

Know Your Rights

However well life may have treated you so far (and god willing, the good run should last you your lifetime), you cannot be too complacent. Crisis is never planned and hits in unexpected ways. So it's smart to be prepared. **Bhakti Bapat Mathew** consults Bengaluru-based advocate **Rama R Iyer** to give you an update on your legal rights

*Stay informed
- No, its not
difficult or
complicated*

Gender-sensitive laws are enacted with the hope that the laws protecting women can achieve what the predominantly patriarchal society has not been able to – to provide women with that extra thrust to make them an equal player





Marriage

The laws that govern marriage in India are based on the religion the person follows. However, the uniform laws include the Dowry Prohibition Act, 1961; The Protection of Women from Domestic Violence Act, 2005, and some provisions in the Indian Penal Code that strive to give a woman her lawful place in the society. Section 498 (A) and 304 (B) were added to the Indian Penal Code with the aim of protecting woman from her in-laws after marriage. While 498 (A) provides punishment for the husband or his relatives for cruelty towards women, 304 (B) is to do with punishment for dowry deaths.



Ending a bad marriage is better than living through hell

Interrogation/Arrest Of A Woman:

Section 160 of the Code of Criminal Procedure (CRPC) makes it clear that in none of the cases is the woman required to be present at the police station for interrogation. The interrogation of the woman can be done at her residence, in the presence of a woman police constable and family or friends. A woman also cannot be arrested during the night, after sunset or before sunrise, even if there is a woman constable present. Such arrests can only happen on the orders of a magistrate.

Domestic Violence

The Protection of Women from Domestic Violence Act, extends protection not only to married women but also to other women who live (or have at any point of time lived) in the household. The relationship of the victim with the respondent can be through blood, marriage, or through a relationship in the nature of marriage (live-in relationship). The Act grants a woman the right to reside in the shared household even if she does not have any right or title to the shared household property.

Divorce

A separation or divorce entitles a woman to financial maintenance from her spouse, which will be based on the income or earnings of the husband. However, the woman has to produce documentary evidence of her husband's financial worth or earnings in court. The court will then decide alimony or child support. His financial worth not only includes his salary or immovable property, but also fixed deposits, credit balance, shares, jewellery, car and so on.



Property

Stridhan is recognised by the Hindu Succession Act that guarantees that the property a woman earns by self-exertion (meaning her own money or belongings which is called *Stridhan*) or by maintenance, forms a part of a woman's property. It also includes gifts and bequeaths from relations and strangers.



Sexual Harassment

Marital rape, meaning non-consensual sex in a marriage, is not yet a criminal offence and hence, not a punishable offence. Marital rape is considered an offence under IPC only when an order of judicial separation has been passed by the court. However, it can be construed as cruelty for seeking divorce.

There is a special enactment termed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to protect a woman in the workplace. As per the

provisions of this Act, it is mandatory that in all private and public organisations, a Sexual Harassment Complaints Committee has to be constituted that will address complaints pertaining to sexual abuse. It is also mandatory that only a woman will be the head of such a committee. It is urged that 50 percent members of this panel be women, with one member being a women's welfare group representative.



Childrens' Right

Section 12 of the Prohibition of Child Marriage Act, 2006 curtails any one from influencing a minor to get married either by deceiving the parents or by abducting the minor. Section 9 of the Act lays down rules to punish a male adult marrying or inducing a minor into marrying him, with rigorous imprisonment which might extend up to two years, or a fine up to ₹1 lakh, or both. The punishment for the rape of any minor girl (below the age of 16) is imprisonment for a minimum of 10 years which may extend to life imprisonment with fine.

Sexual assault

Here's what two legal luminaries have to say about rape:

Justice Arjit Pasayat: 'While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female.'

Justice Krishna Iyer: 'A murderer kills the body but a rapist kills the soul.'

Section 376 of the Indian Penal Code provides for a punishment of not less than seven years which may even extend to life-term, and may include a fine. Further it is also mentioned that the judge passing judgment for the offence of rape has to assign special reasons if he is punishing someone for a period less than seven years. A death sentence can be pronounced in the "rarest of rare cases".

A woman can file a rape complaint at any time. She can also file a complaint through email or registered post addressed to the deputy commissioner or commissioner of police. Any police station within the city can be approached to register the complaint, not necessarily the one under whose jurisdiction the assault took place.

The identity of the victim is required to be kept secret at all times.