



QUINTESSENCE YOUTH SUMMIT 2022

LOK SABHA BACKGROUND GUIDE

**Agenda - Deliberation on the issue
of women safety with special
emphasis on increasing crime rate
against women.**

Letter from the Executive Board

Dear Prospective Members,

At the outset on behalf of the Executive Board, we extend a warm welcome to all of you and congratulate you on being a part of the Quint Youth Summit 2022.

The committee being simulated , would unlike most other simulations you must have heard of or been a part of; focus on political intellect and analytical application of thoughts and strategic application of thoughts in resolving impending politically sensitive bilateral issues.

Kindly note, we are not looking for existing solutions, or statements that would be a copy paste of what the leader you are representing have already stated; instead we seek an out of the box solution from you, while knowing and understanding your impending political and ideological limitations.

This Introductory guide would be as abstract as possible, and would just give you a basic perspective on what you can expect from the committee and areas wherein which your research should be focused at this given point in time. Given the extremely political and volatile nature of this committee, your presence of mind and politico-analytical aptitude is something which we at the executive board would be looking to test. That being said, kindly do not limit your research to the areas highlighted further but ensure that you logically deduce and push your research to areas associated with the issues mentioned.

Kindly note, that unlike most conventional/unconventional committees you have attended, this committee shall have “substantive” intervention by the Executive Board.

The objective of this background guide is to provide you with a ‘background’ of the issue at hand and therefore it might seem to some as not being comprehensive enough. If you feel that the Guide does not cover all the issues and it could have been compiled in a better way by giving more information or links or better arguments ‘for’ and ‘against’, we think that would be the appropriate time to pat our backs for we successfully managed to compile a ‘Background Guide’ and not a ‘Study Guide’ which most of the Executive Board members fail to differentiate. We feel that ‘study guides’ are detrimental to the individual growth of the delegate since they overlook a very important part of this activity, which is- Research. We are sure however that this background guide gives you a perfect launching pad to start with your research.

The usage of internet in the committee is prohibited, barring the devices the Executive Board, the Secretariat and the Conference Staff are carrying.

Wishing you all a very warm good luck and hoping to see you all at this conference discussing imperative issues of national trust.

Warm Regards,

Hitanshi Goel - Speaker

Rashmi Kayat - Deputy Speaker

Hardik Jindal - Political Advisor

Following is a suggested pattern for researching (if required):

- Research on the allotted personality, understanding his/her thinking about the agenda.
- Comprehending the Party Policy of the allotted Personality. It includes understanding the ideology and principles adopted by the party on the agenda. It further includes studying past actions taken by the party on the agenda and other related issues –specifically analyzing their causes and consequences.
- Reading the background guide thoroughly.
- Researching further upon the agenda using the footnotes and links given in the guide and from other sources such as academic papers, institutional reports, national reports, news articles, blogs etc.
- Understanding policies adopted by different political parties and major parties involved in the agenda. Including their position, ideology and adopted past actions.
- Characterizing the agenda into sub-topics and preparing speeches and statements on them. It is the same as preparing topics for the moderated caucuses and their content.
- Preparing a list of possible solutions and actions that can be adopted on the issue as per your party's policies.
- Assemble proof/evidence for any important piece of information/allegation you are going to use in committee
- Keeping your research updated using various news sources, especially news websites given in the proof/evidence section.
- Lastly, we would request all the delegates to put sincere efforts in preparation and research for the simulation and work hard to make it a fruitful learning experience for all.

A lot of members have doubts such as what they are supposed to write or how should they should structure their speech. This is completely up to the member. The maximum we can do is to tell you according to our experiences about how speeches are structured and content chosen for them accordingly. These are:

- Premise – Analysis – Example
- Problem – Solution – Benefits
- Past – Present – Future Scenario

- What – So what – Now what

There can be more structures. These are some of them which the members of the Executive Board have seen.

Note: The best way to debate in any format is to clearly state your opinion and justify it with substantive rational sources. PROOFS/EVIDENCE IN COMMITTEE:

1. Government Reports (Each ministry publishes its own reports including External Affairs Ministry)
2. Government Websites
3. Government run News channels i.e., RSTV, LSTV, DD News
4. Standing Committee Reports/ Commission Reports
5. RTI Proofs
6. Parliamentary Standing Committee reports

NOTE: Under no circumstances will sources like Wikipedia (<http://www.wikipedia.org/>), Amnesty International (<http://www.amnesty.org/>) or newspapers like Times of India (<http://timesofindia.indiatimes.com/>), etc. be accepted as PROOF/EVIDENCE. But they can be used for better understanding of any issue or even be brought up in debate if the information given in such sources is in line with the beliefs of a government.

Introduction

India is one of the only societies where women are worshipped. But at the same time currently India is one of the most dangerous countries to be a woman in. According to the global Women Peace and Security Index (WPS Index) which draws on recognized data sources to measure women's inclusion, justice, and security in 170 countries India ranks just 148 behind countries like Algeria, Bhutan, Burkina Faso, Myanmar and Gabon. A country which has ambitions to become a superpower it becomes necessary for its supreme law-making body to deliberate on the issue which makes the country extremely dangerous for 50% of its population.

To understand what changes or further additions are required to our legal system it is crucial for us to first understand what provisions already exist.

Provisions for women safety in the constitution:

Fundamental rights:

Article 15 of the constitution forbids discrimination on grounds only of religion, race, caste, sex, or place of birth. The **subclause 3** of this article gives exceptions to the government to implement quota, reservations, special laws for women and children without violating this article. Though it must be noted that it doesn't allow women to be treated less favourably on gender based criterion.

Article 16 provides equal opportunity for all citizens in matters relating to employment or appointment to any office under the state. It prevents discrimination on the basis of sex though similar to article 15 there are exceptions in this article to allow state to take affirmative action for the benefit backwards classes.

Article 23 of the constitution prohibits human trafficking and forced labour. Even after continued efforts of the government women are being trafficked, kidnapped and sold for sexual exploitation, forced labour and marriage. The extent of this is difficult to measure but it is a deep rooted problem which is going to need a concerted effort of the state and the citizens to uproot it.

Directive Principles of state policy:

Article 39 of the constitution gives numerous provisions for the state to follow. Subclause a of this article states that citizens, men and women equally, have the right to an adequate means of livelihood. The importance of having an adequate means of livelihood can't be understated for the welfare of women. Many issues that women currently face including exaggerated malnutrition, trafficking, exploitation, etc. may be co related to livelihood. Not having a proper and adequate means of living may not be the sole reason for these problems but it is a big factor in those happening. Women being depended on men strips them of authority leads them to being depended on them for living. This may lead to women being treated as lower than men in the social hierarchy further exaggerating social problems. Government projects like Self Help Groups (SHG), skill development programs, raising awareness, helping startups and small female led businesses help in further empowering women. These policies also lead to further economic growth and better quality of life not just for women but for the entire family.

Fundamental duties

As stated in the **article 51a subclause (e)** of the constitution it is the fundamental duty of the citizens to renounce practices derogatory to the dignity of women.

Even though the constitution has tried to set a moral and legal parameters for the society to follow the actual implementation and societal norms make it difficult for the state to actually achieve those parameters.

In terms of laws which provide for women safety these are some of the most crucial laws :-

Protection of Women from Domestic Violence Act (2005)-

This law has been enacted to protect women from domestic violence. It was brought into force by the Indian government and Ministry of Women and Child Development on 26 October 2006. The Act provides a definition of "domestic violence" for the first time in Indian law, with this definition being broad and including not only physical violence, but also other forms of violence such as emotional, verbal, sexual and psychological abuse. It is a

civil law meant primarily for protection orders, rather than criminal enforcement. Pursuant to the Act, the aggrieved person is defined as "any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to domestic violence by the respondent." This law protects not only women from violence within their husband-wife relationships, but women living in the same home with people with whom they are in a domestic relationship with. This protects women from violence within their relationships by marriage, relationships by adoption, and even relationships in the nature of marriage. This is considered to be the first law to provide legal recognition and protection to relationships outside of marriage.

Domestic violence is defined by Section 3 of the Act as "any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:

1. harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
2. harasses, harms, injures or endangers the aggrieved person to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
3. has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
4. otherwise injures or causes harm, whether physical or mental, to the aggrieved person."

The Act includes and defines not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse through the section Chapter 1 - Preliminary. This is a rather progressive definition of domestic violence including not just physical harm but also mental and economic. The impact of mental and economic harm is understated by some but mental health and economic authority are essential for any human to live a life of dignity and respect.

Rights

Pursuant to Chapter III of the Act, the aggrieved person has the right to:

1. "Apply for a protection order, an order for monetary relief, a custody order, a residence order, and/or a compensation order;

2. "Free legal services under the Legal Services Authorities Act, 1987;
3. "File a complaint under section 498A of the Indian Penal Code."

The aggrieved person also has the right to reside in the shared home regardless of whether or not she has any title or ownership over the home.

Shelter homes

The Act recognizes the aggrieved person's right to reside in the shared household; however, the Act also establishes the aggrieved person's right to reside in a shelter home as a form of relief. A Protection Officer or a service provider may also request this shelter on behalf of the aggrieved person. The Ministry of Women and Child Development in each State or Union Territory is required to recognize and notify of shelter homes available to aggrieved persons.

Medical facilities

Medical facilities are bound to provide free medical aid, even if the aggrieved woman requests aid without any prior recommendation either from the Protection Officer or the service provider. The obligations of the medical facility are independent of, and shall be fulfilled regardless of the fulfilment of, those of the Protection Officer and service provider.

This is crucial for the victims of domestic violence who may not have enough financial resources to pay for their treatment.

As with many laws in India there is a huge gap between what laws have been passed by the legislative bodies and their implementation. There are huge gaps in the implementation of this law. Lack of awareness of this law, therefore accessibility and awareness about services, legal rights, types of relief is a big issue preventing rural women especially from utilising this law to its fullest. Some of these implementation issues revolve around some districts, such as Odisha, giving these new regulation responsibilities to existing officers rather than employing new Protection Officers. This implementation gap results in duties pertaining to the Act being unfulfilled as PO responsibilities fall secondary to the officers' prior duties. Another barrier to the implementation of the law is the lack of meaningful immediate relief for survivors of domestic violence. In most districts, shelter homes are the only available form of immediate relief; survivors of domestic violence

often also need "medical treatment, trauma counselling, clothes and ready cash, which are not provided in the shelter homes."

Beyond enforcement, implementation is also dependent on the slow-moving social acceptability of reporting these cases. There is a social stigma attached with reporting cases and the family and society encourages women to try and solve the problem informally and not take the issue "outside of the house". Even police officials in many cases try to solve the case informally and discourage official proceedings.

India's Committee on Reforms of Criminal Justice System released a report on offenses against women, in which the committee sought to expand the definition of "wife" to include women who lived with a man as his wife for a long period of time "during the subsistence of the first marriage". This specification implicated this expanded definition of "wife" refers to relationships between a woman and an already married man, rather than non-marital relationships. When Maharashtra attempted to follow the recommendations in the committee's report, the legal status of non-marital, live-in relationships was brought into public discussion. The protection of women in non-marital live-in relationships in the same law applied to marital relationships was construed as an effort to legalize secondary marriages or non-marital live-in relationships. The committee's recommendations were in fact cited in a legal case, *Chanmuniya vs Virendra Kumar Singh Kushwaha and Another* (2010), to support an interpretation of the definition of "wife" to include relationships where a marriage is "presumed" due to a long period of cohabitation.

One criticism revolves around the law's lack of effective force in responding to the criminal act of domestic violence. As the law serves chiefly as a civil law, a further offense (such as violating a Protection Order issued under this law) is required before triggering criminal law sanctions against the respondent, such as arrest and imprisonment. However, groups involved in drafting the law believed this would provide more rapid and flexible relief for the victim.

Men's organizations such as the Save Indian Family Foundation have opposed the law, arguing that it might be misused by women during disputes. It has been noticed by women's groups that such claims emerge only when special provisions are made for the marginalised.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013-

is a legislative act in India that seeks to protect women from sexual harassment at their place of work. This statute superseded the Vishaka Guidelines for Prevention of Sexual Harassment (POSH) introduced by the Supreme Court (SC) of India. It was reported by the International Labour Organization that very few Indian employers were compliant to this statute. Most Indian employers have not implemented the law despite the legal requirement that any workplace with more than 10 employees need to implement it. According to a FICCI-EY November 2015 report, 36% of Indian companies and 25% among MNCs are not compliant with the Sexual Harassment Act, 2013. The government has threatened to take stern action against employers who fail to comply with this law.

Features of this law:

- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- An employer has been defined as any person who is responsible for management, supervision, and control of the workplace and includes persons who formulate and administer policies of such an organisation under Section 2(g).
- While the "workplace" in the Vishakha Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including

the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.

- The committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitisation programmes and develop policies against sexual harassment, among other obligations. The objective of Awareness Building can be achieved through Banners and Poster displayed in the premises, eLearning courses for the employees, managers and Internal Committee members, Classroom training sessions, Communication of Organizational Sexual Harassment Policy through emails, eLearning or Classroom Training. It is recommended that the eLearning or Classroom Training be delivered in the primary communication language of the employee.
- Every organization must file an Annual Report to the District Officer every calendar year as prescribed in the Rule 14 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of licence or deregistration to conduct business.
- Government can order an officer to inspect workplace and records related to sexual harassment in any organisation.

- Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

There is no stipulated liability for employers in cases of employee-to-employee harassment, something upheld in many other countries. They also viewed the provision that employers are obligated to address grievances in a timely manner at the workplace as problematic because of potentially uncooperative employees. Furthermore, the law requires a third-party non-governmental organisation to be involved, which could make employers less comfortable in reporting grievances, due to confidentiality concerns.

Compliance to this statute has so far been left to the vagaries of the employers and government has not taken any significant step to enforce the law so far. For example, 6 months after the law came into effect, the state in UP remained dreadful as women could not participate in the workforce due to sexual harassment. Everyday women are being harassed but there are no records for many cases.

Some tribunals have commented on the constitutionality of some of the provisions of the statute, especially section 4 and Section 7

The Criminal Law (Amendment) Act 2013 -

This Act was passed in the aftermath of the Nirbhaya case wherein a female student was gang-raped in December 2012. The Act amended several provisions of the Indian Penal Code, Indian Evidence Act, and the Criminal Procedure Code. By way of this amendment, several new offenses have been recognized and incorporated into the Indian Penal Code, including acid attack (Section 326 A & B), voyeurism (Section 354C), stalking (Section 354D), attempt to disrobe a woman (Section 354B), sexual harassment (Section 354A), and sexual assault which causes death or injury causing a person to be in persistent vegetative state (Section 376A). The Act also amended the already existing offenses to make them more stringent. Notably, the definition of rape in Section 375 was broadened to include acts in addition to penetration. Also, Section 370 was replaced with Section 370 and 370A. The amended section incorporated the definition of trafficking as provided in the UN Trafficking Protocol while excluding “forced labour.”

This act has been strongly criticised by several human rights and women's rights organisations for not including certain suggestions recommended by the Verma Committee Report like, marital rape, reduction of age of consent amending Armed Forces (Special Powers) Act so that no sanction is needed for prosecuting an armed force personnel accused of a crime against woman.

The Criminal Law (Amendment) Act 2018-

The Criminal Law (Amendment) Act replaced the Ordinance of the same name which was promulgated in the aftermath of the Kathua Rape case in Jammu & Kashmir region of India in 2018, which involved the rape and murder of an eight-year-old girl. The Act amended various provisions of the Indian Penal Code, Indian Evidence Act, and The Code of Criminal Procedure. Notably, the Act increased the minimum punishment for rape from seven years to ten years of rigorous imprisonment which is extendable to life imprisonment. The penalty for rape of a girl under 16 years of age has also been increased to 20 years of imprisonment extendable to life, a significant increase from the original term of 10 years. Rape of a girl under 12 years of age has been made punishable with imprisonment of minimum 20 years

extendable to life or with capital punishment. Lastly, the gang rape of a girl under 12 years of age has been made punishable with life imprisonment or capital punishment. The Act includes measures related to bail restrictions, speedy trial, and strengthening prosecution.

The Ordinance amends the IPC to allow for death penalty as punishment for rape of girls below the age of 12 years. While there is a larger question on allowing capital punishment, we discuss here the narrow question of introducing death penalty for the offence of rape.

While examining punishment for the offence of rape, the Justice Verma Committee (2013) deliberated on whether death penalty should be awarded. The Committee acknowledged that though rape was a violent crime, the punishment should be proportionate, as it was possible to rehabilitate the survivor. The Committee supported enhanced punishment extending up to life imprisonment for rape, but not death penalty. The Law Commission (2015) observed that in cases related to rape and murder of minor boys and girls, courts have differed in awarding death sentence. In March 2013, Parliament passed the Criminal Law (Amendment) Act, 2013 to amend the IPC to allow death penalty only in rape cases where the accompanying brutality leads to death or leaves the victim in a persistent vegetative state, and in cases of repeat offenders.

On the other hand, it has been argued that imposing death penalty for rape crimes could deter individuals from committing the offence and therefore help reduce its incidence. Further, awarding death penalty allows for retributive justice for the victims. Over the years, various court judgements have narrowed the application of death penalty to the 'rarest of rare' cases and issued criteria to determine whether the accused deserves a death sentence. This implies that courts can award death sentence for rape only in exceptional circumstances, which include where the reformation and rehabilitation of the convict is not possible.

Need for Gender Neutral Laws?

It might be said that the current laws tend to victimise women. They strip them of their authority and treat 50% of the population as someone to be protected and who can't commit crimes against fellow women. This notion may instil within men a sense to protect women against danger which may promote toxic masculinity. Many provisions within the above-mentioned laws protect women from men only. For example, In the case of rape of

minors, according to the POCSO Act, the victim may either be male or female (and the offender could also be of either gender). However, in cases of adults under the IPC, rape is as an offence only if the offender is male and the victim is female. The Law Commission of India (2000) and the Justice Verma Committee (2013) had recommended that this definition of rape should be made gender neutral and should apply equally to both male and female victims. It may be said women are the main sufferers from these issues thus it was more crucial for these laws to be made just for women but Right to equality being a fundamental right it is crucial for us to realise that if anyone has suffered from injustice, we as a society and as a country must thrive to provide justice equally not differentiate on the basis of gender. Seeing that lady justice too wears a blindfold thus doesn't discriminate against anyone on the basis of their sex, gender, caste, religion, economic background etc. we must try to instill the same ideas within our laws too.

Some key issues to be addressed:

1. Patriarchal Mindset
2. Objectification of Women
3. Delayed punishment
4. Lack of awareness
5. Lack of infrastructure
6. Increased sexual education
7. Educating children at a young age on the issue and trying to instill respect in kids for all genders.
8. Police reform
9. Amendments to existing laws

Note: Please note that nothing mentioned in this background may be used as an established fact in committee without the presentation of a credible source and substance mentioned henceforth may act only as a source for your basic understanding of the agenda. Reiterating, kindly do not limit your research only to these points and feel free to broaden your horizons of the research. This is just a list of topics you should cover and is a reflection of the direction in which we intend to see the flow of debate in the committee.