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Country Policy and Information Note

India: Women fearing gender-based violence

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

Independent Advisory Group on Country Information

Independent Chief Inspector of Borders and Immigration

5th Floor

Globe House

89 Eccleston Square

London, SW1V 1PN

Email: chiefinspector@icinspector.gsi.gov.uk

Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Analysis

Updated: 25 July 2018

1. Introduction

- 1.1 Basis of claim
 - 1.1.1 A woman fearing gender-based violence from non-state actors amounting to persecution and/or serious harm.
- 1.2 Points to note
 - 1.2.1 Gender-based violence could include, but is not limited to: domestic abuse, rape, acid attacks, dowry-related violence, sexual harassment and forced marriage.
 - 1.2.2 Domestic abuse is not just about physical violence. It covers any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members, regardless of gender or sexuality. It can include psychological, physical, sexual, economic or emotional abuse. Children can also be victims of, or witnesses to, domestic abuse. Anyone can experience domestic abuse, regardless of background, age, gender, sexuality, race or culture. However, to establish a claim for protection under the refugee convention or humanitarian protection rules, that abuse needs to reach a minimum level of severity to constitute persecution or serious harm.
 - 1.2.3 For further guidance on assessing gender issues see the [Asylum Guidance on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim](#).
 - 1.2.4 Where a claim is refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002, as India is listed as a designated state (see [Certification](#)).

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2. Consideration of issues

- 2.1 Credibility
 - 2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
 - 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
 - 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Exclusion

- 2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 For further guidance on the exclusion clauses and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#) and the [Asylum Instruction on Restricted Leave](#).

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2.3 Convention reason

- 2.3.1 In general, women in India do not form a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention. This is because although they share an immutable (or innate) characteristic – being female – that cannot be changed, and although patriarchal views on women are still prevalent in parts of the country, overall, in view of their equality under the law and the general availability of state protection, they are not perceived as different and do not have a distinct identity in Indian society.
- 2.3.2 In the Country Guidance case [BK \(Risk, Adultery, PSG\) India CG \[2002\] UKIAT 03387 \(2 August 2002\)](#), heard on 15 May 2002, the Upper Tribunal considered whether the appellant – a woman from rural India who had committed adultery – would be at risk of persecution for a Convention reason. The Upper Tribunal noted:

‘The issue is whether the Appellant as a wife who has committed adultery could form part of a social group. As Lord Hoffman said in *Shah and Islam*, to identify a social group one must first identify the society of which it forms a part. Although the Tribunal has had its doubts about this, on balance we have come to the view that, looking at the Appellant’s background in rural India in the light of the social, cultural and religious mores, women in the Appellant’s circumstances are identifiable as a particular social group’ (paragraph 13).
- 2.3.3 Whilst some women, for example, women from rural India who are deemed to have transgressed social norms, may form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question is whether the person will face a real risk of persecution on account of their membership of such a group.
- 2.3.4 In the absence of a link to one of the five Convention reasons necessary for the grant of refugee status, the question to be addressed in each case will be whether the person will face a real risk of serious harm sufficient to qualify for Humanitarian Protection (HP).
- 2.3.5 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim](#).

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2.4 Assessment of risk

- 2.4.1 Constitutional provisions and domestic laws aim to uphold the rights of women and provide for protections against gender-based violence. This includes offences related to domestic abuse, rape (although not marital rape), dowry-related violence and sexual harassment. However, levels of discrimination and violence against women remains high, particularly in the north of India, where patriarchal attitudes prevail, and domestic abuse is said to be widely tolerated by the state. Gender-based violence against women and girls is widespread and compounded by patriarchal attitudes and gender stereotypes, e.g. male dominance over women (see [Legal context](#), [Cultural context – discrimination and inequality](#) and [Sexual and gender-based violence](#)). However, not all women experience, or are at risk of, gender-based violence, for example, women from higher socio-economic backgrounds.
- 2.4.2 Practices such as forced and child marriage (India has the largest proportion of child brides (under-18s) in the world); violence and deaths linked to dowry payments (19,973 persons were arrested for dowry deaths in 2015); domestic abuse (29% of married women in India reported spousal (physical and sexual) abuse, compared to 39% in Pakistan and 72.6% in Bangladesh; 26% of women in England and Wales have experienced some form of domestic abuse since age 16); unsafe gender-selective abortions; honour crimes (estimated at 1,000 a year); rape (40,000 reported in 2016, though under-reporting was believed to be significant); sexual harassment; acid attacks; coerced and involuntary sterilization; and accusations of witchcraft, continue to be practiced despite laws prohibiting them (see [Forced and child marriage](#), [Dowry-related violence](#), [Domestic abuse](#), [Reproductive rights](#), [‘Honour’ crimes](#), [Rape and sexual assault](#), [Domestic workers and workplace harassment](#), and [Other forms of violence, abuse and harassment](#)).
- 2.4.3 Women from minority groups, including Dalits (who are at the bottom of the caste system) and Adivasi (indigenous tribal), and women with disabilities, often face multiple and intersecting forms of discrimination and violence because of their gender and other distinguishing characteristics (see [Violence against Dalit and Adivasi women](#) and [Abuses against women with disabilities](#)). There are reports of women living in conflict regions facing violence and abuse by non-state and state actors (see [Women living in areas of military conflict](#)).
- 2.4.4 In general, the level of societal discrimination against women and girls in India is not sufficiently serious by its nature and repetition that it will reach the high threshold of being persecutory or otherwise inhuman or degrading treatment.
- 2.4.5 However, some women who are seen to have transgressed social, cultural and religious norms, and who fear gender-based violence as a result, may be at risk of persecution or serious harm. Each case must be determined on its own facts, with the onus on the woman to demonstrate that she is at risk.
- 2.4.6 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim](#).

2.5 Protection

- 2.5.1 Where the woman's fear is of persecution and/or serious harm from non-state actors, decision makers must assess whether the state can provide effective protection.
- 2.5.2 There are specific statutory laws in place which provide tough penalties for domestic violence, rape, acid attacks, sexual harassment, trafficking and other related offences. Furthermore, legislation adopted in 2013, including a Criminal Law (Amendment) Act, has improved the legislative framework significantly, introducing new criminal offences and stronger sanctions (see State treatment and attitudes: [Positive action](#) and [Implementation and enforcement of legislation](#)).
- 2.5.3 The Protection of Women from Domestic Violence Act 2005 (PWDVA) enables victims of domestic violence to seek interim protection and residence orders, as well as compensation and maintenance. The Act protects women not only from abuse by a spouse, but also members of the spouse's family. Its definition of violence against women encompasses physical, sexual, psychological, verbal, and economic abuse. Marital rape is not illegal. In August 2017, the Supreme Court amended the law by requiring that complaints be initially assessed by civil society "family welfare committees" (see State treatment and attitudes: [Positive action](#) and [Implementation and enforcement of legislation](#)).
- 2.5.4 Some survivors of domestic violence have access to shelters and support under the Swadhar Greh Scheme and One Stop Centres, although the number and capacity of shelters is inadequate for size of the affected population, and resources in those that are available are limited. NGOs report that overcrowding and poor conditions in government shelters compromise victim rehabilitation (see Assistance available to women: [Support services and shelters](#)).
- 2.5.5 Despite laws aimed at addressing gender-based violence, persistent gaps in enforcing the laws, relevant policies and guidelines, aimed at justice for victims of sexual violence, persist. Some women and girls are reluctant to report, or discouraged from reporting attacks to the police, for fear of reprisals, being stigmatised or unsupported by the justice system. Few police stations have specialised women's mechanisms to address the concerns of women and some police reportedly encourage dispute resolution at a local level (see [Implementation and enforcement of legislation](#) and [Access to, and attitudes of, the justice system and the police](#)).
- 2.5.6 In 2016, nearly 77% of suspects reported to have committed crimes against women were formally charged, although conviction rates were low, at 18.9%. Deeply entrenched patriarchal attitudes of the police, lawyers (defence and prosecution) and other judicial officers may contribute to low conviction rates. As a rough comparison, the conviction rate of defendants of violence against women and girls in England and Wales in 2013-14 was 74.4% (see [Implementation and enforcement of legislation](#)).
- 2.5.7 In general, the state appears willing and able to provide effective protection. However, an assessment of whether a person would be able to access

assistance and protection must be carefully considered on the facts of the case. Decision makers must take account of past persecution (if any) and past lack of effective protection. In each case, decision makers must identify whether attempts were made to seek protection and what the response of the authorities was.

- 2.5.8 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and [Gender issues in the asylum claim](#). Also see the country policy and information on [India: Background information, including actors of protection and internal relocation](#).

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2.6 Internal relocation

- 2.6.1 Where the person's fear is of persecution and/or serious harm by non-state actors, decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.
- 2.6.2 India is a large and diverse country with a population of over 1.3 billion people. When considering internal relocation, in the Country Guidance case of [AR and NH \(lesbians\) India \(CG\) \[2016\] UKUT 66 \(IAC\) \(1 February 2016\)](#), heard on 23 June 2015, the Upper Tribunal held:
- If a lesbian woman's family wishes to pursue and harm her in the place of internal relocation, their ability to do so will depend on the reach of the family network, how persistent they are, and how influential. The evidence indicates that there is normally sufficient state protection for women whose families seek to harm them in their place of internal relocation (paragraph 78(11)).
 - In general, where there is a risk of persecution or serious harm in a lesbian woman's home area, for educated, and therefore 'middle class' women, an internal relocation option is available. They are likely to be able to relocate to one of the major cities in India and are likely to be able to find employment and support themselves, albeit with difficulty, and to live together openly, should they choose to do so. In general, such relocation will not be unduly harsh (paragraph 78(12)).
- 2.6.3 Single women, women with children or victims of domestic violence or family crime may find it difficult to relocate within India because they will be asked to provide details of their father's or husband's name to access accommodation and services (see [Single women](#)). However, this alone does not make relocation unreasonable or unduly harsh.
- 2.6.4 In general, it will be reasonable for a woman to relocate, especially if she is single and without children to support, able to access accommodation and support networks, or is educated, skilled or wealthy enough to be able to support herself. In assessing whether a woman who is fleeing a risk of domestic violence has a viable internal relocation alternative, decision makers must not only have regard to the availability of shelters/centres but also to the situation the woman will face after she leaves such centres.

- 2.6.5 For further guidance on internal relocation and the factors to be considered, see the Asylum Instruction on Assessing Credibility and Refugee Status and Gender issues in the asylum claim. Also see the country policy and information on India: Background information, including actors of protection and internal relocation.

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2.7 Certification

- 2.7.1 Where a claim falls to be refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as India is listed as a designated state, and a claim based on fear of gender-based violence is likely to be certifiable as 'clearly unfounded'.
- 2.7.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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Country information

Updated: 25 July 2018

3. Legal context

3.1 The Constitution

3.1.1 The Constitution of India 1949, as amended to August 2014, provides:

- Article 14: 'Equality before law: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.'
- Article 15: 'Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth: (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them ...'
- Article 15(3) leaves scope for affirmative action for women: 'Nothing in this article shall prevent the State from making any special provision for women and children.'
- Article 16: 'Equality of opportunity in matters of public employment: ... (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against, in respect of any employment or office under the State.'¹

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3.2 Statutory provisions

3.2.1 The United Nations Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo (referred to below as the UN Special Rapporteur), undertook a mission to India from 22 April to 1 May 2013 and commented in her report:

'At the national level, laws and policies have been put in place to prevent and respond to violence against women. These include the Penal Code, the Criminal Law (Amendment) Act 2013, the Sexual Harassment of Women at Workplace (Prohibition, Prevention and Redressal) Act, 2013, the Protection of Women from Domestic Violence Act, 2005, the Indecent Representation of Women (Prohibition) Act, 1986, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Dowry Prohibition Act, 1961, the Commission of Sati (Prevention) Act, 1961, the Immoral Traffic (Prevention) Act, 1956 and the Bonded Labour System (Prohibition) Act of 1976, among others. Despite those positive developments, effective implementation of those laws and the allocation of financial resources to support their execution adequately is reportedly lacking in many instances.'²

3.2.2 Below are some of the other constitutional and statutory provisions cited by the 2012 State Party report to CEDAW as being intended to end discriminatory practices:

¹ Constitution of India 1949, with Amendments through 2014, [url](#).

² UN HRC, 'Report of the Special Rapporteur', (paragraph 31), 1 April 2014, [url](#).

- The Hindu Succession (Amendment) Act, 2005 removed gender discriminatory provisions in the Hindu Succession Act 1956 and gave daughters the same right as sons to inherit coparcenary property (ancestral property of the Hindu undivided family)³. [Note that Muslim personal law continues to determine land inheritance for Muslim women, allotting them less than men⁴].
- The Maternity Benefit (Amendment) Act, 2008 regulates maternity benefits available to women in factories, mines, circuses, plantations and shops or establishments employing 10 or more persons⁵.
- The Senior Citizens (Maintenance, Protection and Welfare) Act, 2007 has made it mandatory for people to maintain their aged parents; there are penalties for failure to do so⁶.

3.2.3 The Immigration and Refugee Board (IRB) of Canada quoted the Habitat International Coalition (HIC), an NGO, as stating in 2009 that ‘...although the law on Hindu women’s property rights was amended in 2005 to mandate “equal inheritance rights for men and women in agricultural land and family property,” the law does not apply to non-Hindu women ... The HIC also state[d] that... the prevalence of the dowry system made it uncertain as to what extent Hindu women would benefit, in practice, from the legislation...’⁷

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3.3 Other measures taken by the Federal Government to protect women

3.3.1 The National Commission for Women (NCW India) ‘... was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt. of India) to: review the Constitutional and Legal safeguards for women; recommend remedial legislative measures; facilitate redressal of grievances; and advise the Government on all policy matters affecting women.’⁸

3.3.2 India ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 9 July 1993⁹.

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4. Social, economic and political rights and attitudes

4.1 Cultural context – discrimination and inequality

4.1.1 The Bertelsmann Stiftung’s Transformation Index (BTI) 2018 Report, which covered the period from 1 February 2015 to 31 January 2017, noted:

‘Discrimination of women remains a major issue in India. Especially in the still extremely patriarchal north of India, women tend to be discriminated against from the outset within their families. With poor families, this means

³ UN CEDAW, ‘Consideration of reports’, (paragraph 5), 23 October 2012, [url](#).

⁴ The Times of India, ‘Can we unify inheritance law?’, 19 September 2017, [url](#).

⁵ UN CEDAW, ‘Consideration of reports’, (paragraph 9), 23 October 2012, [url](#).

⁶ UN CEDAW, ‘Consideration of reports’, (paragraph 12), 23 October 2012, [url](#).

⁷ IRB, ‘IND104430.E’, 16 May 2013, [url](#).

⁸ NCW India, ‘About us’, undated, [url](#).

⁹ UN Treaty Collection, ‘CEDAW’, [url](#).

worse access to food and sanitation. As far as access to education is concerned, some substantial progress has been made in primary and secondary education; also in tertiary education, the ratio of female-to-male enrollment (Gender Parity Index) is 0.9. However, India's female labor force participation rate has steadily declined over the past decade ...'¹⁰

- 4.1.2 The same source added 'While women's rights and gender equality are officially recognized, women are de facto still largely discriminated. Discrimination ranges from the abortion of female fetuses (and corresponding numeric gender disparity) to the intra-familial discrimination of women in the access to food and sanitation. This is mainly related to the persistence of patriarchal family structures, especially in northern India.'¹¹ (see also Reproductive rights).

- 4.1.3 According to a report published in 2014 by the International Center for Research on Women (ICRW) in partnership with the United Nations Population Fund (UNFPA):

'Son preference and daughter discrimination on the basis of gender are widespread in India, and they manifest in varying degrees across the socio-cultural and geographic spread of the country. It is the most powerful and fundamental manifestation of gender inequality in the Indian context. The preference for sons is deeply rooted in the Indian socio-cultural context: male children in India hold a central identity in the familial structure, for they inherit property, carry forward family lineage and perform specific family rituals. Meanwhile, daughters are seen as socioeconomic burdens owing to the cost of marriage including dowry during marriage, often followed by severing of economic dependence with the natal family. This discrimination towards the girl child is demonstrated at the prenatal stage through gender biased sex selection in order to ensure daughters are not born. At the post-natal stage, discrimination is palpable in terms of neglect of daughters and preferential treatment towards sons.

'Indeed, the societal importance given to boys in India has translated into deep-rooted discriminatory practices against girls and women, with devastating effects on their status, health and development and an enormous pressure to produce sons. In the context of declining family size, restrictive policies on reproduction and limited access to unregulated health services, this pressure can have severe consequences on women's psychological and physical health.'¹²

- 4.1.4 The same report noted '[C]entral to the problem of gender-based violence in India is that Indian men and women have been socialized to believe that men's dominance over women is normal and acts of violence against women are justified. The causes of intimate partner violence against women are thus rooted in India's social, cultural and economic context.'¹³ (See Sexual and gender-based violence).

¹⁰ BTI 2018, 'India Country Report' (page 23), 2018, [url](#).

¹¹ BTI 2018, 'India Country Report' (page 16), 2018, [url](#).

¹² ICRW, 'Masculinity, intimate partner violence and son preference in India', (page 2), 2014, [url](#).

¹³ ICRW, 'Masculinity, intimate partner violence and son preference in India', (page 3), 2014, [url](#).

- 4.1.5 In its key findings on women's empowerment, the 2015-2016 National Family Health Survey (NFHS-4), published by India's Ministry of Health and Family Welfare, noted 'Less than two-thirds (63%) of currently married women participate in making decisions about their own health care, major household purchases, and visits to their own family or relatives alone or jointly with their husband, while 16 percent do not participate in any of the three. Women's participation in decision making has increased since NFHS-3 [2005-06].'¹⁴

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4.2 Economic participation

4.2.1 According to the UN Special Rapporteur's report of 1 April 2014:

'India recently underwent a significant wave of reforms to liberalize its economy, which has resulted in unprecedented growth and prosperity ... Unfortunately, the economic development focus for women remains one of subsistence and does not necessarily take into account, or address sufficiently, the gendered and class nature of systemic and structural inequality and discrimination.

'Women are also found in precarious jobs requiring low skills and offering low and unequal wages. According to official statistics, the general trend of daily earnings for women in recent decades has been comparatively lower than those of men in virtually all sectors, including manufacturing, mining and service sectors.

'Labour legislation in India provides for safeguards to ensure respect for the rights of women at work, and schemes are in place to help women improve their skills in specific occupations, thus moving beyond subsistence labour skills. For example, there are training institutes to help women gain access to the labour market, including industrial training institutes, with 14,059 centres across the country.'¹⁵

4.2.2 Citing the government's Economic Survey 2018, the Financial Express reported:

'... that lower women engagement adversely affects the growth potential of the economy. "Among developing countries, there exists gender gaps in labour force participation rates. In the case of India, the gender gap in labour force participation rate is more than 50 percentage points," said the survey tabled by Finance Minister Arun Jaitley in Parliament. The survey pointed out that the lower participation of women in economic activities adversely affects the growth potential of the economy. It noted that the government has been taking measures to increase the participation of women in productive economic activities by schemes to provide support services to working women and also through legislative measures to enhance maternity benefits.

'The survey observed that women workers are the most disadvantaged in the labour market as they constitute a very high proportion among the low skilled informal worker category, and are engaged in low-productivity and low paying work. Owing to this, it said that the women earn very low wages,

¹⁴ NFHS-4, 'India', (page 505), December 2017, [url](#).

¹⁵ UN HRC, 'Report of the Special Rapporteur', (paragraphs 37-39), 1 April 2014, [url](#).

mostly piece rates in highly insecure jobs. India had the largest gender gap in median earnings of full time employees in 2015, in comparison to countries like South Africa, Brazil, and Chile, it added. The survey also stressed for political empowerment of women saying their representation in Parliament and in decision making roles in public sphere is one of the key indicators of empowerment.¹⁶

- 4.2.3 According to the NFHS-4, employment among currently married women age 15-49 declined from 43% in NFHS-3 (2005-06) to 31% in 2015-16¹⁷. According to a World Bank study, the decline in the female labour participation rate may be as a result of: rising aspirations and relative prosperity; continuation of education; and improved stability in family income¹⁸. The NFHS-4 added 'Employment among currently married women varies greatly by state, from a low of 16-18 percent among women in Jammu & Kashmir, Assam, Punjab, and Andaman & Nicobar Islands, to a high of 54 percent in Manipur and 50 percent in Telangan.'¹⁹

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4.3 Political participation

- 4.3.1 The US Department of State's Country Report on Human Rights Practices for 2017, India (USSD HR Report 2017) noted that the Constitution provides for 33% of the posts in panchayats (local self-governance councils) to be reserved for women. The same source added 'Religious, cultural, and traditional practices and ideas prevented women from proportional participation in political office. Nonetheless, women held many high-level political offices, including positions as ministers, members of parliament, and state chief ministers. No laws limit participation of women or members of minorities in the political process, and they did participate.'²⁰
- 4.3.2 As per the report 'Women in Politics 2017', created by the Inter-Parliamentary Union (IPU) and UN Women, which ranks countries by the number and proportion of women in the executive and parliamentary branches of government as of 1 January 2017, the Lok Sabha (Lower House) had 64 women Members of Parliament (MPs), accounting for 11.8% of a total 542 MPs; the Rajya Sabha (Upper House) had 27 women MPs (11% of 245 MPs)²¹. According to the Report of the Working Group on the Universal Periodic Review (UPR): India, dated 14 July 2017, there were 1.4 million directly elected women representatives²².
- 4.3.3 The Financial Express noted in January 2018:
'As on October 2016, out of the total 4,118 MLAs [Member of Legislative Assembly] across the country, only 9 per cent were women. Among the state assemblies, the highest percentage of women MLAs were from Bihar,

¹⁶ Financial Express, 'Economic Survey 2018', 29 January 2018, [url](#).

¹⁷ NFHS-4, 'India', (page 506), December 2017, [url](#).

¹⁸ BBC News, 'Why are millions of Indian women dropping out of work?', 18 May 2017, [url](#).

¹⁹ NFHS-4, 'India', (page 507), December 2017, [url](#).

²⁰ USSD, 'Country Report 2017 – India', (Section 3), 20 April 2018, [url](#).

²¹ IPU/UN, 'Women in Politics 2017', 2017, [url](#).

²² UN HRC, 'UPR: India', (paragraph 101), 14 July 2017, [url](#).

Haryana and Rajasthan – 14 per cent – followed by Madhya Pradesh and West Bengal – 13 per cent – and Punjab with 12 per cent, as per Women & Men in India – 2016 report, Ministry of Statistics and Programme Implementation). The survey pointed out that in India, between 2010 and 2017 women's representation rose by 1 percentage point to 11.8 per cent in the Lok Sabha.²³

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4.4 Education

- 4.4.1 The Constitution (86th Amendment, 2002) made free and compulsory education for all children in the 6-14-year age group a fundamental right. (The Right of Children to Free and Compulsory Education Act, 2009 qualified this right as being to the completion of elementary education)²⁴.
- 4.4.2 The NFHS-4 covering the period 2015/16, recorded that overall 69% of females compared to 85% of males aged six and over have attended school, adding that 'The median number of years of schooling completed is higher for males (6.9 years) than for females (4.4 years).' School attendance and attainment had increased for girls since the previous NFHS in 2005-2006, and was generally greater for females from urban areas and those in the highest wealth quintile²⁵.

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4.5 Access to healthcare

- 4.5.1 The NFHS-4 found, of the women, aged 15-49, questioned about potential problems in obtaining medical treatment for themselves when they are sick: 'About two-thirds (67%) of women report at least one problem for themselves in obtaining medical care [including getting permission to go for treatment] ... One-fourth of women cite money as a problem. Thirty percent of women cite the distance to a health facility and 27 percent cite having to take transport as a problem. Thirty-seven percent of women report concerns that no female health provider is available. Forty-five percent of women report concern that no provider is available and 46 percent that no drugs are available.'²⁶
- 4.5.2 According to a report by the think tank, Brookings India, there was a 24% rise in rural women accessing public healthcare between 2004 and 2014²⁷.
- 4.5.3 As recorded in the NFHS-4, the number of births that took place in a health facility doubled between 2005-06 and 2015-16, from 39% to 79%; however, 18% of women said that their husband or family did not allow them to have the delivery in a health facility. Skilled assistance during deliveries also increased²⁸. As noted in the 2017 United Nations Population Fund (UNFPA) State of World Population Report, the maternal mortality ratio in India was 174 deaths per 100,000 live births in 2015²⁹.

²³ Financial Express, 'Economic Survey 2018', 29 January 2018, [url](#).

²⁴ UN CEDAW, 'Consideration of reports', (paragraph 10), 23 October 2012, [url](#).

²⁵ NFHS-4, 'India', (pages 19-20), December 2017, [url](#).

²⁶ NFHS-4, 'India', (pages 347 and 380), December 2017, [url](#).

²⁷ Brookings India, 'Health and morbidity in India 2004-2014', (page 17), 2016, [url](#).

²⁸ NFHS-4, 'India', (pages 203 and 205), December 2017, [url](#).

²⁹ UNFPA, 'State of the World Population 2017', (page 120), 2017, [url](#).

4.6 Marriage, divorce and inheritance

4.6.1 The DFAT report noted:

‘Arranged marriages continue to account for the overwhelming majority of marriages across India. Parents and/or significant family members are often solely responsible for making a decision about who children marry, particularly in north India. Many parents consider arranging a marriage for their children a right and duty, and may not accept modern marriage practice such as a son or daughter choosing their own spouse. There is enormous social pressure for women to marry by their mid-20s and men by their mid-30s. Although the divorce rate has increased in recent years, particularly among the affluent middle classes, India has one of the lowest divorce rates in the world at an estimated one in 1,000 marriages.’³⁰.

4.6.2 The right to marriage, divorce and inheritance are governed by both personal laws and statutory laws. Whilst Hindu, Christian, Parsi, and Islamic personal status laws are legally recognized and judicially enforceable, they do not supersede national- and state-level legislative powers or constitutional provisions³¹.

4.6.3 In its 2017/2018 report Amnesty International (AI) stated ‘In July [2017], the Supreme Court banned the practice of triple talaq (Islamic instant divorce), declaring that it was arbitrary and unconstitutional.’³²

4.6.4 The NGO Human Rights Advocates Inc. (HRA) stated in December 2017:

‘Land inheritance in India is largely dependent upon religion. There are two main laws governing women’s land inheritance, the Hindu Succession Act (HSA), which was adopted nationally in 2005, and the Muslim Personal Law, which is a formal codification of sharia law in India. The Hindu Succession Act governs the inheritance and succession of property for 83.6% of India’s population. (“The Formal and Informal Barriers in the Implementation of the Hindu Succession (amendment) Act 2005,” Landesa Rural Development Institute, 2013.) Under the Hindu Succession Act, widows inherit land in equal shares as children. Even though Hindu Succession Act is a national law, some states have passed state level amendments that can still limit widow’s inheritance. Under Muslim Personal Law, women can inherit, but less than their surviving children. In practice, women in India own 11.7% of land with the vast majority of land received through inheritance. ...Landesa, a non-profit organization for rural development, found on average 40% of women did not know they had inheritance rights, and even if they did know they do not assert their inheritance rights due to social stigma and family pressures...They also found that some local governments did not recognize women’s inheritance rights.’³³

³⁰ DFAT, ‘Country Information Report – India’, (paragraph 3.34), 15 July 2015, available on request.

³¹ US IRF, ‘International Religious Freedom Report for 2016’, (Section II), 15 August 2017, [url](#).

³² AI, ‘The State of the World’s Human Rights – India’, 22 February 2018, [url](#)

³³ HRA, ‘Statement to CSW’, (pages 3-4), 7 December 2017, [url](#).

4.7 Reproductive rights

4.7.1 The UN Special Rapporteur stated in her report of 1 April 2014:

‘Research has documented a trend of declining girl-child sex ratio from 962 per 1,000 males in 1981, to 945 in 1991, to 927 in 2001, to 914 in 2011. Patriarchal norms and socioeconomic factors have reportedly fuelled the decline. The desire for sons has led to a “policing” of pregnancies by spouses and families through prenatal monitoring systems [such as ultrasound scans]. The results can lead to sex-selective abortions, which are often forced on women in violation of their sexual and reproductive rights. Despite specific legislation to address this problem [the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, amended in 2002³⁴], including stringent measures in case of contravention, there is a continuing prevalence of sex-selection practices in some states. Furthermore, some of those measures are perceived as the State policing pregnancies broadly and violating women’s sexual and reproductive choices.’³⁵

4.7.2 The USSD HR Report 2017 stated that the authorities rarely enforced the law prohibiting pre-natal sex selection. The report also noted:

‘There were reports of coerced and involuntary sterilization.

‘Some women reportedly were pressured to have tubal ligations, hysterectomies, or other forms of sterilization because of the payment structures for health workers and insurance payments for private facilities. This pressure appeared to affect disproportionately poor and lower-caste women. In September 2016 the Supreme Court ordered the closure of all sterilization camps within three years.

‘The country continued to have deaths related to unsafe abortion, maternal mortality, and coercive family planning practices, including coerced or unethical sterilization and policies restricting access to entitlements for women with more than two children. Policies and guideline initiatives penalizing families with more than two children remained in place in seven states [Rajasthan, Andhra Pradesh, Orissa, Maharashtra, Gujarat, Uttarakhand, and Bihar³⁶], but some authorities did not enforce them. Certain states maintained government reservations for government jobs and subsidies for adults with no more than two children and reduced subsidies and access to health care for those who have more than two.

‘Rajasthan, one of 11 states to adopt a two-child limit for elected officials at the local level, was the first to adopt the law in 1992. Despite efforts at the state level to reverse or amend the law, it remained unchanged during the year. According to NGO Lawyers Collective, such policies often induced families to carry out sex-selection for the second birth to assure they have at least one son, without sacrificing future eligibility for political office.

‘Although national health officials noted the central government did not have the authority to regulate state decisions on population issues, the central

³⁴ Prohibition of Sex Selection Act, 1994, amended 2002, [url](#).

³⁵ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 11), 1 April 2014, [url](#).

³⁶ Population Research Institute, 14 September 2017, [url](#).

government creates guidelines and funds state level reproductive health programs. A Supreme Court decision deemed the national government responsible for providing quality care for sterilization services at the state level. Almost all states also introduced “girl child promotion” schemes, intended to counter sex selection, some of which required a certificate of sterilization for the parents to collect benefits.

‘The government has promoted female sterilization as a form of family planning for decades and, as a result, female sterilization made up 86 percent of all contraceptive use in the country. Despite recent efforts to expand the range of contraceptive choices, the government sometimes promoted permanent female sterilization to the exclusion of alternate forms of contraception.’³⁷

- 4.7.3 The contraceptive prevalence rate (the percentage of currently married women aged 15-49 who were using contraception) was estimated to be 54% in 2015-16³⁸.

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4.8 Single women

- 4.8.1 Widows comprised the largest category of single women and faced high levels of deprivation, social taboos, limited freedom to remarry, insecure property rights, social restrictions on living arrangements, restricted employment opportunities, emotional and other forms of violence, and a lack of social support³⁹. Widows frequently experienced tensions with their families for economic reasons, as they were another mouth to feed and could lay claim to a portion of the family property⁴⁰. They were also often denied or dispossessed of property by their in-laws after the death of their spouse⁴¹.
- 4.8.2 Relocation within India of single women, women with children or victims of familial crime was reported to be difficult because of the need to provide details of their husband’s or father’s name to access government services and accommodation⁴². Single women faced difficulties in accessing housing⁴³.

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4.9 Freedom of movement

- 4.9.1 The government generally respected the rights of freedom of internal movement⁴⁴. According to the NFHS-4 ‘Women are considered to have freedom of movement if they are usually allowed to go alone to all three of the following places: to the market, to the health facility, and to places outside the village or community.’ The survey noted that, out of the sample

³⁷ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

³⁸ NFHS-4, ‘India’, (page 112), December 2017, [url](#).

³⁹ WMCD, ‘Executive Summary – Report on the Status of Women in India’, (page 37), July 2015, [url](#).

⁴⁰ BBC News, ‘India’s invisible widows, divorcees and single women’, 7 March 2014, [url](#).

⁴¹ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 21), 1 April 2014, [url](#).

⁴² DFAT, ‘Country Information Report – India’, (paragraph 5.19), 15 July 2015, available on request.

⁴³ IRB, ‘IND105109.E’, 26 May 2015, [url](#).

⁴⁴ USSD, ‘Country Report 2017 – India’, (Section 2d), 20 April 2018, [url](#).

of women aged 15-49, 41% of women overall (compared to 33% in 2005-06) could go alone to each of the 3 places cited. Freedom of movement varied greatly by state⁴⁵.

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4.10 Lesbians, bisexual and transgender women

- 4.10.1 For information on the situation for lesbian, bisexual and transgender women, see the [Country Policy and Information Note India: Sexual orientation and gender identity](#).

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5. Sexual and gender-based violence

5.1 Incidence of crime

- 5.1.1 Data from the National Crime Records Bureau (NCRB) recorded the incidence of crime against women between 2014 and 2016. Total crimes committed against women was reported as 339,457 (2014), 329,243 (2015), 338,924 (2016). According to the data, in 2016 the majority of cases under crimes against women were reported under 'Cruelty by Husband or His Relatives' (32.6%) followed by 'Assault on Women with Intent to Outrage her Modesty' (25.0%), 'Kidnaping & Abduction of Women' (19.0%) and 'Rape' (11.5%)⁴⁶.

- 5.1.2 In its 2017/2018 report Amnesty International (AI) stated that the statistics for 2016 included over 110,000 cases of violence by husbands and relatives⁴⁷.

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5.2 Domestic abuse

- 5.2.1 The report of the UN Special Rapporteur, dated April 2014, noted:

'According to numerous interlocutors, the physical, sexual and psychological abuse of women in the private sphere is widely tolerated by the State and the community. The perpetrators include husbands, in-laws and other family members. Many victims live in family settings that are rooted in deeply entrenched patriarchal and customary practices that are sometimes harmful to women. The widespread socioeconomic dependency of women subordinates them to their husbands and other family members. The fear of social exclusion and marginalization, and the lack of effective responses to violence, keeps them in a context of continuous violence and intimidation.'⁴⁸

See also [Cultural context – discrimination and inequality](#).

- 5.2.2 According to the 2015-16 NFHS-4, 52% of women and 42% of men agreed with one or more of the specified 7 reasons for wife beating (respondents were asked if they agreed that a husband was justified in hitting or beating his wife under each of the following 7 circumstances: she goes out without telling him; she neglects the house or the children; she argues with him; she

⁴⁵ NFHS-4, 'India', (page 511), December 2017, [url](#).

⁴⁶ NCRB, 'Crime in India – 2016 Snapshots (States/UTs)', (page xix), October 2017, [url](#).

⁴⁷ AI, 'The State of the World's Human Rights – India', 22 February 2018, [url](#)

⁴⁸ UN HRC, 'Report of the Special Rapporteur', (paragraph 8), 1 April 2014, [url](#).

refuses to have sex with him; she doesn't cook food properly; he suspects her of being unfaithful; and she shows disrespect for her in-laws)⁴⁹.

- 5.2.3 The NFHS-4 found that 29% of ever-married women (compared to 37% in the NFHS-3 2005-06) had experienced spousal violence at some point in their married lives. However, there has been almost no change in women's experience of spousal physical or sexual violence in the 12 months preceding each survey (24% in NFHS-3 and 22% in NFHS-4)⁵⁰.
- 5.2.4 As a rough comparison to other countries in the region, 39% of ever-married women in Pakistan reported experiencing physical and/or emotional abuse by their husband⁵¹; 72.6% of ever-married women in Bangladesh reported experiencing one or more forms of domestic abuse (physical, sexual, economic, and emotional abuse, and controlling behaviour) by their husband at least once in their lives⁵².
- 5.2.5 In comparison to regions in the UK, according to Office of National Statistics (ONS) data for year ending March 2017, 26% of women in England and Wales had experienced some form of domestic abuse since age 16. An estimated 7.5% of women had experienced domestic abuse in the last year⁵³.
- 5.2.6 To note: women's willingness to report incidents and methods for gathering information may vary between the countries.
- 5.2.7 AI noted in its 2017/2018 report on India that:
'Responding to petitions in courts seeking to criminalize marital rape, the central government stated that doing so would "destabilize the institution of marriage" ... In August [2017], the Supreme Court weakened a law enacted to protect women from violence in their marriages, by requiring that complaints be initially assessed by civil society "family welfare committees". In October, the Supreme Court suggested that it would review its judgment. The same month, it ruled that sexual intercourse by a man with his wife, if she was under 18, would amount to rape.'⁵⁴ (See also [Rape and sexual assault](#)).

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- 5.3 Dowry-related violence
- 5.3.1 The UN Special Rapporteur noted, 'The Dowry Prohibition Act [2015] prohibits the giving of, taking of and demand for dowry, and establishes dowry prohibition officers to ensure the implementation of the law ... Concerns about the lack of effective implementation of the law were noted.'⁵⁵
- 5.3.2 The UN Special Rapporteur's report further observed:
'Violence and killings linked to dowry payments are alarming across the country Data from the National Crime Records Bureau reflect an increasing

⁴⁹ NFHS-4, 'India', (page 512), December 2017, [url](#).

⁵⁰ NFHS-4, 'India', (page 561), December 2017, [url](#).

⁵¹ NIPS, 'PDHS 2012-13', (page 14), December 2013, [url](#).

⁵² BBS, 'VAW Survey 2015', (pages xviii-xix), August 2016, [url](#).

⁵³ ONS, 'Domestic abuse: findings from the Crime Survey', 8 February 2018, [url](#).

⁵⁴ AI, 'The State of the World's Human Rights – India', 22 February 2018, [url](#).

⁵⁵ UN HRC, 'Report of the Special Rapporteur', (paragraph 55), 1 April 2014, [url](#).

trend of crimes reported under the Dowry Prohibition Act since 2008, and a significant increase in such crimes since 2010. Marriage is often used by the husband and/or his family to obtain property or other assets from the wife and/or her family, either directly or indirectly. While its practice has evolved through time, the payment of dowry today is based on the idea that women are a burden. It is also commonly considered to be crucial to ensure the safety of the bride, especially within poor communities. Despite the payment of dowry, many women and girls find themselves forced into a life of servitude and experience repeated acts of harassment, intimidation, sexual abuse and violence by their husbands and other family members as part of demands for more dowry.⁵⁶

5.3.3 The USSD HR Report 2017 stated:

'The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. NCRB [National Crime Records Bureau] data showed authorities arrested 19,973 persons for dowry deaths in 2015... Most states employed dowry prohibition officers. A 2010 Supreme Court ruling makes it mandatory for all trial courts to charge defendants in dowry-death cases with murder.'⁵⁷

5.3.4 The Human Rights Watch (HRW) World Report 2018, covering 2017 events, noted 'In a setback for women's rights, in July the Supreme Court passed several directives on section 498A of the penal code – the anti-dowry law – to curb what it said was "abuse" of the law, directing police not to make arrests until complaints are verified by family welfare committees, bodies the court recommended be comprised of members of civil society, not police.'⁵⁸

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5.4 Rape and sexual assault

5.4.1 The UN Special Rapporteur, in her report of 1 April 2014, stated:

'Sexual violence, including rape and sexual harassment, is widespread across the country and perpetrated in public and private spaces ... Many interlocutors stated that there was a general sense of insecurity for women in public spaces, especially in urban settings. Women are easy targets of attacks, including sexual violence, whether while using public transportation or sanitation facilities or on the way to collect wood and water. Many victims of sexual violence carry a deep sense of shame, which is further exacerbated by the stigma and exclusion they experience, especially from family members and the community, and which may result in suicide.'⁵⁹

5.4.2 The USSD HR Report 2017 noted 'The law criminalizes rape in most cases, although marital rape is not illegal when the woman is over the age of 15.'⁶⁰ Although the age of consent is 18, a clause in the Penal Code permits men to have sex with their wife if she is aged between 15 to 18. However, in

⁵⁶ UN HRC, 'Report of the Special Rapporteur', (paragraph 9), 1 April 2014, [url](#).

⁵⁷ USSD, 'Country Report 2017 – India', (Section 6), 20 April 2018, [url](#).

⁵⁸ HRW, 'World Report 2018 – India', 18 January 2018, [url](#).

⁵⁹ UN HRC, 'Report of the Special Rapporteur', (paragraph 12), 1 April 2014, [url](#).

⁶⁰ USSD, 'Country Report 2017 – India', (Section 6), 20 April 2018, [url](#).

October 2017, the Supreme Court of India ruled that if a man has sexual intercourse with a wife who is below 18 years, it is an offence⁶¹. At the time of writing, the law on marital rape had not been changed. (See also [Forced and child marriage](#)).

5.4.3 The USSD HR Report 2017 noted:

‘Official statistics pointed to rape as the country’s fastest growing crime, prompted at least in part by the increasing willingness of victims to report rapes, although observers believed the number of rapes still remained vastly underreported.

‘Law enforcement and legal recourse for rape victims were inadequate, overtaxed, and unable to address the problem effectively. Police officers sometimes worked to reconcile rape victims and their attackers, in some cases encouraging female rape victims to marry their attackers. NGO Lawyers Collective noted the length of trials, lack of victim support, and inadequate protection of witnesses and victims remained major concerns. Doctors continued to carry out the invasive “two-finger test” to speculate on sexual history, despite the Supreme Court’s holding that the test violated a victim’s right to privacy. In 2015 the government introduced new guidelines for health professionals for medical examinations of victims of sexual violence. It included provisions regarding consent of the victim during various stages of examination, which some NGOs claimed was an improvement to recording incidents.’⁶²

5.4.4 Reuters reported in April 2018 that, in 2016, 40,000 rapes were recorded⁶³. According to BBC News, more than 19,000 of those cases were child rapes⁶⁴.

5.4.5 The HRW World Report 2018 noted:

‘Multiple high-profile cases of rape across the country during the year [2017] once again exposed the failures of the criminal justice system. Nearly five years after the government amended laws and put in place new guidelines and policies aimed at justice for survivors of rape and sexual violence, girls and women continue to face barriers to reporting such crimes, including humiliation at police stations and hospitals; lack of protection; and degrading “two-finger” tests by medical professionals to make characterizations about whether the victim was “habituated to sex.”

‘Rape survivors also lack adequate support services including health care, quality legal assistance, and compensation. While women and girls should have access to safe abortions if they become pregnant after rape, several rape victims have had to petition courts in 2017, including in Delhi and Chandigarh, seeking safe abortion when denied by doctors.’⁶⁵

(See [Access to justice and the police](#)).

⁶¹ Reuters, ‘Campaigners set sights on marital rape’, 11 October 2018, [url](#).

⁶² USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

⁶³ Reuters, ‘India approves death penalty for rape of girls under 12’, 21 April 2018, [url](#).

⁶⁴ BBC News, ‘India introduces death penalty for child rapists’, 21 April 2018, [url](#).

⁶⁵ HRW, ‘World Report 2018 – India’, 18 January 2018, [url](#).

- 5.4.6 According to HRW, 'In October [2017], the Supreme Court ruled that sex with a girl younger than 18 was unlawful, regardless of whether she is married or not, saying the exception for married girls was arbitrary and discriminatory.'⁶⁶ According to Reuters, in April 2018, India's cabinet approved the death penalty for rapists of girls below the age of 12. The report added 'In cases of the rape of a girl below the age of 16, the cabinet increased the minimum punishment to 20 years from 10 years. The penalty for the rape of women was raised to 10 years from seven years.'⁶⁷
- 5.4.7 The USSD HR Report 2017 stated 'Women in conflict areas, such as in the state of Jammu and Kashmir, the northeast, Jharkhand, and Chhattisgarh, as well as vulnerable Dalit or tribal women, were often victims of rape or threats of rape. National crime statistics indicated Dalit women were disproportionately victimized compared with other caste affiliations.'⁶⁸ (see Women living in areas of military conflict and Violence against Dalit and Adivasi women).
- 5.4.8 The Criminal Law (Amendment) Act, 2013 provides that a victim's character or past sexual experience cannot be accepted in court as evidence that she gave consent (Article 25) and that, if she states in her evidence that she did not consent, the court shall presume that she did not consent (Article 26). The Act also introduced marital rape as an offence, but only where the spouses are living separately or the wife is under 15 years old (Article 9)⁶⁹.
- 5.4.9 According to the State Party report of October 2012 to CEDAW:
'The Criminal Procedure Code (Amendment) Act, 2008, which came into effect on 31st December 2009 strengthen[ed] the procedural safeguards for victims of rape and other crimes against women. In a significant change from the existing law, a victim of rape has been statutorily empowered, with the permission of the court, to engage an advocate of her own choice to assist the prosecution initiated by the state and at the same time, ensure that her interests are protected. The Amendment Act also provides for safeguards relating to recording of statements of women victims, in camera trials and protection of her identity. Trial for offence of rape and aggravated rape is required to be conducted as far as practicable by women judges. The Act of 2008 also mandates a three-month time limit for the completion of investigation of cases of rape and child sexual abuse. A new section 357A has been inserted in the Criminal Procedure Code ..., which provides for compensation to victims of crime.'⁷⁰
- 5.4.10 According to the USSD HR Report 2017, there were reports that police raped female detainees. The report stated:
'The government authorized the NHRC [National Human Rights Commission] to investigate rape cases involving police officers. By law the NHRC may also request information about cases involving the army and paramilitary forces, but it has no mandate to investigate those cases. NGOs claimed the NHRC underestimated the number of rapes committed in police

⁶⁶ HRW, 'World Report 2018 – India', 18 January 2018, [url](#).

⁶⁷ Reuters, 'India approves death penalty for rape of girls under 12', 21 April 2018, [url](#).

⁶⁸ USSD, 'Country Report 2017 – India', (Section 6), 20 April 2018, [url](#).

⁶⁹ Criminal Law (Amendment) Act, 2013, [url](#).

⁷⁰ UN CEDAW, 'Consideration of reports', (paragraph 8), 23 October 2012, [url](#).

custody. Some rape victims were unwilling to report crimes due to social stigma and the possibility of retribution, compounded by a perception of a lack of oversight and accountability, especially if the perpetrator was a police officer or other official. There were reports police officials refused to register rape cases.’⁷¹

5.4.11 In a statement from April 2018 Human Rights Watch stated:

‘In India, according to the [2016 government data](#), out of 38,947 cases of rape reported by children and women, the accused was known to the victim in 94.6 percent of the cases. In 630 cases, the accused was the victim’s father, brother, grandfather, or son; in 1,087 cases, the accused was a close family member; in 2,174 cases the accused was a relative; and in 10,520 cases, the accused was a neighbor... Rape is already underreported in India largely because of social stigma, victim-blaming, poor response by the criminal justice system, and lack of any national victim and witness protection law making them highly vulnerable to pressure from the accused as well as the police.’⁷²

5.4.12 In its 2017/2018 report Amnesty International stated ‘Several rape survivors, including girls, approached courts for permission to terminate pregnancies over 20 weeks, as required under Indian law. Courts approved some abortions, but refused others. In August, the central government instructed states to set up permanent medical boards to decide such cases promptly.’⁷³

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5.5 Acid attacks

5.5.1 The USSD HR Report 2017 noted that ‘Acid attacks against women caused death and permanent disfigurement... In 2015 the Supreme Court directed all private hospitals to provide medical assistance to victims of acid attacks. Implementation of the policy began in Chennai in 2016. In April [2017] the government announced that acid attack victims were to be included in the provisions of the Rights of Persons with Disabilities Act 2016.’⁷⁴

5.5.2 According to the NGO, Stop Acid Attacks, despite laws restricting the sale of acid and other corrosive chemicals, there were 250-300 acid attacks reported in India every year. However, many attacks go unreported and numbers could exceed 1,000⁷⁵.

5.5.3 In 2014, the Special Rapporteur reported concern at ‘... the high incidence of acid attacks on women in the country, despite the development of new legislative measures. Victims of acid attacks are predominantly women who challenge patriarchal norms, including by opposing a marriage or partner proposal. The disfiguring of the victim’s face and body forces the survivors to live in stigma, shame and exclusion. It also creates a climate of fear for other

⁷¹ USSD, ‘Country Report 2017 – India’, (Section 1c), 20 April 2018, [url](#).

⁷² HRW, ‘India: Reject Ordinance on Death Penalty for Rape’, 24 April 2018, [url](#)

⁷³ AI, ‘The State of the World’s Human Rights – India’, 22 February 2018, [url](#)

⁷⁴ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

⁷⁵ USA Today, ‘Acid attacks against women in India on the rise’, 27 July 2017, [url](#).

women as regards the consequences of failing to abide by and respect traditional practices and roles.’⁷⁶

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5.6 Forced and child marriage

5.6.1 Girls Not Brides, a global partnership of more than 900 civil society organisations committed to ending child marriage and enabling girls to fulfil their potential, noted in its profile on India, that:

‘India has the highest number of child brides in the world. It is estimated that 27% [UNICEF 2017] of girls in India are married before their 18th birthday. The rates of child marriage vary between states and are as high as 69% and 65% in Bihar and Rajasthan. Over the last decade, India has witnessed one of the largest declines in child marriage rates, from nearly 50% to 27%. While fewer Indian girls are marrying before the age of 15, rates of marriage have increased for girls between ages 15 to 18.’⁷⁷

5.6.2 The UN Special Rapporteur observed in her report:

‘With regard to early and/or forced marriages, the implementation of the Prohibition of Child Marriage Act, 2006 has resulted in some reduction in the overall percentage of early marriages. However, the high prevalence of such marriages continues to endanger the lives of girls, whether in respect of domestic violence, marital rape or early pregnancies. It also deprives them of numerous human rights, including the right to education and the enjoyment of their childhood...

‘Despite some positive developments, there are significant gaps in the legislation, particularly in the Penal Code, whereby child marriages are allowed through the practice of declaring them voidable, not void, despite the protection provided in the Prohibition of Child Marriage Act, 2006.’⁷⁸

5.6.3 The Report of the Working Group on the UPR: India, dated July 2017, noted ‘Under the Juvenile Justice (Care and Protection of Children) Act, 2015, giving a child into marriage was considered as cruelty and any child in that situation would be treated as a child in need of care and protection. District child protection units registered cases involving forced child marriage that had resulted in pregnancy.’⁷⁹

5.6.4 The USSD HR Report 2017 noted:

‘The law sets the legal age of marriage for women at 18 and men at 21, and it empowers courts to annul child marriages. It also sets penalties for persons who perform, arrange, or participate in such marriages. Authorities did not consistently enforce the law nor address rape of girls forced into marriage. The law does not characterize a marriage between a girl below age 18 and a boy below age 21 as “illegal,” but it recognizes such unions as voidable. According to international and local NGOs, procedural limitations effectively left married minors with no legal remedy in most situations.

⁷⁶ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 14), 1 April 2014, [url](#).

⁷⁷ Girls Not Brides, ‘India’, nd, [url](#).

⁷⁸ UN HRC, ‘Report of the Special Rapporteur’, (paragraphs 13 and 54), 1 April 2014, [url](#).

⁷⁹ UN HRC, ‘UPR: India’, (paragraph 156), 14 July 2017, [url](#).

'The law establishes a full-time child-marriage prohibition officer in every state to prevent and police child marriage. These individuals have the power to intervene when a child marriage is taking place, document violations of the law, file charges against parents, remove children from dangerous situations, and deliver them to local child-protection authorities.

'In May [2017] Karnataka amended existing legislation to declare every child marriage illegal and empowered police to take specific action.'⁸⁰

- 5.6.5 The UN Committee on the Elimination of Discrimination against Women (CEDAW), in its Concluding Observations, dated 24 July 2014, expressed concern at reports that '... judges often authorize marriages of underage girls based on Muslim personal laws and that no legislation ensuring the registration of all marriages in [India] has been adopted.'⁸¹

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5.7 'Honour' crimes

- 5.7.1 The Immigration and Refugee Board (IRB) of Canada, consulting a variety of sources, noted in a report of 9 May 2013:

'The Law Commission of India... defines "honour crimes" as violence motivated by the "belief that the victim has brought dishonour upon the family or the community". The victim can be targeted for going against social traditions ... and caste traditions ... This loss of honour is usually affiliated with the actions of female family members ... Shakti Vahini, a New-Delhi based NGO that advocates against honour crimes and human trafficking, explains that "honour" within a family is connected to the female members, and females who go against the social norms of marriage bring loss of honour in society to the family ... [H]onour crimes are often a result of a clash between conservative traditions and cosmopolitanism – between "old" and "new" India.

'Honour crimes may occur as a result of: inter-caste marriages ..., inter-religious marriages ... marrying within the same "gotra" (clan, kinship group) ... pre-marital affairs, ... extra-marital affairs, ... same-sex relationships, ... inter-class marriages (between rich and poor), ... marriages against parents' wishes, ... issues related to land.

'In a study conducted by Shakti Vahini of 560 cases from Haryana, Punjab and Western Uttar Pradesh, in which couples were threatened with violence, 83 percent of cases were related to inter-caste marriages.

'According to the Law Commission, some honour crimes are not reported due to fear of reprisals.

'Sources report that honour crimes occur in all regions of India ... However, ...they are more common in [the northern states].

'While both women and men may be targets of honour crimes ...some sources indicate that perpetrators more frequently target the woman.

⁸⁰ USSD, 'Country Report 2017 – India', (Section 6), 20 April 2018, [url](#).

⁸¹ UN CEDAW, 'Concluding observations', (paragraph 38), 24 July 2014, [url](#).

‘[M]ale family members [which could include a parent, brother(s), cousin, uncle], are typically the perpetrators, but they are often supported by members of the community, and are sometimes motivated because the victim went against the will of the community as well as the family.

‘[H]onour crimes occur in all sectors of society ... [T]hey occur among all communities, all religions, and all castes... among all religious groups in India. Honour crimes reportedly occur in both urban and rural areas, although sources indicate that they are more frequent in rural areas.’⁸²

5.7.2 The UN Special Rapporteur noted in her report of 1 April 2014:

“Honour crimes” are usually perpetrated by family members, often with the complicity of community leaders. Reasons range from a woman's refusal to be forced into marriage and retaliation for marrying the man of her choice, to refusal to follow prescribed and expected dress codes. Women and girls suffer a wide range of physical and psychological abuse and the denial of basic freedom of movement and expression, and are sometimes killed in the name of “honour”.⁸³

5.7.3 DFAT noted in 2015 ‘So-called “honour killings” committed by the families and communities of those involved in inter-faith and inter-caste relationships, are particularly prevalent in villages and small towns in north India. It is estimated that at least 1,000 honour killings take place each year in India.’⁸⁴

5.7.4 Khap panchayats – unelected, extrajudicial councils of 5 to 15 elderly men that have a lot of local authority in some villages – have been known to illegally sanction or order honour crimes against couples for inter-caste marriages, inter-religious marriages and marriages of people within the same gotra (clan). The Law Commission of India advised that khap panchayats ‘assume to themselves the power and authority to declare on and deal with “objectionable” matrimonies’, but that such authority is unlawful⁸⁵.

5.7.5 As reported in the USSD HR Report 2017:

‘So-called honor killings remained a problem, especially in Punjab, Uttar Pradesh, and Haryana. These states also had low female birth ratios due to gender-selective abortions. On August 21 [2017], the Supreme Court sought suggestions from NGO Shakti Vahini and khap panchayats on ways to prevent harassment and killings of young couples in the name of family honor. The most common justification for the killings cited by the accused or by their relatives was that the victim married against her family’s wishes.’⁸⁶

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5.8 Abuses against women with disabilities

5.8.1 According to the UN Special Rapporteur:

‘Women with disabilities face multiple challenges, including, for example, the lack of adequate access to public spaces, utilities and buildings, and often

⁸² IRB, ‘IND104370.E’, 9 May 2013, [url](#).

⁸³ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 10), 1 April 2014, [url](#).

⁸⁴ DFAT, ‘Country Information Report – India’, (paragraph 3.35), 15 July 2015, available on request.

⁸⁵ IRB, ‘IND104370.E’, 9 May 2013, [url](#).

⁸⁶ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

experience harassment in public ... [The Special Rapporteur] was also informed of violence perpetrated against women with disabilities in state-sponsored shelters.

'The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 lists the entitlements for persons with disabilities and the obligations of the central and state Governments and local bodies. The Act contains no provisions to address the specific needs of women with disabilities who are victims of violence. Responses to violence against women with disabilities often fail to adapt to the type of impairment, whether psychological, physical, sensory or intellectual. Moreover, reports highlight a consistent lack of disaggregated data collection on disabilities, which renders the violence committed against women with disabilities invisible.'⁸⁷

5.8.2 The UN CEDAW concluded in July 2014:

'[The Committee] is particularly concerned that women with intellectual disabilities can be sterilized without their consent. The Committee is further concerned that women with disabilities experience a high rate of poverty, lack access to education, employment and health services, especially in rural areas, face multiple challenges, including the lack of adequate access to public spaces and utilities, often experience harassment in public and are excluded from decision-making processes.'⁸⁸

5.8.3 In a report from April 2018 Human Rights Watch (HRW) stated:

'While there is no national disaggregated data on violence against women and girls with disabilities, senior government officials recognize this population faces heightened risk of violence, including sexual violence. In December 2015, based on her consultations with disability advocates and experts, then-chairwoman of the National Commission for Women, Lalitha Kumaramangalam, said: "Regardless of the type of disability, incidents of rape with disabled women are much higher than with other women".'⁸⁹

5.8.4 The report also stated:

'Access to justice is particularly difficult for women and girls with disabilities largely due to the stigma associated with their sexuality and disability. As a result, they often do not get the support they need at every stage of the justice process: reporting the abuse to police, getting appropriate medical care, and navigating the court system...

'Women and girls with disabilities may require accommodations – distinct types of support depending on their disabilities – that are procedural and age-appropriate ... However, this support is often not available in India, even though the 2013 amendments and the Protection of Children from Sexual Offences Act, 2012, (POCSO) mandate these provisions. Most police do not have the training or expert support to handle such cases... In some cases, Human Rights Watch found that women and girls were excluded from accommodations on the basis of their inability to certify a disability. Even in cases where women and girls had visible physical disabilities or identified

⁸⁷ UN HRC, 'Report of the Special Rapporteur', (paragraphs 18 and 72), 1 April 2014, [url](#).

⁸⁸ UN CEDAW, 'Concluding observations', (paragraph 36), 24 July 2014, [url](#).

⁸⁹ HRW, 'Invisible victims of sexual violence', 3 April 2018, [url](#).

their disabilities, police failed to include specific details in the First Information Report (FIR), the document that sets the criminal justice process in motion. Lack of documentation in police reports precludes women and girls with disabilities from receiving specific need-based support from the police and judiciary.

‘...In cases of sexual violence, immediate medical attention and examination can both identify urgent medical needs and facilitate timely evidence collection... The failure of many medical professionals to adequately explain medical tests and procedures and ensure that women and girls with disabilities are comfortable with the process may add to the trauma of sexual violence...’⁹⁰

5.8.5 The report continued:

‘[U]nfamiliar and stressful court environments present a heightened challenge for women and girls with disabilities, especially during protracted legal cases. Lack of information among women and girls with disabilities and their families about their legal rights, including the right to legal representation, prevents many from advocating for their needs.

‘Human Rights Watch found that even in cases of extreme violence, trauma and economic hardship resulting from childbirth, women and girls with disabilities had difficulties in securing compensation from the court or the Criminal Injuries Compensation Board. Local activists said that there is no set standard, and amounts are often determined arbitrarily, vary between states, and can be driven by media publicity... Even when compensation has been awarded, the money may not reach the person in need.’⁹¹

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5.9 Violence against Dalit and Adivasi women

5.9.1 The UN Special Rapporteur stated in her report of 1 April 2014:

‘Dalit⁹² and Adivasi⁹³ women, and women from other scheduled castes and tribes and other “backward classes”, are frequent victims of multiple and intersecting forms of discrimination, as well as violence. Caste-based discrimination, which also includes intra-caste hierarchies, continues to be pervasive and widespread. The intergenerational nature of caste-based discrimination condemns women to a life of exclusion, marginalization and disadvantage in every sphere of life. Many of those women are denied an education and economic opportunities, and perform dangerous and unprotected work, including bonded labour (debt bondage) and manual scavenging, which are both widely regarded as forms of forced labour and modern forms of slavery. Women represent the vast majority of manual scavengers in the country, and are commonly from scheduled castes and minority groups. While legislation has been adopted to eradicate bonded

⁹⁰ HRW, ‘Invisible victims of sexual violence’, 3 April 2018, [url](#).

⁹¹ HRW, ‘Invisible victims of sexual violence’, 3 April 2018, [url](#).

⁹² The term ‘Dalit,’ derived from the Sanskrit for ‘oppressed’ or ‘crushed’, refers to people traditionally regarded as being at the bottom of the Hindu caste system. Dalits are also referred to as ‘untouchables’

⁹³ Indigenous tribal groups

labour and manual scavenging, reports and interlocutors indicate that there is a consistent failure in the implementation of such laws and a tendency to minimize the significance of the problem.⁹⁴

5.9.2 The UN CEDAW concluded in July 2014:

‘The Committee is concerned that Dalit women and women from scheduled tribes face multiple barriers in gaining access to justice, owing to legal illiteracy, lack of awareness of their rights and limited accessibility of legal aid. It notes with concern the financial, cultural and physical barriers faced by Dalit women and women from scheduled tribes in gaining access to gynaecological and maternal health services, their limited knowledge of birth registration procedures and the existence of bureaucratic obstacles and financial barriers that prevent them from registering births and obtaining birth certificates for their children.’⁹⁵

5.9.3 In its 2017/2018 report AI stated ‘In January [2017], four Adivasi women in Dhar, Madhya Pradesh, said they had been gang-raped by police personnel. In March, Adivasi villagers in Sukma, Chhattisgarh, accused security force personnel of gang-raping a 14-year-old Adivasi girl. In September, two paramilitary personnel were arrested on suspicion of killing a woman and raping and throwing acid on her friend in Mizoram in July.’⁹⁶

For further information on Scheduled Castes (Dalits), see the [Country Policy and Information Note India: Religious minorities](#).

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5.10 Domestic workers and workplace harassment

5.10.1 The UN Special Rapporteur further noted in her April 2014 report:

‘Women employed as domestic workers are often irregular migrants and unregistered women who operate in a poorly regulated labour market and who are usually considered as belonging to the bottom of a social class. They become easy targets for abusive employers, who force them to work long hours in return for low salaries and often deduct amounts for leave days taken. Many are prevented from using the employer’s sanitary facilities and are forced to defecate and bathe in public, and are subjected to various forms of harassment and violence. Many women are primary breadwinners, either as a result of widowhood or unemployed spouses, and their low pay makes it difficult to assume financial responsibility, including for their children’s health and education needs. Alcohol abuse by husbands was also reported to be a contributing factor to the violence many of those women experienced.’⁹⁷

5.10.2 The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act adopted in 2013 covers domestic workers employed in

⁹⁴ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 15), 1 April 2014, [url](#).

⁹⁵ UN CEDAW, ‘Concluding observations’, (paragraph 34), 24 July 2014, [url](#).

⁹⁶ AI, ‘The State of the World’s Human Rights – India’, 22 February 2018, [url](#)

⁹⁷ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 17), 1 April 2014, [url](#).

homes, and sets out complaint mechanisms and the obligations of employers to provide a safe working environment⁹⁸.

5.10.3 The USSD HR Report 2017 noted ‘Sexual harassment remains a serious problem. Authorities required all state departments and institutions with more than 50 employees to operate committees to prevent and address sexual harassment, often referred to as “eve teasing”.’⁹⁹

5.10.4 According to the USSD HR Report 2017:

“Sumangali schemes” affected an estimated 120,000 young women. These plans, named after the Tamil word for “happily married woman,” are a form of bonded labor in which young women or girls work to earn money for a dowry to be able to marry. The promised lump-sum compensation ranged from 80,000 to 100,000 rupees (\$1,300 to \$1,600 [USD]), which is normally withheld until the end of three to five years of employment. Compensation, however, sometimes went partially or entirely unpaid. While in bonded labor, employers reportedly subjected women to serious workplace abuses, severe restrictions on freedom of movement and communication, sexual abuse, sexual exploitation, sex trafficking, and being killed. The majority of sumangali-bonded laborers came from the Scheduled Castes (SC) and, of those, employers subjected Dalits, the lowest-ranking Arunthathiyars, and migrants from the northern part of the country, to particular abuse. Authorities did not allow trade unions in sumangali factories, and some sumangali workers reportedly did not report abuses due to fear of retribution. A 2014 case study by NGO Vaan Muhil described health problems among workers and working conditions reportedly involving physical and sexual exploitation. In 2016 the Madras High Court ordered the Tamil Nadu government to evaluate the legality of sumangali schemes. It is unclear whether the state has complied with the court order.’¹⁰⁰

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5.11 Women living in areas of military conflict

5.11.1 The UN Special Rapporteur noted in her report of 1 April 2014:

‘Women living in militarized [conflict] regions, such as Jammu and Kashmir and the northeastern states, live in a constant state of siege and surveillance, whether in their homes or in public. Information received through both written and oral testimonies highlighted the use of mass rape, allegedly by members of the State security forces, as well as acts of enforced disappearance, killings and acts of torture and ill-treatment, which were used to intimidate and to counteract political opposition and insurgency. Testimonies also highlight the impact of that situation on women's health, including psychological disorders such as post traumatic stress disorder, fear psychosis and severe anxiety, with such conditions having a negative impact on women's physical well-being. Additionally, the freedoms of movement, association and peaceful assembly are frequently restricted. The specific legal framework that governs those areas, namely,

⁹⁸ HRW, World Report 2014 - India, 21 January 2014, [url](#).

⁹⁹ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

¹⁰⁰ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

the Armed Forces (Special Powers) Act and its variations, allows for the overriding of due process rights and nurtures a climate of impunity and a culture of both fear and resistance by citizens.’¹⁰¹

5.11.2 The UN Committee on the Elimination of Discrimination against Women concluded in July 2014:

‘The Committee is deeply concerned about the reported high level of violence [from non-state or state actors], including rape and other forms of sexual violence, enforced disappearance, killings and acts of torture and ill-treatment, against women in conflict-affected regions (Kashmir, the north-east, Chhattisgarh, Odisha and Andhra Pradesh). It is particularly concerned about the:

‘(a) Provisions of the Armed Forces (Special Powers) Act requiring prior authorization by the Government to prosecute a member of the security forces and the reportedly high risk of reprisals against women who complain about the conduct of the security forces;

‘(b) Significant number of displaced women and girls, in particular in the north-east, including as a result of sporadic communal violence, their precarious living conditions and exposure to serious human rights violations and the lack of gender-sensitive interventions at all stages of the displacement cycle; ...

‘(d) Lack of centres providing medical, psychological, legal and socioeconomic support to women and girls who are victims of sexual violence in conflict-affected areas.’¹⁰²

5.11.3 According to the USSD HR Report 2017, ‘The government claimed, based on statements of several women formerly associated with Maoist groups, that sexual violence, including rape and other forms of abuse, was a practice in some Maoist camps.’¹⁰³ (see also [Rape and sexual assault](#)).

5.11.4 See the South Asia Terrorism Portal [India Conflict Map](#), which showed the location of conflict areas in India, as of 2017.

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5.12 Other forms of violence, abuse and harassment

5.12.1 The USSD HR Report 2017 noted there was no national law addressing the practice of female genital mutilation/cutting (FGM/C). The report stated:

‘According to human rights groups and media reports, between 70 and 90 percent of Dawoodi Bohras, a population of approximately one million concentrated in Maharashtra, Gujarat, Rajasthan, and Delhi, practiced FGM/C.

‘On June 26, the Supreme Court sought responses from the national government and the states of Gujarat, Maharashtra, Rajasthan, and Delhi following a public interest litigation (PIL) petition seeking a ban on FGM/C. In

¹⁰¹ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 23), 1 April 2014, [url](#).

¹⁰² UN CEDAW, ‘Concluding observations’, (paragraph 12), 24 July 2014, [url](#).

¹⁰³ USSD, ‘Country Report 2017 – India’, (Section 1g), 20 April 2018, [url](#).

May national Minister for Women and Child Development Maneka Gandhi said FGM/C should be a criminal offense.¹⁰⁴

- 5.12.2 The Special Rapporteur was informed of brutal acts of violence against women labelled “witches”, including executions. She stated that ‘The stigma attached to these women, and the rejection they experience within their communities, leads to various violations and is an obstacle to gaining access to justice. Such labelling affects family members across generations.’¹⁰⁵
- 5.12.3 The USSD HR Report 2017 noted ‘There was no federal law addressing accusations of witchcraft; however, authorities may use other legal provisions as an alternative for a victim accused of witchcraft. Bihar, Odisha, Chhattisgarh, Rajasthan, Assam, and Jharkhand have laws criminalizing those who accuse others of witchcraft. Most reports stated villagers and local councils usually banned those accused of witchcraft from the village.’¹⁰⁶
- 5.12.4 The USSD HR Report 2017 stated:
- ‘There were reports women and girls in the “devadasi” system of symbolic marriages to Hindu deities were victims of rape or sexual abuse at the hands of priests and temple patrons, a form of sex trafficking. NGOs suggested families forced some SC [Scheduled Caste] girls into prostitution in temples to mitigate household financial burdens and the prospect of marriage dowries. Some states have laws to curb prostitution or sexual abuse of women and girls in temple service. Enforcement of these laws remained lax, and the problem was widespread. Some observers estimated more than 450,000 women and girls engaged in temple-related prostitution.’¹⁰⁷

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6. State treatment and attitudes

6.1 Positive action

(See also [Legal context](#)).

6.1.1 The ICRW report, dated 2014, noted:

‘In the past decade, a range of efforts have aimed to address [Intimate Partner Violence] in India. Other than the Protection of Women from Domestic Violence Act 2004 several campaigns have been launched to raise awareness to change people’s mindset and attitudes towards girls. The Government of India has taken action in a number of ways, with varying degrees of success, from which many lessons can be learnt.’¹⁰⁸

6.1.2 The Protection of Women from Domestic Violence Act 2005 (PWDVA) came into force in October 2006. It enables victims of domestic violence to seek interim protection and residence orders, as well as compensation and maintenance. The Act protects women not only from abuse by a spouse, but also members of the spouse’s family. Its definition of violence against

¹⁰⁴ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

¹⁰⁵ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 22), 1 April 2014, [url](#).

¹⁰⁶ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

¹⁰⁷ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

¹⁰⁸ ICRW, ‘Masculinity, intimate partner violence and son preference in India’, (page 3), 2014, [url](#).

women encompasses physical, sexual, psychological, verbal, and economic abuse¹⁰⁹. Evidence proving abuse is tested on a balance of probabilities; proof beyond reasonable doubt is not required¹¹⁰. In the absence of eye witnesses, circumstantial evidence is considered¹¹¹. The victim of domestic violence deals primarily with a Protection Officer, rather than the police. The implementation of the PWDVA is monitored and evaluated annually by the Lawyers Collective Women's Rights Initiative¹¹².

6.1.3 The Indian Government ('State Party') noted in a report of October 2012 to CEDAW:

'The Government have undertaken various measures to address the gender stereotyping and sex roles that have been highlighted in the earlier two [CEDAW] reports, through different modes such as the National Policy on Education, National Policy on Empowerment of Women etc. All forms of media have been utilised to communicate these special messages. Customary practices such as dowry, child marriage, sati¹¹³, sex selective abortion etc. are addressed through legislation, programmes and community interactions. These actions and measures are an ongoing process which the Government continues to carry on every year to eliminate discriminatory process. A major effort of Government has been to attack the stereotypes about women's role through gender sensitive text book development across the country in different languages ... Many State Boards for School Education have taken proactive steps to include messages about common responsibility of men and women in [the] family.'¹¹⁴

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6.2 Implementation and enforcement of legislation

6.2.1 Despite laws aimed at addressing gender-based violence, HRW noted, in its November 2017 report on barriers to justice and support for sexual assault survivors in India, that there were persistent gaps in enforcing the laws, relevant policies, and guidelines aimed at justice for victims of sexual violence. The report stated:

'Indian law provides that in cases of sexual assault or attempted sexual assault, a trained female police officer should gather testimony from the survivor, videotape her statement, and have her statement recorded by a judicial magistrate as soon as possible. Amendments to the Code of Criminal Procedure in 2013 also make it mandatory for police officials to register sexual assault complaints; those who fail to do so can be imprisoned for up to two years.

'Human Rights Watch found that police do not always adhere to these rules. They resist filing the First Information Report (FIR), the first step to initiating a police investigation, especially if the victim is from an economically or

¹⁰⁹ Protection of Women from Domestic Violence Act 2005, [url](#).

¹¹⁰ Lawyers Collective, 'A Manual for PWDVA Protection Officers', (page 14), 2009, [url](#).

¹¹¹ Protection of Women from Domestic Violence Act 2005, [url](#).

¹¹² Lawyers Collective, 'Staying Alive', (pages 6 and 123), January 2013, [url](#).

¹¹³ Sati is the suicide by a widow on her husband's funeral pyre, [url](#).

¹¹⁴ UN CEDAW, 'Consideration of reports', (paragraph 25), 23 October 2012, [url](#).

socially marginalized community. Police sometimes pressure the victim's family to "settle" or "compromise," especially if the perpetrator is from a powerful community.'¹¹⁵

6.2.2 HRW noted in its November 2017 report:

'The Criminal Law (Amendment) Act of 2013 expanded the definition of sexual offenses to include new offenses such as voyeurism and stalking. However, a 2014 study by the Commonwealth Human Rights Initiative in Delhi and Mumbai suggests that these offenses are underreported to the police, and even where reported, the police often fail to register FIRs or properly investigate these crimes. Parents told Human Rights Watch that they feared for their daughters' safety after filing police complaints because the accused received bail and then made threats against the girls. Often, girls end up curbing their own activities that take them out of their homes or parents put greater restrictions on their movement.'¹¹⁶

6.2.3 Of the 338,924 reported crimes against women in 2016, nearly 77% (260,304) resulted in suspects being formally charged ('chargesheeted'), though only 18.9% (23,094) resulted in a conviction¹¹⁷. As a rough comparison, in 2013-14, of the 109,419 defendants of violence against women and girls (VAWG) – in England and Wales – referred to the Crown Prosecution Service (CPS), 76,526 (69.9%) were charged. In 2013-14, the VAWG conviction rate reached 74.4%¹¹⁸.

6.2.4 In a statement from April 2018 HRW noted 'Although Indian law makes it mandatory for police officials to register rape complaints, Human Rights Watch found that police sometimes press the victim's family to "settle" or "compromise".'¹¹⁹

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6.3 Access to, and attitudes of, the justice system and the police

6.3.1 Each of the 29 states and 7 union territories of India has its own separate police force, high courts and subordinate courts. Consequently, police training, conduct and competencies vary from one state to another. The USSD HR Report 2017 confirmed, 'The effectiveness of law enforcement and security forces varied widely throughout the country.'¹²⁰

6.3.2 Since 2016 Sheffield Hallam University's Helena Kennedy Centre for International Justice has been leading a project to improve access to justice for female victims of violence in India. This is a collaborative effort with the Indian police across the states of Delhi, Haryana, Madhya Pradesh and Punjab. It consists of a training programme for police officers and lawyers, on how they can more appropriately and effectively deal with such cases and secure justice for victims. The Centre noted:

¹¹⁵ HRW, 'Everyone blames me', (page 2), 8 November 2017, [url](#).

¹¹⁶ HRW, 'Everyone blames me', (page 4), 8 November 2017, [url](#).

¹¹⁷ NCRB, 'Crime in India – 2016', (pages 148, 152-153), October 2017, [url](#).

¹¹⁸ CPS, 'VAWG Crime Report 2013-2014', (pages 5-6), [url](#).

¹¹⁹ HRW, 'India: Reject Ordinance on Death Penalty for Rape', 24 April 2018, [url](#)

¹²⁰ USSD, 'Country Report 2017 – India', (Section 1d), 20 April 2018, [url](#).

‘Such has been the success of the project, the training will now be included in the curriculum for many new police recruits in the four states, as well as rolled out to existing officers in the field. This means that potentially tens of thousands of police officers will be able to better support women and girls who seek justice.

‘Part of the project also included senior Indian police officers coming to the UK to see how British police officers tackle gender violence. As a result, the Madhya Pradesh state police force has committed to open 51 one-stop victim support centres for women – having seen a similar model when in the UK.’¹²¹

6.3.3 The IRB, reporting in 2013, having consulted sources:

‘Several sources describe the police as ineffective in protecting people who fear becoming victims of honour ... Sources indicate that the police are reluctant to register the complaints...or carry out investigations ... According to Shakti Vahini, the police do not enforce the laws and Supreme Court guidelines to protect runaway couples... According to Shakti Vahini and Human Rights Watch, family members of a runaway couple sometimes file false charges of kidnapping against the groom, and the police play a role in tracking down the couple ... Shakti Vahini provides several examples in which law enforcement authorities failed to protect honour crime victims.

‘While the Professor said that police are frequently unsupportive towards victims, she also noted that there are special police cells for crimes against women where women who are victims of honour crimes can access and that these “are a little bit more effective” ... According to the Delhi Police, they offer women crime cells in all the police districts of Delhi, as well as a 24-hour hotline with a mobile team for “women in distress”.’¹²² (See also [Support services and shelters](#)).

6.3.4 The UN Special Rapporteur's report of April 2014 added:

‘Concerns were voiced with regard to the investigation of cases and the prosecution and punishment for crimes committed against women. The proportion of women in the police and in the judiciary is seriously low, which contributes to a lack of attention to women's issues.

‘Deeply entrenched patriarchal attitudes of police officers, prosecutors, judicial officers and other relevant civil servants, with regard to the handling of cases, further contribute to victims not reporting, withdrawing complaints and not testifying. Also, the attitudes and prejudices of many village leaders in Khap Panchayats [village courts], who act as informal judicial officers, often lead to a pre-arranged settlement between the families, thus failing to provide effective redress for victims. Few police stations have specialized women's mechanisms to address the concerns of women, including violence cases, and to provide the assistance and protection that is required during the investigation phase. Impunity for abuses committed by police officers and the need for civilian oversight was highlighted.

¹²¹ The Conversation, ‘How to stop violence against women in India...’, 23 January 2018, [url](#)

¹²² IRB, ‘IND104370.E’, 9 May 2013, [url](#).

‘Concerns were also raised about evidence gathering, including the practice of degrading medical and forensic examinations, such as the “two-finger test” for victims of sexual violence. The test is often carried out without the victim's consent, and despite the practice being officially discontinued by the Director General of Health Services in 2011, and a Supreme Court decision of 2013 branding it as a violation of the victims' right to privacy.

‘The Special Rapporteur heard complaints about the failure by the justice system in some states to ensure that women victims and witnesses of acts of violence benefit from adequate safety measures and judicial safeguards. Numerous allegations were received of women being subjected to acts of coercion and duress in a deliberate attempt to prevent the investigation of cases and punishment of perpetrators.

‘The Special Rapporteur was informed of cases in which courts have criminalized women victims of violence, including victims of sexual and communal violence.

‘Responses to violence against women with disabilities often fail to adapt to the type of impairment, whether psychological, physical, sensory or intellectual. Moreover, reports highlight a consistent lack of disaggregated data collection on disabilities, which renders the violence committed against women with disabilities invisible.’¹²³ (see [Abuses against women with disabilities](#)).

6.3.5 The HRW report of November 2017 found:

‘... that women and girls in India are often afraid to report attacks because of fear of being stigmatized, and because they feel unable to overcome institutional barriers in a criminal justice system that offers no protection to victims or witnesses.

‘Survivors, particularly among marginalized communities, find it difficult to register police complaints. They often suffer humiliation at police stations and hospitals, are still subjected to degrading tests by medical professionals, and feel intimidated and scared when the case reaches the courts. Said Anjali Dave of the School of Gender Studies at the Tata Institute of Social Sciences in Mumbai: “Rape is still constructed as women’s shame and there are so many social barriers for women to talk about it”.’¹²⁴

6.3.6 The UN Special Rapporteur stated in April 2014:

‘Fair trial rights, equality before the law and equal protection of the law were affected by numerous challenges, beginning with the reporting of cases of violence against women to the police. Many interlocutors said that victims were often discouraged from reporting to the police and that many women did not file a complaint owing to fear of reprisals or lack of guarantees of adequate shelter and access to livelihoods. Informal dispute settlement alternatives are often sought, allegedly by police, family members or community leaders. Many interlocutors described the complete or partial absence of legal, housing, security and financial assistance measures for

¹²³ UN HRC, ‘Report of the Special Rapporteur’, (paragraphs 61-65 and 72), 1 April 2014, [url](#).

¹²⁴ HRW, ‘Everyone blames me’, (pages 1-2), 8 November 2017, [url](#).

victims. To be able to officially report complaints and continue throughout the often lengthy judicial process in safety and with an adequate standard of living is not an option for many women.’¹²⁵

6.3.7 Reporting on the lack of access to effective legal assistance for survivors of sexual assault, the HRW report stated:

‘A trial process can be intimidating and confusing, and “the attempt at shaming the victim is still very much prevalent in the courts,” said Rebecca Mammen John, a senior criminal lawyer in Delhi. “We need to work to change the language in the courtroom.” All too often, Indian trial procedures have perpetuated harmful stereotypes. Biased and derogatory language toward sexual assault survivors is still too often used in courtrooms not only by judges but by defense lawyers. Effective legal assistance for survivors could help to address such bias. ...

‘The central government has established about 524 fast-track courts across the country for expeditious trials in cases dealing with crimes against women and children. There are no nationwide studies yet to determine their effectiveness. Anecdotally, however, it appears that setting up fast-track courts alone is insufficient: equal focus should be given to other key concerns such as legal assistance to help victims navigate the system.’¹²⁶

For the effectiveness of the criminal justice system in general, also see the country policy and information on [India: Background information, including actors of protection and internal relocation](#).

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7. Assistance available to women

7.1 Legal aid

7.1.1 The UN Special Rapporteur noted in her 2014 report that that ‘... legal aid, a right guaranteed in article 39A of the Constitution, was not equally granted to women in practice, and in particular to poor and marginalized women.’¹²⁷

7.1.2 HRW reported, in November 2017, that:

‘Inadequate legal assistance is especially a concern for survivors [of gender-based violence] who come from poor and marginalized communities. A 1994 Supreme Court ruling says that sexual assault victims should be provided legal assistance, and that all police stations should keep a list of legal aid options. While in Delhi there are efforts to ensure this – the Delhi Commission for Women operates a rape crisis cell that coordinates with police stations, even though experts say even this is ad-hoc and not entirely effective – it is rare in other parts of the country, particularly rural areas. In none of the 21 cases documented by Human Rights Watch did the police inform the victim of their right to legal assistance or offer legal aid.’¹²⁸

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¹²⁵ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 35), 1 April 2014, [url](#).

¹²⁶ HRW, ‘Everyone blames me’, (page 8), 8 November 2017, [url](#).

¹²⁷ UN HRC, ‘Report of the Special Rapporteur’, (paragraph 61), 1 April 2014, [url](#).

¹²⁸ HRW, ‘Everyone blames me’, (page 8), 8 November 2017, [url](#).

7.2 Support services and shelters

7.2.1 As noted in an Open Democracy article, dated January 2017, the Protection of Women from Domestic Violence Act (PWDVA) mandates that states must provide shelters, counselling services and legal aid to survivors of domestic violence. The report noted, however, that ‘The language and existing practices of shelters reflect the deeply troubling reality of jail-like conditions in shelters: “Superintendents” are in charge of “inmates” in institutions where no one is very concerned about the emotional wellbeing and recovery of survivors – there are no individual case files and certainly no long or short-term planning with survivors about their future options.’¹²⁹

7.2.2 The government-run Swadhar Greh Scheme, which merged Short Stay Homes and Swadhar in 2016, was aimed at catering for the primary needs of women in ‘difficult circumstances’, and allowed agencies to bid for funding to help such women. The Scheme was designed to provide shelter, food, clothing, counselling, training, medical treatment, economic and social support to women, over the age of 18 – and their accompanying children (girls up to age 18 and boys up to age 12) – for a maximum of 5 years, in the following categories:

- Women who are deserted and are without any social and economic support;
- Women survivors of natural disasters who have been rendered homeless and are without any social and economic support;
- Women prisoners released from jail and are without family, social and economic support;
- Women victims of domestic violence, family tension or discord, who are made to leave their homes without any means of subsistence and have no special protection from exploitation and/ or facing litigation on account of marital disputes; and
- Trafficked women/girls rescued or runaway from brothels or other places where they face exploitation and Women affected by HIV/AIDS who do not have any social or economic support¹³⁰.

7.2.3 According to a response given in the Lok Sabha, by the Ministry of Women and Child Development (MWCD), dated 4 August 2017, there were 551 Swadhar Greh homes across the country, with 16,530 beneficiaries [as of financial year 2016-17¹³¹]. The response provided a breakdown of the numbers of homes and beneficiaries in each State/Union Territory¹³². During the financial year 2017-18, 17,291 women benefitted from the scheme¹³³.

7.2.4 The government-run Ujjawala programme funded non-governmental organisation (NGO)- and government-run shelter and rehabilitation services

¹²⁹ Open Democracy, ‘A jail, not a shelter: women’s refuges in India’, 13 January 2017, [url](#).

¹³⁰ MWCD, ‘Swadhar Greh Scheme’, (page 2), 27 February 2018, [url](#).

¹³¹ MWCD, ‘Schemes for welfare of Women and Children’, 5 April 2018, [url](#).

¹³² MWCD, ‘Lok Sabha Starred Question No. 282’, 4 August 2017, [url](#).

¹³³ MWCD, ‘Schemes for welfare of Women and Children’, 5 April 2018, [url](#).

for women and children who were victims of sex trafficking¹³⁴. The MWCD reported that during the 2016-17 and 2017-18 financial years, there were over 12,300 beneficiaries of the programme¹³⁵. According to the USSD Trafficking in Persons report for 2017 ‘NGOs continued to report the number of government shelters was insufficient and overcrowding compromised victim rehabilitation. Both government- and NGO-run shelters faced shortages of financial resources and trained personnel, particularly of counselors and medical staff.’¹³⁶

- 7.2.5 HRW reported, in November 2017, that according to the Government of India, there were 151 government-run One Stop Centres (OSCs) set up across the country, aimed at supporting female victims of gender-based violence. However, the report added that there was no information on how many centres were functioning, or how well they were functioning¹³⁷. Temporary shelter at an OSC was available for up to 5 days¹³⁸. According to a press release by the MWCD, dated 5 April 2018, there were 170 functioning OSCs in 32 states and, as of 7 February 2018, 97,961 cases had been registered at the centres¹³⁹.
- 7.2.6 The USSD HR Report 2017 noted ‘During the year Chhattisgarh became the first state to establish one-stop crisis centers for women in distress, called “Sakhi centers,” in all its 27 districts, supported with federal funds from the Ministry of Women and Child Development. These centers provide medical, legal, counseling, and shelter services for women facing various types of violence, but primarily domestic violence related to dowry disputes and sexual violence.’¹⁴⁰
- 7.2.7 A helpline for women, aimed at providing a 24-hour emergency and non-emergency response to women affected by violence, was functioning in 28 states. According to the MWCD, as of 5 April 2018, 1.2 million complaints had been addressed by the Women Helplines¹⁴¹.

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7.3 Social welfare schemes

- 7.3.1 Various government welfare schemes are available to women throughout India, some of which provide financial benefits. Assistance available included: cash benefits for pregnant and lactating women; free child care and hostels for working women; and employment training¹⁴². The website Sarkari Yojana provided a list of over 300 central and state government welfare schemes, including programmes on education, healthcare and self-employment, that were available to women¹⁴³.

¹³⁴ USSD, ‘TiP Report 2017’, (page 206), 27 June 2017, [url](#).

¹³⁵ MWCD, ‘Schemes for welfare of Women and Children’, 5 April 2018, [url](#).

¹³⁶ USSD, ‘TiP Report 2017’, (page 206), 27 June 2017, [url](#).

¹³⁷ HRW, ‘One-Stop Centres’, 10 November 2017, [url](#).

¹³⁸ IJDR, ‘A Study on Women Empowerment Schemes in India’, (page 14034), August 2017, [url](#).

¹³⁹ MWCD, ‘Schemes for welfare of Women and Children’, 5 April 2018, [url](#).

¹⁴⁰ USSD, ‘Country Report 2017 – India’, (Section 6), 20 April 2018, [url](#).

¹⁴¹ MWCD, ‘Schemes for welfare of Women and Children’, 5 April 2018, [url](#).

¹⁴² IJDR, ‘A Study on Women Empowerment Schemes in India’, (page 14034), August 2017, [url](#).

¹⁴³ Sarkari Yojana, ‘List of All Women Empowerment Schemes’, updated 14 April 2018, [url](#).

Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legal context
 - The Constitution
 - Statutory provisions
 - Other measures taken by the Central Government to protect women
 - Implementation and enforcement of legislation
- Social, economic and political rights and attitudes
 - Cultural context
 - Economic participation
 - Political participation
 - Education
 - Access to health
 - Reproductive rights
 - Single women
 - Freedom of movement
 - LGBT women
- Sexual and gender-based violence
 - Domestic violence
 - Dowry-related domestic violence
 - Rape
 - Acid attacks
 - Forced and child marriage
 - 'Honour' crimes
 - Abuses against women with disabilities
 - Violence against Dalit and Adivasi women
 - Domestic workers
 - Women living in areas of military conflict
 - Other forms of violence, abuse and harassment
- State treatment and attitudes

- Positive action
 - Implementation and enforcement of legislation
 - Access to justice and the police
- Assistance available to women
 - Legal aid
 - Support centres and shelters
 - Social security

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Version control

Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **25 July 2018**

Changes from last version of this note

Updated analysis and country information, including a review of the PSG position for women.

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