetrators who would now know that they cannot only commit such crimes with complete impunity, but also circulate the video of the crime," she said.

"I can only imagine what the women have to go through ... one can only wonder what would have happened to these victims whose videos are being sold in the market," said Shaikha.

"I don't doubt that many of them might have resorted to committing suicide."

**Other reading:** [Khwezi showed how to challenge rape culture – the rest is up to us](#)

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## **The female Sharia judges of India**

***Can women-run Islamic courts bring gender justice to India's Muslims? One group that is training India's first class of female 'qazis,' or Islamic judges, thinks it can.***

By Emily Feldman

The Daily Beast (18.10.2016) - <http://thebea.st/2erttyH> - From her home in the Indian city of Bhopal, Safia Akhtar listens in on her neighbors' most intimate dramas.

As often as three times a week, women pass through her door to complain of deceitful husbands, evil in-laws, abandonment, and abuse. Akhtar, a grandmother, hears from both sides of each dispute before dispensing justice, according to the teachings of the Quran.

She is a female Sharia judge.

There are few in India, but that is changing as a movement of Muslim women, fed up with misogynist practices in their communities, take matters of Islamic justice into their hands.



Zakia Soman, a prominent activist, is among the women leading the charge. Her organization, the Bharatiya Muslim Mahila Andolan, or BMMA, has been fighting for Muslim women's rights for nearly a decade and is now training what it says is India's first class of female "qazis"—Islamic judges who oversee marriage, divorce, and other personal matters in Muslim communities. Akhtar is part of the inaugural class of 30 women.

"There is now an alternative voice within India's Muslim community which is demanding justice and equality for women. And the most important thing is that more and more Muslim women are coming forward in support of [this change]," Soman said.

Though India is a secular democracy, the government allows each religious group to manage its community's personal affairs, like marriage, divorce, and inheritance. For India's nearly 180 million Muslims—India's largest minority group and the largest population of Muslims in any country besides Indonesia—these matters are often settled by male qazis who, Soman argues, perpetuate "barbaric" and "un-Quranic" practices like polygamy and child marriage.

Soman and her colleagues have witnessed the devastating consequences of these customs and concluded that the problems that plague India's Muslim women have nothing to do with Islam—but with men.

"The Quran has provided gender justice to women," Soman said, arguing that the most notorious anti-women practices associated with Islam are "nowhere sanctioned in the Quran."

Aiming to rebalance the gender scales, Soman and her colleagues launched the Darul Uloom Niswaan, an Islamic theology center offering a qazi training program for women, which started last year.

The yearlong program begins with a deep dive into the country's laws and constitution with a special focus on legal protections for minorities and women. It then moves on to the study of Islam and the Quran "from a humanist and gender-just perspective."

"We take them through how the entire affair of interpreting the Quran and laying down the Islamic principles has been in the hands of male scholars. We then focus on verses pertaining to women—about marriage, divorce, polygamy, guardianship, a woman's [role] in society—and verses of the Quran that put across very clearly that men and women are equal in the eyes of Allah," Soman said.

By the end of the year, a diverse group of women from 10 states—a third of whom completed their formal educations and four of whom have master's degrees—will finish their training and, if they haven't started already, begin conducting marriages and settling domestic disputes.

The initiative is not without controversy. Akhtar, a longtime advocate for women's rights, has been likened in local media to Salman Rushdie and Taslima Nasrin, a feminist Bangladeshi writer in exile who fled death threats for her criticism of Islam. "Certain factions of society say female qazis should not be part of Islam and that this is un-Islamic and we should be thrown out," Akhtar said. While she says she does not fear for her safety "yet," she has stirred up angry reactions in the press.

"It's a new concept for most of the Muslims in this city, because they have never seen female qazis. They are used to seeing a man with a beard and a turban as a qazi, so it was a shocker for a lot of people," her son, Saud Akhtar, said.

The criticism doesn't only come from hardline clerics and their followers, but also from proponents of a strictly secular system that eliminates India's "parallel judicial system."

"India must have one constitution, and only those judges and courts that work under it," wrote Tufail Ahmad, author of *Jihadist Threat to India: The Case for Islamic Reformation* by an Indian Muslim, adding that "in the current era, Muslim women's liberty cannot be subject to the [Quran]."

Yet Soman argues that the overwhelming majority of nearly 5,000 Muslim women her organization surveyed across the country in 2013 said they wanted qazis to maintain a judicial role in family affairs. Even more—nearly 90 percent—said they wanted the system standardized and reformed with practices like polygamy forbidden.

The BMMA's work was further validated this summer when it released a petition calling for the abolishment of "instant" triple-talaq divorce, a contested Islamic practice, in which a man—and only a man—divorces his spouse by simply repeating the word "talaq" Arabic for "divorce," three times in a row.

The petition racked up more than 50,000 signatures from Muslim women across the country, prompting a separate declaration of support from Muslim men, signed by everyone from students to Bollywood stars.

"A lot of ordinary Muslims understand that there is gender justice in the religion and it is a patriarchal misinterpretation which has come in the way of that," Soman said, noting that she was inundated over the summer with phone calls and messages of support.

The success of the BMMA's various initiatives, especially the training of female qazis, will depend on the level of acceptance they receive at the local level. There is no standardized qazi training or certification system recognized universally among India's Muslims. The acceptance of a person as a qazi is ultimately subjective. "The authority comes socially," Soman said.

This flexibility allowed Akhtar to begin practicing as a qazi even before she began her training course. After years of Quranic study and activism with the BMMA, she was confident enough to offer her services to settle disputes.

Her new training is only adding to her credibility. The 65-year-old says she now sees between 10 to 15 cases a month that illustrate to her the "misconceptions in society about Sharia law."

Recently, for example, a woman sought her help after her husband divorced her while she was asleep. "When she got up, her in-laws informed her, 'You are no longer the wife of our son because when you were sleeping he gave you talaq,'" Akhtar explained. "There was no witness, nothing." Akhtar ruled the divorce invalid, citing the more common Quranic interpretation that requires three months before a divorce is finalized, with an eye toward reconciliation.

She also recently settled cases of triple-talaq by social media (not valid, she ruled) and another in which a man refused to give his ex-wife any financial support following their divorce. Akhtar said she helped the woman secure 1 million rupees (roughly \$15,000) in compensation.

No one is bound by her decisions. Families are ultimately free to reject her rulings and seek a second opinion somewhere else, whether within the country's legal system or by another religious authority whose interpretation might suit them more. But Akhtar and

Soman are both confident that the simple presence of female qazis in Indian society will help move the gender justice dial in the right direction.

More reading: [Cong caught between Muslim votes and women's rights over triple talaq](#)

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## **Will a mobile phone panic button help stop sexual assaults in India?**

***India has a large market for mobile phones, and while access has spread to the rural areas, some say that requiring extra features on the phone may increase the cost of the phones, making them unaffordable to some women.***

CS Monitor (26.04.2016) - <http://bit.ly/21gVR9j> - As part of an effort to fight sexual assault against women in India, all mobile phones will be required to have panic buttons starting January 2017.

The new rules released this week will apply to both local and internationally manufactured phones. "Feature phones" (a term used for phones that are not smartphones) will have the panic buttons configured to the numbers 5 and 9, so that when the button is held down for a certain period of time, a phone call will be initiated to at least 10 people including police, relatives, and close friends. Smartphones will be required to have an on-screen emergency button, or introduce a feature that will initiate an emergency phone call when the on-off button is pressed three times. In addition, phone manufacturers will be required to add a global positioning system (GPS) starting in January 2018.

Currently, India doesn't have a centralized 911-type service for emergency calls, but a nationwide emergency response number may be introduced soon.

Some one billion people have access to mobile phones in India and the market is still growing, making India one of the fastest markets for smartphones. The country's department of telecommunications says that panic buttons may be a better solution than apps. In 2011 New Delhi, which is dubbed India's "capital of rape" introduced a phone app, "Fight Back" that was intended to fight assault by sending alert messages to close friends, and police. But the city continues to experience high rates of rape, with 1,813 incidences of rape in 2014, up from 1,441 in 2013, The Hindu reports, citing government data.

Campaigns against sexual assaults have taken center stage in India since the fatal gang rape of a 23-year-old student on a bus in Delhi in 2012. But despite increased campaigns, sexual assault incidents have increased since the 2012 incident that put India in the international spotlight. In 2014, for example, there were 337,922 incidences of violence – including, rape, molestation, abduction, and cruelty by husbands – perpetrated against women, up 9 percent from the figure in 2013, according to the National Crime Records Bureau, Reuters reported. And in the same year 37,000 rape cases were reported, up from 33,707 in 2013. Experts say that a high number of assaults still go unreported, though some statistics suggest that a woman is raped in the country once every 15 minutes.

India's Minister of Women and Child Development Maneka Gandhi, who has been championing the panic buttons, calls the new rules a "game changer."

"When I came to the Ministry there were proposals that women should wear necklace with an inbuilt device pressing which could trigger an alarm," Gandhi told the Hindu.

"So we thought that it is best to have the panic button on the phone. Even in rural areas women have phones now."

"Technology is solely meant to make human life better and what better than using it for the security of women?" said Ravi Shankar Prasad, minister of communications and information technology.

But there are still concerns that the measure isn't enough. Some women in rural areas don't have access to mobile phones, while some areas restrict girls from owning mobile phones saying they are a distraction to academics, Reuters reported. Others who are concerned contend that requiring GPS on phones will likely increase the cost of the phones and make them unaffordable to many women.

"So while the government might force mobile manufacturers to take customer safety seriously, a panic button by itself will hardly be a panacea," writes Shruti Dhapola, for the Indian Express. "A unified helpline, one that actually results in quick action and response from the authorities concerned will also be required. Otherwise one can keep pressing that panic button all day long."

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## **Triple talaq: India's Muslim women fight against instant divorce**

***India is perhaps the only country in the world where a Muslim man can divorce his wife in a matter of minutes by just uttering the word talaq (divorce) three times. But this controversial practice of "triple talaq" is now facing a stiff challenge - the Supreme Court is considering whether to declare it unconstitutional, writes the BBC's Geeta Pandey in Delhi.***

BBC (11.04.2016) - <http://bbc.in/1MFnxBX> - Shayara Bano's world came crashing down in October.

The 35-year-old mother of two was visiting her parents' home in the northern state of Uttarakhand for medical treatment when she received her talaqnama - a letter from her husband telling her that he was divorcing her.

Her attempts to reach her husband of 15 years, who lives in the city of Allahabad, have been unsuccessful.

"He's switched off his phone, I have no way of getting in touch with him," she told the BBC over phone from her home in the northern state of Uttarakhand. "I'm worried sick about my children, their lives are getting ruined."

In February, a frustrated Shayara Bano filed a petition in the Supreme Court, demanding a total ban on triple talaq which, she says, allows Muslim men to treat their wives like "chattel".

Muslims are India's largest minority community with a population of 155 million and their marriages and divorces are governed by the Muslim personal law, ostensibly based on the sharia.

Even though it has been practised for decades now, the unilateral instant triple talaq is clearly an aberration - it finds no mention in sharia or the Koran.

Islamic scholars say the Koran clearly spells out how to issue a divorce - it has to be spread over three months which allows a couple time for reflection and reconciliation.

Activists say most Islamic countries, including Pakistan and Bangladesh, have banned triple talaq, but it thrives in India.

For years, Muslim women in India have also been demanding a ban on the reprehensible practice - in 2004, I wrote about a similar campaign to end triple talaq.

A dozen years later, the situation appears worse.

And modern technology has made it even easier for unscrupulous men to dump their wives - using text messages as well as post and the telephone to pronounce divorce. There have also been instances where men have used Skype, WhatsApp or Facebook for the purpose.

In November, the Mumbai-based Bharatiya Muslim Mahila Andolan (BMMA - Indian Muslim Women's Movement) released a report chronicling nearly 100 cases of triple talaq.

"Since 2007, we have come across thousands of cases of oral triple talaq, rendering women destitute with nowhere to go," says Professor Zakia Soman, social activist and BMMA founder.

In a majority of the cases compiled by the BMMA, the divorced women were from poor families and most said their husbands did not honour their obligations to pay maintenance, forcing them to return to their parental homes or fend for themselves.

Indian Muslims also follow Halala - where a divorced woman has to marry another man and consummate her marriage in order to go back to her former husband.

"India is the only country in the world where these un-Koranic practices exist. These are barbaric and totally unacceptable. There's a need for a comprehensive review of Muslim personal laws in India," Prof Soman told the BBC.

In October, the BMMA wrote a letter to Prime Minister Narendra Modi demanding "reforms in Muslim divorce and polygamy laws". They also filed a petition in the Supreme Court.

Prof Soman says what makes matters worse for the women is that "this un-Islamic triple talaq is often sanctioned by the Muslim clergy - the qazis and maulvis".

Perhaps that is why the Supreme Court's decision to take up Shayara Bano's petition has been opposed by several influential Muslim groups, including the All India Muslim Personal Law Board (AIMPLB).

Its working committee member Asma Zehra is quick to "condemn" the practice, describing it as "haraam" (forbidden), but insists that the divorce rate is still very low among Indian Muslims and that the issue is being blown out of proportion by forces inimical to Islam.

"Why is everyone after us, after our religion?" she asks.

Ms Zehra says Muslims are struggling to survive under the present Indian government, led by Mr Modi's Hindu nationalist Bharatiya Janata Party, adding that the focus on the

issue of triple talaq is "basically because they want to interfere in our religion" with the aim of introducing a uniform civil code.

She says that even though triple talaq has no Koranic sanction, it is not in their power to ban it because AIMPLB is "just a moral body, we can only educate people".

Ms Zehra says they are doing plenty to educate people, but activists say much more needs to be done.

"Condemning it is not enough. These practices need to be declared illegal," says Prof Soman.

"It's important that the Muslim family law is properly codified. Koran gave us our rights, the patriarchal forces have taken it away from women," she adds.

Shayara Bano, in her village in the hills of Uttarakhand, is pinning her hopes on the Supreme Court.

"I want my husband to take me back. I'm hoping to get justice from the court," she says.

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## **Indians decry Hindu leader's temple rape comment**

Aljazeera (11.04.2016) - <http://bit.ly/1RTAJU8> - Hindu religious leader Shankaracharya Swami Swaroopanand Saraswati has caused an outcry in India after saying that entry of women into the Shani temple in Maharashtra state will lead to more crimes such as rapes.

Commenting on the recent entry of women into a temple in western Maharashtra state, Shankaracharya, 94, said on Sunday that "women should not feel triumphant about visiting the sanctum sanctorum of Shani Shingnapur temple in Maharashtra.

"They should stop all the drum beating about what they have done. Worshipping Shani will bring ill luck to them and give rise to crimes against them like rape," he was quoted as saying by the Indian Express newspaper on Sunday.

Women's groups and activists decried the comment, describing the statement as patriarchal and against the dignity of women.

"Society is not going to tolerate this. Women will struggle against such mindset," Jagmati Sangwan, general secretary of All India Democratic Women's Association (AIDWA), told Al Jazeera by phone on Monday.

Last week, Maharashtra High Court struck down a 400-year-old ban on the entry of women into Shani Shingnapur temple on the ground that women cannot be discriminated on basis of their gender.

### ***Patriarchal mindset***

Many commentators on social media expressed outrage and mocked the Swami for his comments.

"Fundamentalist religious leaders feel that religious places are the domain of men," Sangwan said from Indian capital, New Delhi.

"Not only religious places, patriarchal mindset in the society needs to be attacked, which believes that women are inferior and as a result cannot be allowed equal rights," she said.

Rights groups have been fighting a similar ban on the entry of women to a famous Muslim shrine, Haji Ali Dargah, in Mumbai city.

The latest controversy comes days after Shankaracharya said that worshipping of an Indian guru known as Sai Baba has caused drought in Maharashtra state. The state's Latur district is suffering an acute water crisis, triggering water riots in some places.

Calling for "strong action", Sangwan said that "the statement is a disobedience to Maharashtra High Court as well as the Maharashtra State Assembly, which supported equal rights for women and their entry into temples".

The AIDWA general secretary called for tough laws to safeguard dignity of women.

"We have actually submitted a memorandum to law ministry that people holding responsible positions, ie religious, social or political, should face action if they attack equality of women, their dignity and equal rights."

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## **Indian villagers block women activists from Hindu temple**

Kuwait Times (02.04.2016) - <http://bit.ly/1YcRRof> - Angry villagers blocked a group of women activists from entering the inner sanctum of a temple in western India yesterday, despite a court order mandating Hindu women's right to worship.

The high court in Mumbai said Friday women had a fundamental right to enter temples and directed authorities not to bar them from any Hindu place of worship across the state of Maharashtra. Buoyed by the high court order, a group of about 30 women activists tried to enter the shrine of Shani Shingnapur temple in Ahmednagar district on Saturday, television footage showed.

But hundreds of villagers-both male and female-who believe in the centuries-old tradition of barring women from entering the shrine formed a human wall, forcing the female protesters to retreat. "The honorable court has recognized our right to pray. Police must provide us protection and allow us to enter the shrine," Trupti Desai, the activists' leader, told TV channels.

"We will not leave without entering the platform (where the Shani idol is kept)," she said amid chaotic scenes on the temple grounds. A few Hindu temples in India ban women from entering the inner sanctum, with Kerala's famous Sabarimala temple barring all female worshippers aged between 10 and 50 years.

The court also said Friday that state authorities must implement a 1956 law on Hindu worship, which stipulates that a person who prevents women from entering a temple can be imprisoned for six months. The court's directive came after Desai challenged the ban and called it "a symbol of gender inequality" that should not be tolerated in the 21st century.

Women have also been prevented from entering Mumbai's Haji Ali Dargah mausoleum since 2011, with its trust saying close female proximity to the tomb of a revered saint is "a grievous sin" in Islam.

Maharashtra Chief Minister Devendra Fadnavis had earlier voiced support for Desai, saying Indian culture and Hindu religion gave women the equal right to pray. Around 80 percent of India's 1.2 billion population is Hindu, but the country is also home to large numbers of Muslims, Christians and Buddhists.

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## **Fighting female genital mutilation among India's Bohra**

***FGM: girl-children of Dawoodi Bohra sect are the only Muslim women in India systematically and forcefully mutilated.***

Aljazeera (07.03.2016) - <http://bit.ly/222OaUL> - About 40 years ago at the age of seven, Masooma Ranalvi was lured to a dark alley in a decrepit-looking building by her grandma's promise of ice-cream. It is a day that she will never forget.

"I remember it so clearly. I was told to lie down, my legs were held and I was cut with a razor. It was a sharp piercing pain. It was so scary and I couldn't stop crying," Ranalvi told Al Jazeera English.

After the procedure, black powder was put on the wound and for the next 10 days Ranalvi suffered silently in pain.

"It happened in such a primitive way but we were in the throbbing metropolis of Mumbai. Even to date, what happened was never spoken about."

Ranalvi, who grew up in Mumbai but has since moved to the country's capital, is one of the estimated 200 million girls and women alive today that have suffered female genital mutilation (FGM), according to the latest worldwide figures by UNICEF.

But while FGM has been well-documented in countries including Egypt, Ethiopia and Indonesia, it has been shrouded in secrecy in India, where it is practised among the Dawoodi Bohra community, a Shia Muslim sect with origins linked to Africa and which is thought to number more than one million.

While Muslims make up about 14 percent of India's population, FGM only occurs within this specific sect.

It was not until Ranalvi was in her late 20s that she read about the practice in Africa and drew parallels with what had happened to her.

"When I realised I was shattered. It was horrifying to realise that part of my clitoris was ripped out."

### ***'Speak out on FGM'***

While little was known about female genital mutilation in India, that is all changing thanks to Ranalvi and a group of women who have come together under the forum "Speak out on FGM" to tell of their experiences and to encourage other women to speak out too.

Last month a petition was launched by 17 Bohra women calling for a law banning FGM in India.

"A lot of Bohra women contacted me wanting to speak out and talk about what happened to them," Ranalvi said.



"I needed to do something about it. All of us are scarred in some way. We were cheated in a clandestine way."

Although it is not mentioned in the Quran, the Bohras consider Khatna - their name for female genital mutilation - to be a religious obligation. The Syedna, the religious head of the sect, who is based in Mumbai, supports the practice. Ranalvi said that the response of the religious head has been one of "silence".

"He has decided to keep quiet and the practice continues unabated," she said.

Dr Zeenat Shaukat Ali, a professor of Islamic Studies at St Xavier's College, in Mumbai, told Al Jazeera that the practice had nothing to do with religion.

"Nowhere is it mentioned in the Quran, it is a 'tradition'. It has nothing to do with religion. We always have this tendency to confuse religion and culture," she said.

"The idea is to suppress women, to dominate them. The practice is not acceptable for other Muslims in India except the Bohra sect. It is really not acceptable."

Ali added that she was proud of the women who were taking a stand against it.

### ***FGM - 'a form of abuse'***

Tasneem, who didn't want to disclose her full name for fear of retribution in the community, was also cut at the age of seven. She too was lured by the promise of ice-cream.

"I realised that Khatna is not in the Quran. Why put girls through torture in the name of religion? We need to break the myth that it's compulsory. If something is advocated in the name of religion, it doesn't mean that it's right," she told Al Jazeera.

She, and other Bohra women, believe that religion is used as an excuse to justify the practice which is done to "prevent promiscuity". Others in the community label it "female circumcision" as a means of justification - just as baby boys in the community have it done for health reasons.

"God has made us the way we are. So what, sex shouldn't be for pleasure for women? We are meant to work in the house and act like robots?"

Holding back tears, Tasneem spoke of her regret at having her 15-year-old daughter also cut at the age of seven.

"I told her how sorry I am. If I was aware I would have fought against it. Every woman feels like they've been cheated," she said.

"A revolution has to come and end this practice. Ultimately it's a form of abuse."

Al Jazeera repeatedly called a Mumbai-based doctor who is well known for performing the procedure, only to be told several times that the wrong number had been reached.

### ***Stop the cutting***

For young Mumbai-based journalist, Aarefa Johari, speaking out against FGM was an obvious course of action.

She said that the psychological impacts on women are vast, ranging from intimacy issues to marriage troubles and social anxiety.

"They don't have the right to control women's sexuality. There is a complete lack of consent."

More than a year ago, Johari and four other Bohra women began a group called Sahiyo which aims to create a safe space for women to speak about their experiences. The final goal is to empower Dawoodi Bohra and other Asian communities to end cutting.

Sahiyo conducted a study to determine the prevalence of cutting among the community. The organisation study the incidence to be about 80 percent of girls, including other Bohra women who live outside India in countries including the US, UK and Australia.

"More and more doctors are doing this," Johari said.

But while Johari wants a law banning the practice, she admits it will be tough to achieve.

"We've had no response from the clergy," she said.

"If we're able to convince the leaders, maybe it'll be possible. We just need to build enough momentum and try and engage as many people as possible and then there will be a chance of legislation being effective."

Ranalvi shares the same concerns.

"Even if a law is passed, the practice is so secret it'll go underground. We need a change in hearts, minds and understanding. We have a long battle ahead and it won't happen easily," she said.

"But even if one woman is stopped from getting her daughter cut, it's a big victory for us. That will make me happy."