



**DO YOU BELIEVE?**  
A BOOK SERIES FROM RATIO CHRISTI

---

**DOES  
CHRISTIANITY  
OFFER HOPE FOR  
WOMEN'S RIGHTS?**

---

BY LAURIE STEWART

 RATIO  
CHRISTI

**FAITH & REASON** are at odds in our culture. For many, faith has come to mean little more than wishful thinking and blind belief. Such a concept is completely foreign to the pages of Scripture and historical Christianity. As Edward Feser notes, “In short, reason tells us that there is a God and that he has revealed such-and-such a truth; faith is then a matter of believing what reason has shown God to have revealed. In that sense faith is not only not at odds with reason but is grounded in reason.”

## **WHAT IS RATIO CHRISTI?**

Ratio Christi, Latin for the reason of Christ, wants to help reverse this trend of anti-intellectual Christianity. We organize apologetics clubs at colleges, universities, and even for high school groups in order to strengthen the faith of Christian students and faculty and challenge the rampant atheism and secularism on most campuses. Our mission is to fill the intellectual gap, to make Christianity something worth thinking about, both personally and in the public square.

## **RATIO CHRISTI IS HIRING APOLOGISTS.**

Ratio Christi isn't just another apologetics organization. We use our theological training to share the Gospel on college and university campuses across the globe. We reach the people that nobody else can – and we need your help.

**[ratiochristi.org/join](http://ratiochristi.org/join) | [info@ratiochrisi.org](mailto:info@ratiochrisi.org)**

**NOTE:** *Some of the content in this booklet may not necessarily represent the views of every person involved with, or the official position of, Ratio Christi. Ratio Christi's official statement of faith can be seen at [ratiochristi.org/about/beliefs](http://ratiochristi.org/about/beliefs)*

*Adapted with permission from Laurie Anne Stewart's Master's Thesis presented to the Faculty of the Talbot School of Theology at Biola University, A Cross-Cultural Analysis of Women, Religion & the Law: Does the Christian Worldview Offer the Best Hope for Women's Rights? © 2019 by Laurie Anne Stewart. May not be further reproduced. All rights reserved.*

# INTRODUCTION

*Religion is against women.*

FAITHLESS FEMINIST KAREN L. GARST, PHD<sup>1</sup>

Is Christianity good news for those seeking to advance women's rights, and to put an end to invidious discrimination and violence against women?<sup>2</sup> Eradicating discrimination and violence against women has become a familiar global topic. Turn on the news any day and discover another report of a woman suffering from sexual harassment, assault, domestic violence, sex trafficking, rape, or murder. Other examples of discrimination and violence against women include forced marriages, child brides, female genital mutilation, honor killings, dowry deaths, acid attacks, and forced abortions.<sup>3</sup> The World Health Organization estimates one in three women worldwide have experienced physical or sexual violence.<sup>4</sup> Discrimination and violence against women is a common international problem.

Mistreatment of women is not new. It has a long history. What is new is the relentless, almost simultaneous, global cry of women to eliminate discrimination and violence against them. In 2006, the #MeToo grass-roots movement was born and went viral, giving a voice to victims of sexual violence.<sup>5</sup> Better treatment of women is a cross-cultural interest—shared by liberals and conservatives, religious and irreligious, Easterners and Westerners, developed and developing countries, rich and poor, people of all color, ages and abilities.

The unfair treatment of women can be corrected through the law. Discrimination against women occurs both directly and indirectly. Directly, it can occur through *de jure*

<sup>1</sup> Karen L. Garst, ed., *Women v. Religion: The Case Against Faith—and for Freedom*, (Durham, NC: Pitchstone Publishing, 2018), 13.

<sup>2</sup> Note: The terms “woman” and “women” in this booklet, will be used generically to describe the natal female human being of all ages. This booklet will not discuss “gender” as a social construct or as deconstructed through Feminist Critical Theory, Queer Critical Theory, and/or Trans Critical Theory.

<sup>3</sup> United Nations, *Women's Rights are Human Rights*, United Nations Human Rights Office of the High Commission, HR/PUB/14/2 (2014), 27-28, accessed September 7, 2019, <https://www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf>.

<sup>4</sup> “Areas of Impact: Women's Rights: TrustLaw's research programmes bring legal weight to campaigns working to secure social, political, economic and reproductive rights for women worldwide,” Thomson Reuters Foundation, accessed August 25, 2019, <http://www.trust.org/trustlaw/womens-rights/>.

<sup>5</sup> “About: History and Vision,” MeToo website, accessed July 28, 2019, <https://metoomvmt.org/about/#history>.

discrimination (direct discriminatory provisions), when a law or policy restricts, prefers or distinguishes between certain groups—e.g., prohibiting women from driving, voting or inheriting property.<sup>6</sup> Indirectly, discrimination can also occur through *de facto* discrimination (discriminatory impact), when a law or policy which appears to be gender neutral yields a harmful effect on women—e.g., aid programs which benefits the “head of household” may not benefit women equally since men are more often considered the head of a household.<sup>7</sup>

What causes the problem of discrimination and other mistreatment of women? Is it based on “systems of power” as some feminists would argue? <sup>8</sup> Assuming laws can provide protection, remedies, and guidance— which laws? What provides the proper foundation for the most effective laws to end invidious discrimination and violence against women? Which foundational set of principles provides the best hope for women gaining better treatment, and recognition of their inherent dignity and worth? Is there a religious worldview that offers good news for women or do all religions oppress women (as some atheists claim)?<sup>9</sup>

Protecting women from discrimination and violence is a growing concern. The current feminist approach addresses women’s rights as human rights.<sup>10</sup> While this makes perfect sense (even if current feminist ideology does not make perfect sense), without knowing the source of women’s rights—or human rights—communities will fail to accurately diagnose the problem and effectively provide a lasting solution. In a world of competing ideas, options must be carefully examined before reaching conclusions regarding the best approach to eliminating discrimination and violence against women.

This booklet analyzes four major religious worldviews and compares their impact on laws regarding the treatment of women to demonstrate that *biblical Christianity* and its influence on law offers the best hope for ending invidious discrimination and violence against women—even if Christians have not always treated women fairly and with dignity and respect.<sup>11</sup>

This booklet takes a juridical approach to this epistemological question—which religious worldview offers the best hope for women? Decisions about law can only be made once facts have been established.<sup>12</sup> As attorney, theologian, and Christian apolo-

---

**6** *Women’s Rights are Human Rights*, 30-31.

**7** *Ibid.*

**8** Margaret L. Anderson and Patricia Hill Collins, eds., *Race, Class & Gender: An Anthology*, 9th ed. (Cengage Learning, 2016), 2. Note: While current feminist ideology cannot fully be understood without discussing feminist critical theory (i.e. systems of power and oppression), that is beyond the scope of this booklet.

**9** Garst, *Women v. Religion*, 70-71.

**10** “Unity Principles,” *Women’s March*, accessed July 28, 2019, <https://womensmarch.com/mis-sion-and-principles>. Women’s rights are human rights and human rights are women’s rights.

**11** A worldview analysis is simply the study of religions and ideologies; the study of religion can apply to different disciplines like the law and is necessarily cross-cultural. Ninian Smart, *Worldviews: Crosscultural Explorations of Human Beliefs*, 3rd ed. (Saddle River, NJ: Prentice Hall, 2000), 2, 4. Some intersectional feminists may dismiss this booklet as sourced by a woman’s “privilege of whiteness.” However, this booklet attempts to address specific issues experienced by women, as viewed from a multi-cultural, multi-racial, and multi-religious perspective, and cites to a variety of reputable sources.

**12** John Warwick Montgomery, *Defending the Gospel in Legal Style: Essays on Legal Apologetics & the*

gist John Warwick Montgomery describes it, “[L]awyers and legal scholars must employ the most effective techniques possible in arriving at factual conclusions on which life or death may depend—and these must be sufficiently persuasive to convince the ‘trials [sic] of fact’ (juries and judges) to arrive at just verdicts.”<sup>13</sup>

Section I defines women’s rights in the context of defining human rights. Section II compares laws pertaining to discrimination and violence against women, through the lens of Islam (i.e. Saudi Arabia), Hinduism (i.e. India), Atheism<sup>14</sup> (i.e. China), and Christianity (United States). Finally, Section III demonstrates that all non-Christian worldviews create problems for women’s rights, and biblical Christianity is the worldview which offers the best hope for recognizing the equal value and dignity of all women.

Admittedly, historical and contemporary Christianity are replete with examples of *Christians* articulating unfavorable views toward women and even mistreating them, *in the name of Christianity*. Regardless of their egregious error, this does not negate the truth—Jesus Christ offers the best hope for women. Christianity offers the best hope for ending invidious discrimination and violence against women, not because of Christians (maybe even despite them), but because of Jesus Christ.

---

*Justification of Classical Christian Faith* (Eugene, OR: Wipf & Stock, 2017), 55. Note: A “juridical approach” is a method by which courts interpret law, i.e. to administer justice per the law. Epistemology is the investigation of what distinguishes justified belief from opinion.

<sup>13</sup> *Ibid.*

<sup>14</sup> This booklet treats atheism as a religious worldview. The U.S. Supreme Court has stated that religion should not be defined narrowly. *McCreary County, Ky. v. ACLU*, 545 U.S. 844 (2005). The Seventh Circuit Court explained that the Supreme Court adopted a broad definition of “religion” that includes theistic, non-theistic and atheistic beliefs. *Kaufman v. McCaughtry*, 419 F.3d 678, 682 (7th Cir. 2005). Thus, atheism will be treated as a religious worldview for this analysis.

## SECTION I: WOMEN'S RIGHTS AS HUMAN RIGHTS

*Men, their rights, and nothing more; women, their rights, and nothing less.*

SUSAN B. ANTHONY<sup>15</sup>

“Women's rights are human rights” is a phrase often used by advocates for better treatment of women.<sup>16</sup> If women's rights are human rights, the threshold question ought to be: “What are human rights and where do they come from?”

To answer this question, one must first ask a foundational question: “What does it mean to be human?” In the United States, a “human being” is defined under federal law as someone who is a member of the species *homo sapiens*.<sup>17</sup> This view is shared by the United Nations Universal Declaration of Human Rights (UDHR), which indicates that “humans” are all members of the human family.<sup>18</sup> While this may seem obvious, there are some who would question this definition.<sup>19</sup> This booklet begins with the premise that women are members of the species *homo sapiens*, members of the human family—that is, women are human beings.

Having defined “human,” the next questions are what are human rights and where do they come from? The traditional view of human rights is that they are: (1) rights based on a higher law; (2) inherent rights (humans are born with rights); and (3) universal

---

<sup>15</sup> Elizabeth Cady Stanton and Parker Pillsbury, eds., *The Revolution*, vol. III, no. 6 (February 11, 1869), Lewis & Clark Digital Collections: Lewis & Clark Special Collections and Archives, accessed July 29, 2019, <http://digitalcollections.lclark.edu/items/show/9679>.

<sup>16</sup> The United Nations promotes this idea in their e-book, *Women's Rights are Human Rights*. *Women's Rights are Human Rights*, 27-28.

<sup>17</sup> 1 U.S. Code § 8(a) (“In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species *homo sapiens* who is born alive at any stage of development.”). Note, although I hold the position that an unborn child is also a human being, that topic is beyond the scope of this booklet.

<sup>18</sup> United Nations, Universal Declaration of Human Rights (“UDHR”), Preamble, United Nations General Assembly 1948, accessed September 7, 2019, [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf).

<sup>19</sup> David Livingstone Smith, “What Does it Mean to be Human?: We Can't Turn to Science for an Answer,” *Psychology Today* (posted May 16, 2012), accessed September 7, 2019, <https://www.psychologytoday.com/us/blog/philosophy-dispatches/201205/what-does-it-mean-be-human>. Note: Arguments about what it means to be human go beyond the scope of this booklet.

rights (these rights apply to all humans).<sup>20</sup> This view is expressed in the U.S. Declaration of Independence of 1776. It states in part, “We hold these truths to be self-evident, that all men [universality] are *created* equal [inherency], that they are *endowed by their Creator* [higher law] with certain *unalienable Rights* [human rights], that among these are Life, Liberty and the pursuit of Happiness.”<sup>21</sup> Here, “all men” is generally understood to be a reference to all “humanity.”<sup>22</sup>

On a global scale, in 1948, inherency and universality were clearly communicated in the UDHR Preamble: “Whereas recognition of the *inherent* dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.” It is also conveyed in Article I of the UDHR, “*All* human beings are *born* free and equal in dignity and rights.” The UDHR clearly affirms the admonition for equal rights for all.<sup>23</sup> In fact, equal rights for everyone is a basic principle guiding the UN.<sup>24</sup>

If equal rights are inherent in everyone, they are necessarily inherent for all women. To address this specific application to women, the UN created the Commission on the Status of Women (“CSW”) to prepare international standards to clearly communicate the equal rights of women and define guarantees of non-discrimination for women.<sup>25</sup> In addition, the UN adopted the widely endorsed Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence Against Women (DEVAW).<sup>26</sup> These UN efforts attempt to advance human rights for women.

Despite UN action, nevertheless, the problem of discrimination and violence against women persists. It is not enough to declare the need to eliminate invidious discrimination and violence against women. It is important to know the source of human rights for women. This leads to the third point—there must be a higher law.

---

**20** See generally, John Warwick Montgomery, *The Law Above the Law*, (Irvine: NRP Books, 2015); UDHR.

**21** United States Declaration of Independence (July 4, 1776).

**22** Note: Although some people question whether “all men” meant all of humanity, in the historical context, it is generally understood that “all men” was a euphemism for “humanity. For example, Elizabeth Cady Stanton, Abraham Lincoln, and Martin Luther King used the Declaration of Independence as a demand for equality for women and African Americans, taking the historical view that “all men” refers to all of humanity. See “Creating the Declaration of Independence,” Library of Congress, accessed September 7, 2019.

**23** UDHR, Article I, (“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”).

**24** United Nations, Member States, accessed September 14, 2019, <https://www.un.org/en/member-states/index.html>. The UN has almost 200 member states from around the world.

**25** United Nations, “A Brief History of the Commission on the Status of Women,” UN Women, accessed November 29, 2019, <https://www.unwomen.org/en/csw/brief-history>.

**26** *Ibid.*



## SECTION II: MAJOR RELIGIOUS WORLDVIEWS AND THEIR IMPACT ON LAWS REGARDING THE TREATMENT OF WOMEN

*Whereas recognition of the inherent dignity of the equal and inalienable rights of the human family is the foundation for freedom, justice and peace in the world.*

PREAMBLE, UNIVERSAL DECLARATION OF HUMAN RIGHTS

The ultimate source for women’s rights as human rights must either be positive law (i.e. man-made law) or higher law (i.e. God’s law). If there is no God, the source of these rights would be man-made law, subject to change on a whim by those in power. On the other hand, if there is a higher law such as God’s law—a law above man—the standard is more likely to be objective, unchanging, and timeless. If the source of rights is God’s law—which god? Most importantly, which source offers the best hope for ending invidious discrimination and violence against women?

This section compares laws pertaining to women’s rights through the lens of four major competing religious worldviews: Islam (i.e. Saudi Arabia), Hinduism (India), Atheism (i.e. China), and Christianity (United States). Each worldview begins with a brief background of the country, its primary religion, and source of law. Certain laws are described as they pertain to women impacted by discrimination and violence.<sup>27</sup> For the purpose of this booklet, discrimination is limited to family matters such as marriage, divorce, and adultery; violence against women is limited to domestic violence, rape, female genital mutilation, and forced abortion. This booklet cites directly to the country’s specific laws when possible. Upholding the rule of law is a critical factor in the fight for women’s rights.<sup>28</sup>

---

<sup>27</sup> Due to the limited scope of this booklet, discussion about women’s civil liberties, financial and health resources, discrimination, reproductive and abortion issues are excluded.

<sup>28</sup> “Areas of Impact: Women’s Rights.”

# Islam: Women and the Laws of Saudi Arabia

*The Prophet said: “I was shown the Hell-fire and that the majority of its dwellers were women who were ungrateful.”*

SAHIH BUKHARI (2:28)<sup>29</sup>

Saudi women are considered the most controlled group of women in the world. When any Muslim visits Saudi Arabia’s two Holy cities Mecca and Medina, they expect a spiritual experience. Saudi women must serve as role models for non-Saudi Muslim women who might visit. Compared to other Muslim countries, Saudi Arabia is more fundamentalist, following a strict belief in the literal interpretation of religious texts.<sup>30</sup>

## BACKGROUND

Saudi Arabia is an Arab Islamic country with Islam as its official religion.<sup>31</sup> Islam was born in the early 7th century CE in two Muslim Holy cities in Saudi Arabia (Mecca and Medina) through their Prophet Muhammed.<sup>32</sup> “Islam” means the submission of one’s will to Allah, but is not merely a religious ideology.<sup>33</sup> Its precepts direct the legal, economic and social teachings of Islam, and impact the entire way of life.<sup>34</sup>

The primary source of law in Saudi Arabia is Sharia, which is considered divine in nature.<sup>35</sup> There are four primary sources for Sharia: (1) the Quran (Islamic holy book, the revealed message of Allah to the Prophet Muhammed); (2) the Hadith or *sunnah*; (3) Qiyas; and (4) Al Ijma.<sup>36</sup> Saudi Arabia’s interpretation of Sharia law is arguably considered the “purest” interpretation, coinciding with the teachings of the early Prophet of Islam.<sup>37</sup>

The Quran is not just about the Islamic religion, but about how good Muslims should live.<sup>38</sup> Yet, this book has been understood to place women in subservient roles, forcing them to endure discrimination.<sup>39</sup> For example, the Quran approves of the

---

**29** Sahih Bukhari (2:28), Sahih Bukhari, accessed December 1, 2019, [https://sahih-bukhari.com/Pages/Bukhari\\_1\\_02.php](https://sahih-bukhari.com/Pages/Bukhari_1_02.php).

**30** This paragraph draws from Amnah Abahussain, “The Rising Tide of Change: Saudi Arabian Women in Dispute Resolution,” *Dispute Resolution Journal (DRJ)*, vol. 73, no. 2 (2018), 94, accessed August 3, 2019, <https://arbitrationlaw.com/library/rising-tide-change-saudi-arabian-women-dispute-resolution-dispute-resolution-journal-vol-73>.

**31** Basic Law of Governance, Article 1, The Embassy of the Kingdom of Saudi Arabia, accessed August 8, 2019, <https://www.saudiembassy.net/laws>.

**32** Mona Almunajjed, *Women in Saudi Arabia Today* (Palgrave: New York, 1997) 1; Abahussain, 92.

**33** Almunajjed, 9.

**34** Ibid.

**35** Basic Law of Governance, Articles 7, 8, 23, 26, 46, 48, 55.

**36** Almunajjed, 9; Abahussain,” 91.

**37** Mackenzie Glaze, “Historical Determinism and Women’s Rights in Sharia Law,” 50 *Case W. Res. J. Int’l L.* (Spring 2018), 349, 362-363, accessed November 30, 2019, LexisNexis.

**38** Abahussain, 92.

**39** Ibid.

following: (1) Muslim husbands may beat their wives;<sup>40</sup> (2) a woman's testimony is half as valuable as a man's;<sup>41</sup> (3) husbands have authority over wives;<sup>42</sup> (4) men may marry up to four wives;<sup>43</sup> and (5) men may take sex slaves.<sup>44</sup> Since Muslims respect the Quran, these interpretations have not been heavily criticized, leaving women to suffer.<sup>45</sup> The Hadith pick up on these themes and provide further evidence of approving of Islam's low view of women and approval of mistreatment.<sup>46</sup>

In addition to Sharia, legislation is another source of law in Saudi Arabia. Royal Orders are made by the King and adopted through legislation. Nevertheless, Sharia law always trumps man-made legislation.<sup>47</sup>

Sharia Courts have jurisdiction over family, property, and criminal matters.<sup>48</sup> Judges must be male and Muslim. Secular laws adopted by legislation may supplement, but not replace Sharia law. Of note, Sharia Court decisions are not legally binding precedent for subsequent cases to follow. This means application of Sharia law in one case does not necessarily affect the outcome of another case. It is not difficult to imagine inconsistent application of the laws if there is no binding precedent.<sup>49</sup>

Human rights in Saudi Arabia are specifically defined by Sharia law.<sup>50</sup> Assertive women have been viewed as rebels.<sup>51</sup> Eleanor Abdella Doumato, Middle East Women's Studies scholar, professor and author, sums it up this way:

*The Basic Law of the Kingdom of Saudi Arabia does not guarantee gender equality. To the contrary, gender inequality is built into Saudi Arabia's governmental and social structures, and is integral to the country's state-supported interpretation of Islam, which is derived from a literal reading of the Koran and Sunna. In issuing religious opinions, state-funded ulema (religious scholars) generally avoid consideration of judicial precedent and evolving social contexts, so that their official posture resists pressure for change, especially when it comes to controlling women's behavior.*<sup>52</sup>

---

**40** Muhammad Asad, trans, *The Message of the Quran* (Bristol, England: The Book Foundation, 2003), Surah 4:34.

**41** *The Message of the Quran*, Surah 2:282.

**42** *The Message of the Quran*, Surah 2:228.

**43** *The Message of the Quran*, Surah 4:3.

**44** *The Message of the Quran*, Surah 33:50.

**45** Abahussain, 92-93.

**46** "What Does Islam Teach About a Woman's Worth?" What Makes Islam So Different?, accessed November 29, 2019, <https://www.thereligionofpeace.com/pages/quran/women-worth-less.aspx>. For example: Sahih Bukhari (2:28) & Sahih Bukhari (54:464) (Women comprise most Hell's occupants. This is important because the only women in heaven mentioned explicitly by Muhammad are the virgins who serve the sexual desires of men.); Kanz al-'ummal (22:10) (suggests that 99% of women go to Hell); Sahih Bukhari (62:58) (A woman presents herself in marriage to Muhammad, but he does not find her attractive, so he "donates" her on the spot to another man.); Abu Dawud (2155) (Women are compared to slaves and camels with regard to the "evil" in them.)

**47** This paragraph draws from Abahussain, 93.

**48** Sharia Courts follow the Hanbali School of Islamic jurisprudence since 1928.

**49** This paragraph draws from Abahussain 93, 94, 103.

**50** Basic Law of Governance, Article 26, ("the State shall protect human rights in accordance with Islamic sharia.")

**51** Abahussain, 103.

**52** Eleanor Abdella Doumato, "Saudi Arabia," in *Women's Rights in the Middle East and North Africa: Progress Amid Resistance*, eds. Sanja Kelly and Julia Breslin, (New York, NY: Freedom House; Lanham MD:

This background gives context for the next section which will discuss Saudi laws as they pertain to women in specific areas of discrimination in family matters and violence against women.

## **FAMILY MATTERS**

Law regarding family and marriage in Saudi Arabia is derived from the Quran.<sup>53</sup> Judges make decisions about family matters based on their own interpretation of Sharia law.<sup>54</sup>

### **Marriage/Child Marriage**

Sharia favors men when it comes to marriage.<sup>55</sup> A marriage contract is usually executed by the groom and guardian of the bride (not by the bride), and must specify if the bride (not the groom) is a virgin, widow or divorcee.<sup>56</sup> Men are allowed up to four wives at a time, provided the wives can be supported and treated equally.<sup>57</sup> Males are guardians over women and girls.<sup>58</sup>

There is no legally defined minimum age to marry in Saudi Arabia. Child marriage is common.<sup>59</sup> One of the wives of the Prophet Muhammed was six years old when they became engaged, and nine years old when the marriage was consummated.<sup>60</sup> It is legal to marry a girl even one-hour old.<sup>61</sup> Women and girls are like a commodity where the price is negotiated to transfer them from one male guardian to another. Young girls can be worth as much as \$40,000 each.<sup>62</sup> The Saudi monarchy itself has a long history of marrying very young girls.<sup>63</sup>

### **Divorce<sup>64</sup>**

Saudi Arabia has strict divorce laws which favor men over women. Saudi men have unilateral power and can divorce women without legal grounds or a judge. However, a woman cannot divorce her husband without the consent of both her husband and a court. Divorce can send a woman into poverty, because before the divorce is final, the woman must surrender all money and assets that were given to her during her marriage to her husband. If a woman is fortunate enough to gain custody of her children, she will retain custody only until the children are nine years old, then custody goes to the

---

Rowman & Littlefield, 2010), 1, accessed September 21, 2019, [https://freedomhouse.org/sites/default/files/inline\\_images/Saudi%20Arabia.pdf](https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Arabia.pdf).

<sup>53</sup> Doumato, 1.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid., 8.

<sup>56</sup> Ibid., 8-9.

<sup>57</sup> Ibid., 2; *The Message of the Quran*, Surah 4:3

<sup>58</sup> "Why is No One Protecting Saudi Arabia's Child Brides?" *Girls Not Brides* (Nov. 8, 2011), accessed September 21, 2019, <https://www.girlsnotbrides.org/child-marriage-in-saudi-arabia/>.

<sup>59</sup> Ibid.

<sup>60</sup> See Aisha's account in Sahih Al-Bukhari, vol. 5, book 58, Hadith 234, accessed November 29, 2019, [https://www.sahih-bukhari.com/Pages/Bukhari\\_5\\_58.php](https://www.sahih-bukhari.com/Pages/Bukhari_5_58.php).

<sup>61</sup> "Why is No One Protecting Saudi Arabia's Child Brides?"

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup> Note: Although this booklet examines the differences between women's right to divorce among the various countries, this is not to suggest that it argues the merits of divorce. This section on "Divorce" draws from Glaze, 349, 352, 353.

husband. Throughout the entire divorce process, the husband remains his wife's legal guardian. For women who do divorce, there is a strong negative social perception and religious stigma towards them.

### **Adultery**

The traditional punishment for adultery is stoning to death and is still practiced today.<sup>65</sup> Saudi judges are free to interpret Sharia Law as they wish as applied to adultery, including fines, detention, imprisonment, flogging, and the death penalty.<sup>66</sup> Saudi punishment for men and women charged with adultery is not equal. Women face stricter laws. In 2015, a married Saudi woman was sentenced to death by stoning after admitting to adultery, while the man with whom she had sex received a punishment of 100 lashes.<sup>67</sup> Rape victims are often charged with adultery, because Islamic law favors men in nearly every social and legal setting.<sup>68</sup>

## **VIOLENCE AGAINST WOMEN**

Saudi Arabia does not have any specific laws addressing violence against women, even though there are numerous reports that violence against women is prevalent in Saudi Arabia.<sup>69</sup> Human rights activists have been jailed for even denouncing it.<sup>70</sup>

### **Domestic Violence**

Although the Saudi government has not clearly defined domestic violence, there is a general law against abuse.<sup>71</sup> In 2015, Saudi Arabia's Justice Ministry reported that the courts saw 8,016 violence cases in a one-year period.<sup>72</sup> 57.5% of the cases involving violence between spouses were purportedly resolved "amicably."<sup>73</sup> Note that if a woman wants to file a legal complaint for domestic abuse, she must bring her guardian with her to court to file the report.<sup>74</sup> In other words, to bring a case for domestic abuse against

---

**65** Ibid., 356.

**66** Ibid.

**67** Ibid., 357. See Sophie Jane Evans, "Saudi Arabia Sentences Maid to Death by Stoning for Adultery-But the Man She Slept With Will Escape With 100 Lashes," *Daily Mail* (Last Updated Nov. 28, 2015), accessed September 21, 2016, <http://www.dailymail.co.uk/news/article-3337297/Saudi-Arabiasentences-married-maid-death-stoning-adultery-man-slept-escape-100-lashes.html> (discussing how women who commit adultery are more likely than males to receive a harsher sentencing).

**68** Glaze, 357.

**69** Adam Coogle, "Saudi Arabia to Women: "Don't Speak Up, We Know What's Best For You," *Human Rights Watch*, (June 26, 2013), accessed September 21, 2016, <https://www.hrw.org/news/2013/06/26/saudi-arabia-women-dont-speak-we-know-whats-best-you>.

**70** Ibid.

**71** U.S. State Dept., "Saudi Arabia 2018 Human Rights Report," (2018), 43-44, accessed September 21, 2019, <https://www.state.gov/wp-content/uploads/2019/03/SAUDI-ARABIA-2018.pdf>; United Nations, Convention on the Elimination of all Forms of Discrimination against Women, "Consideration of reports submitted by States Parties under article 18 of the Convention: Combined third and fourth periodic reports of the States parties due in 2013: Saudi Arabia," (August 23, 2016), 8 [The Law on Protection from Abuse was promulgated by Royal Decree No. M/52 of 15/11/1434 A.H. (20/09/2013)], accessed September 21, 2019, <https://undocs.org/en/CEDAW/C/SAU/3-4>.

**72** "8,016 cases of abuse recorded in one year," *Arab News*, (December 16, 2015), accessed September 21, 2019, <https://www.arabnews.com/saudi-arabia/news/851131>.

**73** Ibid.

**74** Organisation for Economic Co-operation and Development, Social Institutions & Gender Index: Saudi Arabia, (2019), OECD: Gender, Institutions and Development Database ("SIGI: Saudi Arabia"), accessed Sep-

her husband, she must bring her husband to court with her to file her case.

Saudi women's rights advocates have been critical of domestic violence investigations because some investigators require permission from the male head of household to enter the home—the very man who may have committed the violence. Furthermore, there are reports of domestic violence investigators encouraging victims and perpetrators to reconcile to keep the families intact, rather than prosecute the cases. Police and judges have been known to return women directly to their abusers, as many were their legal guardians.<sup>75</sup>

Male guardianship contributes significantly to domestic abuse in Saudi Arabia. Women are considered legal minors under the control of their *mabram* (closest male relative) and subject to legal restrictions regarding their personal behavior—restrictions that do not apply to men.<sup>76</sup> Under this system, adult women must obtain permission from a male guardian to do many things, such as travel abroad, obtain a passport, marry, or be discharged from prison.<sup>77</sup> This male guardianship system has continued despite government assurances to end it.<sup>78</sup>

### **Rape**<sup>79</sup>

Saudi Arabia does not have a penal code and there is no written law which specifically criminalizes rape. People are subject to arbitrary arrest and detention; the convicted are punished in accordance with Sharia as interpreted by individual judges. Sometimes the rape victim is punished. In 2006, a Saudi judge sentenced a woman—who was a gang rape victim—to 90 lashes, as her rapists were sentenced. When she appealed, her sentence increased to six months in prison and 200 lashes. In 2007, King Abdullah pardoned the woman from the punishment.

### **Female Genital Mutilation**<sup>80</sup>

Female genital mutilation (FGM) includes all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genitalia for non-medical reasons. In 2016, the U.S. State Department reported that FGM is not a common practice in Saudi Arabia. However, this is incorrect. A study conducted in 2016 and 2017 at King Abdulaziz University Hospital, in Jeddah, Saudi Arabia (“Jeddah study”), explained that it was presumed that FGM was not common because Sharia prohibits the practice. When the Jeddah study initiated a survey of 963 women over an eight-month period regarding their FGM status and attitudes toward the practice, the results showed that FGM is prevalent in Jeddah, among both immigrant and Saudi women. The actual prevalence statistic, however, was unknown.

---

tember 21, 2019, <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/SA.pdf>.

<sup>75</sup> This paragraph draws from U.S. State Dept., “Saudi Arabia 2018 Human Rights Report,” 43.

<sup>76</sup> Doumato, 3.

<sup>77</sup> Kenneth Roth, “World Report 2019: Saudi Arabia Events of 2018,” *Human Rights Watch*, accessed September 21, 2019, <https://www.hrw.org/world-report/2019/country-chapters/saudi-arabia#49dda6>.

<sup>78</sup> *Ibid.*

<sup>79</sup> This section on “Rape” draws from Doumato, “Saudi Arabia,” 5.

<sup>80</sup> This section on “Female Genital Mutilation” draws from Abdulrahim A. Rouzi, et al., “Survey on female genital mutilation/cutting in Jeddah, Saudi Arabia,” *BMJ Open*, (June 2019), 1, accessed September 21, 2019, <http://bmjopen.bmj.com>.

## EXTRACTION

The stereotypical Saudi woman is subservient and controlled by the men.<sup>81</sup> However, the Kingdom has slowly allowed women to enjoy some freedom.<sup>82</sup> Regardless, Saudi Arabia is still an Islamic country, based on Sharia law. Saudi women suffer child marriages, polygamous marriages, and unequal divorce, adultery and rape laws, not to mention FGM. The Islamic worldview cannot offer a coherent, compatible and consistent set of laws to protect women from discrimination and violence. Although the Islamic worldview offers a “higher law” approach to human rights—and therefore women’s rights—Islamic laws do not present hope for eliminating discrimination and violence against women.

---

**81** Abahussain, 91-92.

**82** *Ibid.*, 91. In 2015, Saudi women could vote for the first time. Law of Municipal Councils, Royal Decree No. M/61, arts. 17, 66. In 2018, the ban on Saudi women driving was lifted.

# Hinduism: Women and the Laws of India

*A woman must be dependent upon her father in childhood, upon her husband in youth, and upon her sons in her old age; she should never be free.*

MANU<sup>83</sup>

India is pluralistic in its laws and religion, and has a history of devaluing women. However, since the 1970s, Indian reformers have advocated for equalizing laws for men and women. The Hindu Nationalist movement pushed equality activists to accept a plural civil code in the name of Legal Pluralism. Yet, while Hindu leaders criticized discrimination practices among Muslims, they ignored similar prevalent practices among Hindus and in Hindu law.<sup>84</sup>

## BACKGROUND

Hinduism was birthed in India. It is the world's third largest religion, after Christianity and Islam. Hinduism is not confined to one particular doctrine—it embraces several theological perspectives, including monotheism, polytheism and pantheism, absorbing views from other religions. In spite of the diversity and complexity, the Hindu tradition with the most followers today is Vaishnavism, a religion centered on the worship of Vishnu, “the all-pervasive Lord.”<sup>85</sup>

“Hindu” is not precisely defined in statutes. However, in 1966 the India Supreme Court attempted to define it, explaining: “Acceptance of the Vedas with reverence, recognition of the fact that the means of ways to salvation are diverse and realization of the truth that number of gods to be worshipped is large is the distinguishing features of Hindu religion.”<sup>86</sup> In reality, any simple definition of the Hindu religion proves inadequate. A person who practices or professes Hinduism is clearly a Hindu. However, a Hindu who no longer practices or professes Hinduism may still be considered a Hindu. In fact, a Hindu who starts practicing or professing a non-Hindu religion may still be considered a Hindu. Even atheists do not cease to be a Hindu. On the other hand, if a Hindu formally converts to another faith, he might finally cease to be viewed as a Hindu. Today a Hindu community governed by Hindu laws is somewhat a fiction—it is not a religious entity or a social reality. It is a cacophony of beliefs and practices.<sup>87</sup>

---

**83** Flavia Agnes, “Law and Gender Equality: The Politics of Women’s Rights in India,” in *Women & Law in India* (Oxford, 2004), 11.

**84** This paragraph draws from Carolyn E. Holmes, “Conventions, Courts, and Communities: Gender Equity, CEDAW and Religious Personal Law in India,” *Journal of Asian and African Studies*, vol. 54(7) (Sage Journals: May 20, 2019), 965, 969, accessed November 30, 2019, available at <https://orcid.org/0000-0002-6142-0979>.

**85** This paragraph draws from Steven J. Rosen, “Hinduism,” *Introduction to the World’s Major Religions*, vol. 6, (Greenwood Press: Westport, Connecticut: 2006) xvi.

**86** *Shastri Yagnapurushadasji v. Muldas Vaishya*, AIR 1966 SC 1119, cited by Aapka Consultant, “Definition of a Hindu,” (January 2, 2018), accessed November 29, 2019, <http://www.aapkaconsultant.com/blog/definition-of-a-hindu/>.

**87** Unless otherwise cited, this paragraph draws from Agnes, 25, 26.



According to Indian lawyer Flavia Agnes, plurality of laws and customs were the characteristics of ancient Indian communities. During the pre-colonial era in India, there was no distinction between religion, law and morality, that is, *dharma*. Three sources of dharma are *shruti* (the divine revelations, primarily the *Vedas*), *smriti* (the memorized word—the *dharmasutras* and the *dharmashastras*) and *sadachara* (good custom). The Vedas were treated as the “fountainhead” of Hindu law by jurists, but they did not contain positive law (man-made law). Codified laws governing Hindu marriage and family derive their roots from the *smritis* and *nibandhas* (commentaries and digests).<sup>88</sup>

India is well known for its Hindu caste system, which is based in religion.<sup>89</sup> It has been in existence for about 3,000 years.<sup>90</sup> It is a social hierarchy of groups of people based on work and dharma.<sup>91</sup> There are four primary groups: Brahmins, Kshatriyas, Vaishyas, and Shudras.<sup>92</sup> Brahmins are the purest and highest caste, whereas the Shudras are the lowest caste; Dalits are even lower, outside of the caste system.<sup>93</sup> Although the Indian constitution prohibits caste discrimination, it remains prevalent.<sup>94</sup>

This background gives context for the next section which will discuss India’s laws as they pertain to women in specific areas of discrimination in family matters and violence against women.

## FAMILY MATTERS

India’s pluralistic legal system is reflected in the Indian Constitution, and laws vary according to religion: Hindu, Muslim, Christian, or Zoroastrian.<sup>95</sup> This booklet focuses on Indian laws governing Hindus.

### Marriage/Child Marriage

Child marriage was common in Hindu society.<sup>96</sup> In 1861, the minimum age of

---

<sup>88</sup> This paragraph draws from Agnes, 12.

<sup>89</sup> Ahmed Usman, “A Comparison of Hindu and Muslim Caste System in Sub-continent,” *A Research Journal of South Asian Studies*, vol. 32, no. 1 (Jan. – June 2017): 91, 92, accessed November 30, 2019, LexisNexis.

<sup>90</sup> “What is India’s Caste System?” *BBC News* (June 19, 2019), accessed November 30, 2019, <https://www.bbc.com/news/world-asia-india-35650616>.

<sup>91</sup> Usman, 91.

<sup>92</sup> *Ibid.*, 96. See also “What is India’s Caste System?” The main castes were divided into about 3,000 castes and 25,000 sub-castes, each based on their specific occupation.”

<sup>93</sup> Usman, 91-92.

<sup>94</sup> U.S. State Dept., “India 2018 Human Rights Report,” (2018), 46, accessed September 21, 2019, <https://www.state.gov/wp-content/uploads/2019/03/INDIA-2018.pdf>.

<sup>95</sup> *The Hindu Marriage Act (1855)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/1560>

*The Muslim Personal Law (Shariat) Application Act (1937)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/2303>;

*The Muslim Women (Protection of Rights on Divorce) Act (1986)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/1873>

*The Indian Christian Marriage Act (1872)*, India Code: Digital Repository of All Central and State Acts, accessed on October 5, 2019, <https://indiacode.nic.in/handle/123456789/2186>

*The Parsi Marriage and Divorce Act (1936)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/2476>

<sup>96</sup> Monmayee Basu, “Hindu Women and Marriage Law: From Sacrament to Contract,” in *Women & Law in India*, 4.

consent for a girl to marry was raised from ten to twelve years old.<sup>97</sup> Many Hindus continued to support child marriage, even into the twentieth century.<sup>98</sup> Child marriage was finally prohibited in 2006.<sup>99</sup> Currently, there are no legal exceptions to the minimum age for marriage for women (18) and men (21).<sup>100</sup> However, while there has been a decline in child marriages reported, they remain pervasive in India.<sup>101</sup>

Typically, after marriage, a young girl went to her husband's house and found a miserable life. She had no freedom. The mother-in-law was usually the supreme authority and the young wife must obey her. Young housewives were prohibited from stepping out of the house. *Purdah* was the common practice of shutting away women, forcing them into a secluded life.<sup>102</sup>

Hindu widows were often treated like a slave in the family. However, conditions for the child widow were even worse—she was neglected and mistreated from her very childhood and destined to suffer. Upper caste child widows were not permitted to remarry. Many widows were compelled to burn themselves on the funeral pyres of their husbands (a practice known as *sati* or *sutte*). So long as her husband was alive, the wife had an acceptable status in society—but as soon as he died, she became doomed to a life of forced labor. Therefore, the widow preferred to die with her husband. Eventually the practice of *sati* was prohibited and made a criminal offense in 1829.<sup>103</sup>

In the latter part of the nineteenth century, India passed various laws to encourage widows to marry (90% of prostitutes were widows). Not as successful as hoped, social reformers realized that without education, the problems of the Hindu widows could never be solved. After India became independent in 1947, Hindu law was codified, and women were granted substantial rights. Unfortunately, the problem of widows remained unsolved and widow-remarriage rarely took place. Finally, in the mid-twentieth century, women had access to education and advanced studies, opening opportunities to earn money through employment. The same was true for Hindu widows. Education and employment finally brought women a measure of freedom from a life of bondage.<sup>104</sup>

The Dowry system was another marriage problem that existed in Hindu society during the second half of the nineteenth century. As a rule, dowry had to be paid at the time of the girl's marriage. Dowry was a gift made by the bride's parents to the bride's in-laws, not a gift to their daughter as her separate property. The custom was almost universal and shows how daughters were a burden in a Hindu family.<sup>105</sup>

---

**97** Ibid.

**98** Ibid., 52-53.

**99** *The Prohibition of Child Marriage Act (2006)*, India Code: Digital Repository of All Central and State Acts, accessed on October 5, 2019, <https://www.indiacode.nic.in/handle/123456789/2055>

**100** Organisation for Economic Co-operation and Development, *Social Institutions & Gender Index: India*, (2019), OECD: Gender, Institutions and Development Database ("SIGI: India"), 2, accessed September 7, 2019, <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/IN.pdf>.

**101** Ibid.

**102** This paragraph draws from Basu, 4, 8.

**103** This paragraph draws from Basu, 6, 7, 67, 68.

**104** This paragraph draws from Basu, 7, 69, 75, 76, 78.

**105** This paragraph draws from Basu, 7, 86, 88.

Later, the dowry came to be known as the “groom’s price,” to procure more money in the marriage market.<sup>106</sup> In other words, fathers of brides were forced to pay more to marry off their daughters. Hence, daughters became an even greater burden to their families.

In 1961, dowry was finally outlawed in India.<sup>107</sup> Even so, dowry continues to be widely practiced and often contributes to violence against young brides, sometimes resulting in death.<sup>108</sup> Dowry deaths—like bride burning—is a tragic method of punishing women for insufficient dowries or creating an opportunity for the husband to remarry and receive another dowry.<sup>109</sup> In 2013, the Indian government announced the appointment of dedicated, full-time Dowry Prohibition Officers to enforce the Act and train law enforcement agencies on issues of dowry related harassment and dowry deaths.<sup>110</sup> In 2016, authorities reportedly arrested 20,545 persons for dowry deaths.<sup>111</sup> Someday dowry may disappear, but this goal seems remote when bride burning cases still appear in the news.<sup>112</sup>

### **Divorce**

The right to divorce in India depends on the laws under which one marries, civil or religious.<sup>113</sup> Either the husband or wife may petition for a divorce.<sup>114</sup> Hindu men and women have equal right to a divorce.

### **Adultery**

Until 2018, adultery was a crime for women but not for men under India’s Penal Code (IPC) under Section 497.<sup>115</sup> However, in September 2018, the Supreme Court of India, unanimously struck down IPC Section 497 as unconstitutional.<sup>116</sup>

---

**106** *Ibid.*, 88.

**107** *The Dowry Prohibition Act (1961)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/1679?>

**108** U.S. State Dept., “India 2018 Human Rights Report,” 38.

**109** See “Bride Burning: What is it, where does it happen and how to end it,” Rights Universal (April 15, 2017), accessed November 30, 2019, <https://www.rightsuniversal.org/bride-burning/>. Bride burning occurs when a wife is soaked with a flammable liquid and set on fire. Women rarely survive. Those who do survive are severely and permanently scarred. This extremely violent act is performed by the husband or his family because the bride’s family has refused to pay an additional dowry. Bride burning, also known as a dowry death, primarily occurs in India and Pakistan. It is estimated that 8,000 women die from bride burning each year.

**110** “Twelfth Five Year Plan (2012-2017: Social Sectors, Volume III,” Planning Commission (Government of India), (Sage, New Delhi: 2013), 172, accessed November 29, 2019, [http://planningcommission.gov.in/plans/planrel/12thplan/pdf/12fyp\\_vol3.pdf](http://planningcommission.gov.in/plans/planrel/12thplan/pdf/12fyp_vol3.pdf).

**111** U.S. State Dept., “India 2018 Human Rights Report,” 38.

**112** Basu, 96.

**113** SIGI: India, 3.

**114** *The Special Marriage Act (1954)*, India Code: Digital Repository of all Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/1387>; *The Hindu Marriage Act (1955)*, India Code: Digital Repository of all Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/1560>; SIGI: India, 3.

**115** India Penal Code, Section 497, India Code: Digital Repository of all Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/2263>.

**116** “Explainer: What Is Adultery Law And Section 497 Of IPC,” *Outlook India*, September 27, 2018, accessed October 5, 2019, <https://www.outlookindia.com/website/story/explainer-what-is-adultery-law-and-section-497-of-ipc/317261>.

## VIOLENCE AGAINST WOMEN

Women in India face many obstacles to their safety and protection. Rape, domestic violence, dowry-related deaths, honor killings and sexual harassment pose serious threats to women's physical integrity in Indian society.<sup>117</sup> Women from lower castes and tribes (e.g. Dalit women) are especially vulnerable to sexual violence due to caste-based discrimination.<sup>118</sup> India does not have an overarching law covering violence against women.<sup>119</sup> Instead, violence against women is covered by sections of the Indian Penal Code, domestic violence laws, and laws protecting children from sexual offenses.<sup>120</sup>

Acid attacks continue to take place, despite amendments to IPC in 2013 which increased penalties for acid-throwing from five to seven years.<sup>121</sup> Victims of acid attacks are often women who challenge norms, e.g. opposing a marriage proposal.<sup>122</sup> The Delhi government announced it would cover 100% medical expenses for victims of acid attacks in private hospitals in its territory.<sup>123</sup> The Supreme Court of India has also approved assistance to acid attack victims, up to 800,000 rupees (\$11,500) for acid attack injuries.<sup>124</sup>

### Domestic Violence

Domestic Violence is against the law in India.<sup>125</sup> Domestic violence includes physical, psychological, sexual and economic abuse.<sup>126</sup> The punishment is up to three years in prison.<sup>127</sup> Indian law sets forth measures to prevent and reduce domestic violence, including free legal aid for women and access to free services of official service providers.<sup>128</sup> Nevertheless, domestic violence in India continues to be a problem.

### Rape<sup>129</sup>

The IPC criminalizes rape, which is punishable by imprisonment up to ten years and up to twenty years for gang rape. Rape is the lack of consent to sexual intercourse; it does not require evidence of force or resistance, but it does require penetration.<sup>130</sup>

---

**117** Women's International League for Peace & Freedom, "Caught Between Arms: The State of Women's Rights in India, Shadow Report to CEDAW 58th Session," (2014), accessed October 5, 2019, <https://wilpf.org/wp-content/uploads/2014/07/CEDAW-WILPF-India-shadow-report.pdf>.

**118** United Nations Human Rights Council, "Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Rashida Manjoo," (2014), accessed October 5, 2019, <https://undocs.org/en/A/HRC/26/38>.

**119** SIGI: India, 4.

**120** *The Protection of Women from Domestic Violence Act (2005)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/2021>; *The Protection of Children from Sexual Offences Act (2012)*, India Code: Digital Repository of All Central and State Acts, accessed October 5, 2019, <https://indiacode.nic.in/handle/123456789/2079>

**121** The Indian Penal Code, Section 326B.

**122** SIGI: India, 6.

**123** U.S. State Dept., "India 2018 Human Rights Report," 36.

**124** *Ibid.*

**125** The Protection of Women from Domestic Violence Act; The Indian Penal Code, Section 498A.

**126** The Protection of Women from Domestic Violence Act.

**127** U.S. State Dept., "India 2018 Human Rights Report," 37.

**128** The Protection of Women from Domestic Violence Act.

**129** Unless otherwise cited, this section on "Rape" draws from the U.S. State Dept., "India 2018 Human Rights Report," 36-37.

**130** The Indian Penal Code, Section 376 A-D.

Gang rape of minors is rampant. The punishment for raping a girl under the age of 16 is between twenty years and life. The punishment for raping a girl under the age of 12 is life imprisonment or the death penalty. Marital rape is illegal when the wife is under 18 years old.

Rape is the country's fastest-growing crime in India, likely due in part to the increased willingness of victims to report their rapes, albeit a large number of rape cases remain unreported. Even so, law enforcement and legal recourse for rape victims remain largely inadequate. Police have been known to attempt to reconcile rape victims and their attackers, even encouraging the rape victims to marry their attackers. Inadequate victim support, protection of witnesses, and health care guidelines for victims leads to lack of convictions. Low conviction rates is considered one of the main reasons sexual violence against women continues.

### **Female Genital Mutilation**

India has no law specifically addressing female genital mutilation (FGM), despite the common practice.<sup>131</sup> Human rights groups and non-governmental organizations report that between 70 and 90 percent of the Dawoodi Bohras practiced FGM, a population of approximately one million.<sup>132</sup> The government continues to investigate the issue and strategize how to respond.<sup>133</sup>

### **Forced Abortion/Sex Selection**

The government of India has promoted female sterilization as a form of “family planning” for decades.<sup>134</sup> Reports of coerced and involuntary sterilization are not uncommon.<sup>135</sup> As of 2018, several states still had policies penalizing families with more than two children.<sup>136</sup> Women continue to be forced or choose to abort a girl child in India (gender-selective abortion) despite the passage of laws prohibiting sex selection.<sup>137</sup> However, almost all states have implemented “girl child promotion” to counter sex selection based on son preference.<sup>138</sup>

## **EXTRACTION**

India's pluralistic religion and laws have not adequately protected women from unjust discrimination and violence. Indeed, Hinduism has lent itself to the diminished value of women as evidenced by child marriages, purdah, sati, rape, dowry deaths, acid attacks, son preference, etc. While women are making progress through education and reform, this progress cannot be supported by Hinduism which still ranks people in value pursuant to a hierarchical caste system. Thus, the Hindu religious worldview does not appear to offer much hope for ending discrimination and violence against women.

---

**131** SIGI: India, 5.

**132** U.S. State Dept., “India 2018 Human Rights Report,” 37-38. Dawoodi Bohras is a community of Muslims.

**133** *Ibid.*

**134** *Ibid.*, 39.

**135** *Ibid.*

**136** *Ibid.*, 40.

**137** SIGI: India, 6--Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994).

**138** U.S. State Dept., “India 2018 Human Rights Report,” 40.

# Atheism: Women and the Laws of China

*Vocal feminism and atheism now are moral obligations: anything less makes us complicit in the dehumanization, commoditization, and sexual exploitation of women. To protect the defenseless and progress toward humanism, women must abandon religion.*

LAURI WEISSMAN<sup>139</sup>

Some women think all religion is bad for women, that it stands in the way of advancing women's rights as human rights and better treatment of women. Madhavi Sunder, Professor of Law at Georgetown University, insists that securing human rights requires deconstructing religion.<sup>140</sup> Atheist feminist Karen L. Garst goes further, declaring that religion is anti-women and the last cultural barrier to gender equality, due to the historical subjugation and degradation of women.<sup>141</sup> If all this is true, then one would expect to see the best example of human rights protections and gender equality (not to mention the end of the invidious discrimination and violence against women) in an atheistic state. This section will examine laws from China, the most atheistic country in the world, to show this it does not offer the best hope for women.

## BACKGROUND

In 2019, China was regarded as the least religious country in the world.<sup>142</sup> Less than 10% of residents of China stated that they feel religious and over 60% are “convinced atheists.”<sup>143</sup> Although China's constitution guarantees religious freedom, the reality is that any religious organization without official approval faces state persecution.<sup>144</sup> China is officially an atheist state.<sup>145</sup>

In addition to being the most atheist country in the world, the People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the supreme authority.<sup>146</sup> CCP members hold almost all the top government and security

---

**139** Lauri Weissman, “Half Human: How Jewish Law Justifies the Exclusion and Exploitation of Women,” in *Women v. Religion: The Case Against Faith—and for Freedom*, ed. by Karen L. Garst, (Durham, North Carolina: Pitchstone Publishing, 2018), 71.

**140** Madhavi Sunder, “Article: Piercing the Veil,” *Yale Law Journal*, vol. 112 (April, 2003): 1399, 1404, accessed August 21, 2019, LexisNexis.

**141** Karen Garst, “Introduction,” in *Women v. Religion: The Case Against Faith—and for Freedom*, 13; see also Karen L. Garst, “From Goddess to God: The Elimination of the Female Deity,” *Faithless Feminist* (2015), accessed August 21, 2019, <https://faithlessfeminist.com/essay>.

**142** “Least Religious Countries Population,” *World Population Review*, August 16, 2019, accessed August 21, 2019, <http://worldpopulationreview.com/countries/least-religious-countries/>; see also “Religion Prevails in the World,” WIN/Gallop International (April 10, 2017), accessed August 21, 2019, <https://web.archive.org/web/20171114113506/http://www.wingia.com/web/files/news/370/file/370.pdf>.

**143** “Least Religious Countries Population.”

**144** “China Population 2019,” *World Population Review*, July 11, 2019, accessed August 21, 2019, <http://worldpopulationreview.com/countries/china-population/>.

**145** “China Population 2019.” Note: China does not survey its people on their religion. Therefore, the religious demographics may not be accurate.

**146** U.S. State Dept., “China (includes Tibet, Hong Kong, and Macau) 2018 Human Rights Report,” (2018), 1, accessed September 8, 2019, <https://www.state.gov/wp-content/uploads/2019/03/CHINA-INCLUDES-TI->

positions.<sup>147</sup> Atheism is the basic doctrine for the CCP.<sup>148</sup> Therefore, atheist propaganda is necessary to exterminate religion.<sup>149</sup> Although the CCP acknowledges the presence of religion and people practicing religion in China, it affirms that religion will eventually fade away and atheist propaganda should be carried out relentlessly.<sup>150</sup> It is important to keep this communist propaganda agenda in mind when examining purported equality laws in China.

This background gives context for the next section which will discuss China's laws as they pertain to women in specific areas of discrimination in family matters and violence against women.

## FAMILY MATTERS

Chinese law espouses equality, expressly giving husbands and wives equal status in the family.<sup>151</sup> Women even have the same legal rights as men to be recognized as head of household.<sup>152</sup> Marital property is partial community property and both spouses must agree how to manage the property.<sup>153</sup> Both mother and father have equal rights and responsibilities to their children, during and after marriage.<sup>154</sup> The same applies to children born out of wedlock.<sup>155</sup>

Regardless of the Chinese government's purported efforts to promote equality of men and women, the reality is that general unequal stereotypes exist—women take care of working inside the home, men take care of working outside of the home.<sup>156</sup> Further, despite purported equality laws, discrimination and violence against women remains a problem.

### Marriage/Child Marriage

Under Chinese law, the consent of both husband and wife is required for marriage.<sup>157</sup> Protections exist for a spouse who is coerced into marriage.<sup>158</sup> Regardless of marriage equality laws, Chinese birth limitations and cultural preference for sons created a culture where men outnumber women, leaving large numbers of single men,

---

BET-HONG-KONG-AND-MACAU-2018.pdf.

<sup>147</sup> Ibid.

<sup>148</sup> Fenggang Yang, "Between Secularist Ideology and Desecularizing Reality: The Birth and Growth of Religion Research in Communist China," *Sociology of Religion*, vol. 65, no 2 (2004): 101,103, accessed November 30, 2019, <https://doi.org/10.2307/3712401>.

<sup>149</sup> Ibid.

<sup>150</sup> Ibid., 105.

<sup>151</sup> Organisation for Economic Co-operation and Development, Social Institutions & Gender Index: China, (2019), OECD: Gender, Institutions and Development Database ("SIGI: China"), 2, accessed September 7, 2019, <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/CN.pdf>.

<sup>152</sup> SIGI: China, 2.

<sup>153</sup> Marriage Law of the People's Republic of China, Congressional-Executive Commission on China (Effective 1981, amended 2001), Articles 17, 19, accessed on November 20, 2019, <https://www.cecc.gov/resources/legal-provisions/marriage-law-of-the-peoples-republic-of-china-amended>.

<sup>154</sup> Marriage Law of the People's Republic of China, Articles 17, 19.

<sup>155</sup> Marriage Law of the People's Republic of China, Article 25.

<sup>156</sup> SIGI: China, 2-3.

<sup>157</sup> Marriage Law of the People's Republic of China, Article 5.

<sup>158</sup> Marriage Law of the People's Republic of China, Article 11.

especially in rural areas.<sup>159</sup> This increased demand for foreign women as brides for Chinese men and triggered an increase in human trafficking and forced marriages.<sup>160</sup> These women may be kidnapped or sold by relatives and transported to China.<sup>161</sup> Thus, these women are treated as a commodity.

In China, the legal age to get married is not the same for men and women—22 years old for men, and 20 for women.<sup>162</sup> Parents or guardians are prohibited from allowing or forcing minors into marriages, or arranging such marriages.<sup>163</sup> This is likely the consequence of the increase in human trafficking and young foreign brides.

There is a lack of data regarding the statistics for child marriage in China.<sup>164</sup>

### **Divorce<sup>165</sup>**

Men and women have the same divorce rights under Chinese marriage law. Additionally, Chinese law offers protection for pregnant women—husbands may not apply for divorce within one year of his wife giving birth, or with 6 months after the termination of her pregnancy. Women are not subject to the same restriction.

Despite equal divorce rights, women suffer from the social stigma of divorce more than men because traditional Chinese standards are more liberal for men when it comes to family. Therefore, women—especially rural women—are likely to suffer economic hardship because their husbands were the only source of financial income. Equal opportunity for divorce does not yield equal consequences.

## **VIOLENCE AGAINST WOMEN**

The Chinese Constitution prohibits the mistreatment of women, children, and the elderly.<sup>166</sup> However, the law lacks teeth to provide civil or criminal remedies to punish the perpetrators.<sup>167</sup> In other words, it is a law with no remedy. When it comes to sexual violence, the criminal law does not address it, although it does prohibit rape.<sup>168</sup>

Human trafficking is the most common type of violence against women in China. Women and children are the primary victims of kidnapping, physical and sexual assault, and sale. The women's slave trade has affected hundreds and thousands of families in rural areas and in the cities. No official statistics exist regarding how many women and children have been kidnapped and sold in the black market.<sup>169</sup>

---

**159** U.S. State Dept., "2017 Trafficking in Persons Report: China," (2017), accessed November 20, 2019, <https://www.state.gov/reports/2017-trafficking-in-persons-report/china/>.

**160** SIGI, China, 2-3.

**161** "Forced Marriage Overseas: China," Tahirih Justice Center: Forced Marriage Initiative, accessed November 20, 2019, <https://preventforcedmarriage.org/forced-marriage-overseas-china/>.

**162** Marriage Law of the People's Republic of China, Article 6.

**163** SIGI: China, 2

**164** *Ibid.* Although UNICEF is an organization which collects data on child marriage for East Asia, there is a lack of data on child marriage in China in the UNICEF database.

**165** This section, "Divorce," draws from SIGI: China, 3.

**166** Chinese Constitution, Article 49.

**167** SIGI: China, 4.

**168** *Ibid.*, 5.

**169** This paragraph draws from SIGI: China, 4 - 5.



## **Domestic Violence** <sup>170</sup>

For a long time, domestic violence was considered a private matter in China. In 2016, China's first domestic violence law went into effect. Due to the new law, more women have reported domestic violence. Despite this progress, the law has been inconsistently implemented.<sup>171</sup> Thus, victims of domestic violence often remain reluctant to report the abuse to authorities or go to court due to the prevailing sentiment that these are largely private matters.

## **Rape**<sup>172</sup>

Rape is defined as a female victim's lack of consent and is against the law in China, punishable by a maximum of 10 years in prison. A few convicted rapists in China were executed.<sup>173</sup> The law does provide enhanced remedies for aggravated forms of rape and sexual violence. China's law regarding statutory rape prohibits consensual sexual contact with a person under the age of 14. Punishment is even more severe if the younger party was under 14 and acting as a prostitute. There is no separate law for spousal rape, but a wife can file a complaint for the rape.

Unfortunately, victims of rape are still likely to be blamed in Chinese culture. A study conducted by the University of Pennsylvania in 2016 found that Chinese culture considers rape at least partly a woman's fault. The topic is taboo and shameful, hindering women's willingness to report it.

## **Female Genital Mutilation**

There are no official reports that female genital mutilation is common in China.<sup>174</sup>

## **Forced Abortion/Sex Selection**<sup>175</sup>

The Chinese government restricts the parents' rights to choose how many children they have. On January 1, 2016, the birth limit imposed on its citizens was raised from one to two children per married couple—finally ending the 1979 “one-child policy.”<sup>176</sup> Chinese law requires a woman with an unauthorized pregnancy to abort the baby or pay a fee, which can be ten times a person's annual disposable income. In 2018, the U.S. State Dept. confirmed coerced abortions and sterilizations in China, although exact statistics were not available.

Due to the birth limitation policy and traditional preference for sons over daughters, sex-selective abortions, and the abandonment and neglect of baby girls continues to be a problem.

## **EXTRACTION**

Like women in Saudi Arabia and India, Chinese women are not considered as

---

<sup>170</sup> Unless otherwise cited, this paragraph draws from SIGI: China, 4 - 5.

<sup>171</sup> U.S. State Dept., “China (Includes Tibet, Hong Kong, and Macau) 2018 Human Rights Report,” (2018), 49-50, accessed September 21, 2019, <https://www.state.gov/wp-content/uploads/2018/04/China.pdf>.

<sup>172</sup> Unless otherwise cited, this paragraph draws from SIGI: China, 5.

<sup>173</sup> U.S. State Dept., China 2018 Human Rights Report, 49.

<sup>174</sup> SIGI: China, 6.

<sup>175</sup> Unless otherwise cited, this paragraph draws from U.S. State Dept., China 2018 Human Rights Report, 52, 53, 56.

<sup>176</sup> SIGI: China, 7.

valuable as Chinese men. Although the law purports equality between men and women, women still suffer unjust discrimination and violence as evident in son-preference, forced abortions (usually girl babies), and human trafficking. Propaganda serves to advance Chinese communism and atheism. Therefore, laws purporting freedom and equality for women must be met with skepticism. Without a transcendent source for law, China's man-made laws are subjective, arbitrary and subject to change on a whim by those in power. In a country where communism is the highest goal, the reality is, genuine freedom for women is a pipedream.

# Christianity: Women and the Laws of the United States

*There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus.*

GALATIANS 3:28

From its founding, the laws of the United States were influenced by biblical Christianity. Although not perfect, the history of the advancement of women's rights in the U.S. is long and complex.<sup>177</sup> While unjust discrimination and violence against women still exist in the U.S., women have more freedom in the U.S. than the other countries discussed in this booklet.

## BACKGROUND

In the early American colonies, women were under the authority of a husband or father. A woman's economic and legal rights depended on her marital status. European settlers brought their traditions of the written law with them. In the British colonies, under English Common Law, single women could stand "alone" or "solo" before the law, while a married woman had no right apart from her husband. The French, Spanish and Dutch colonies treated these matters differently, in the Roman law tradition. Married women kept the property they brought into the marriage, co-owned property acquired during marriage, and sometimes owned part of their late husband's personal property. This legal principle is known as "community property" and is applied in many states in the U.S. today.<sup>178</sup>

Historical documents reveal that American women struggled for better treatment and more rights in the early colonies and during the American Revolution. Moreover, the notion of individual rights evolved slowly and ignited at the time of the American Revolution. An example of advocating for women's rights is found in a letter Abigail Adams wrote to her husband, John Adams, who became the second President of the United States in 1797. Abigail encouraged her husband to remember the ladies and warned him not to give husbands unlimited power or the wives would rebel against laws in which they had no voice or representation.<sup>179</sup>

Nearly all citizens of early colonial America were Christians—the overwhelming majority were Protestants.<sup>180</sup> Values and customs of Protestant Christianity permeated civil

---

<sup>177</sup> Anne M. Boylan, *Women's Rights in the United States: A History in Documents* (New York, Oxford: Oxford University Press, 2016), 3. Often the advancement of women's rights in the U.S. is examined through the different waves of feminism. In general, the first wave of the feminist movement culminated with the 19th Amendment to the U.S. Constitution, giving women the right to vote. The second wave of the feminist movement emerged in the 1960's, with the advancement of the Equal Rights Amendments (which did not pass). Subsequent feminist waves have not been so clearly distinguished.

<sup>178</sup> This paragraph draws from Boylan, *Women's Rights in the United States*, 3, 17, 22.

<sup>179</sup> This paragraph draws from Boylan, *Women's Rights in the United States*, 3, 22, 48

<sup>180</sup> Stephen B. Epstein, "Rethinking the Constitutionality of Ceremonial Deism," *Colum. L. Rev.*, vol. 96 (December 1996), 2083, 2099.

and political life. From the early colonists and until the mid 1900's, the Christian religion saturated American public life.<sup>181</sup> All three branches of government—legislature, judicial, executive—affirmed and endorsed America as a religious, even Christian, nation.<sup>182</sup>

America's grounding in Christianity paved the way for women to petition for rights. After obtaining the right to vote, other laws were enacted to advance women as equal in value and dignity.<sup>183</sup>

This background gives context for the next section which will discuss the United States laws as they pertain to women in specific areas of discrimination in family matters and violence against women.

## FAMILY MATTERS

### Marriage/Child Marriage

In the U.S., marriage is generally governed by the laws of each state.<sup>184</sup> Most states established the minimum age for marriage without parental consent at 18, and with parental consent at 16.<sup>185</sup> Every state has exceptions to the minimum age when there is parental consent or judicial approval.<sup>186</sup> A few states have passed laws prohibiting forced marriage.<sup>187</sup> This may help prevent the parental-consent exception from being misused by immigrant

---

**181** Leonard W. Levy, *The Establishment Clause*, 2nd ed. (U. of N.C. Press, 1994), xiv.

**182** As for the legislature, in 1789, it declared that religion was necessary for good government. An Act to provide for the Government of the Territory of the River Ohio, *Journals of the Continental Congress: 1774-1789*, vol. 32 (July 13, 1787), 340, recodified at 1 Stat. 50, 51 n.a. (Aug. 7, 1789); *Wallace v. Jaffree*, 472 U.S. 38, 100 (1985) (Rehnquist, J., dissenting). As for the judiciary, as early as 1799, the United States Supreme Court declared Christianity the established American religion. See *Runkel v. Winemiller*, 4 H. & McH. 429, 442 (1799) ("By our form of government, the Christian religion is the established religion; and all sects and denominations of Christians are placed upon the same equal footing, and are equally entitled to protection in their religious liberty."). As for the executive branch, President George Washington publicly prayed to Almighty God at his inaugural address in 1796. President George Washington, "Washington's Farewell Address," (Sept. 17, 1796), reprinted in, *A Compilation of the Messages and Papers of the Presidents*, vol. 1, ed. James D. Richardson (1896) 213-34; see also Epstein, 2109. Since that first inaugural prayer, formal prayers offered by Christian ministers have been associated with presidential inaugurations. Epstein, 2106.

**183** In 1920, American women were given the right to vote with the ratification of the 19th Amendment to the United States Constitution. In 1961, the President's Commission on the Status of Women ("PCSW") was established by President John F. Kennedy, chaired by Eleanor Roosevelt to expose sex discrimination. In 1963, the Equal Pay Act was signed. In 1964, Title VII was signed into law to prohibit employment discrimination based on race or sex. In 1972, the Equal Rights Amendment (ERA) was passed by Congress and sent to the states for ratification (it failed by ratified by the states). Boylan, *Women's Rights in the United States*, 141, 203-203, 207-208, 241-246.

**184** Occasionally the federal government does create law regarding marriage, e.g., in *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015), the U.S. Supreme Court ruled that same-sex couples had the right to marry pursuant to both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

**185** United Nations Human Rights Council, "Report of the working group on the issue of discrimination against women in law and practice on its mission to the United States of America," A/HRC/32/44/Add.2, accessed October 26, 2019, at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/172/75/PDF/G1617275.pdf?OpenElement>.

**186** "Understanding State Statutes on Minimum Marriage Age and Exceptions," Tahirih Justice Center: Forced Marriage Initiative, July 1, 2019, 1, accessed October 26, 2019, [https://www.tahirih.org/wp-content/uploads/2016/11/State-Statutory-Compilation\\_Final\\_July-2019.pdf](https://www.tahirih.org/wp-content/uploads/2016/11/State-Statutory-Compilation_Final_July-2019.pdf).

**187** "Forced Marriage in Immigrant Communities in the United States: 2011 National Survey Results," Tahirih Justice Center, 2011, 1, fn. 4, accessed October 26, 2019, <https://www.tahirih.org/wp-content/uploads/2015/03/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States.pdf>.

parents who coerce their children into early arranged marriages.<sup>188</sup> In 2011, a survey of immigrant families was conducted regarding forced marriages in the U.S. Over 3,000 cases were reported.<sup>189</sup> Almost half of the reporting victims recounted actual physical violence from their forced marriage.<sup>190</sup> Over a quarter of these reported death threats.<sup>191</sup>

Polygamy is illegal in every state in the United States.<sup>192</sup> Nevertheless, it is still practiced in the U.S. based on certain religious beliefs, especially among Fundamentalist Mormons and Muslims.<sup>193</sup>

### **Divorce**

Women and men have equal rights to initiate divorce in the United States.<sup>194</sup> Divorce laws are a matter of state law, not federal law.<sup>195</sup> Since at least the 1940's, women are more likely to initiate divorce than men, initiating about 2/3 of the divorces.<sup>196</sup> A recent Stanford study explained this phenomenon by a power differential between the spouses and difference in perceived relationship quality.<sup>197</sup> A woman who experiences a controlling husband or an unhappy marriage may initiate a divorce as a way out of a disappointing marriage.

### **Adultery**<sup>198</sup>

U.S. adultery laws existed since the country's founding. Most early states criminalized adultery. In more recent years, many states have decriminalized adultery. In 2015, twenty states still had adultery on the books as a crime, but rarely is it prosecuted. Regardless of the decline in the number of criminal statutes prohibiting adultery, adultery may be relevant in the legal system (e.g. as an injury in family law matters). According to a 2013 Gallup poll, adultery was still viewed as immoral (over 91%). Regardless, moral opposition to adultery has not been successful at deterring it.

## **VIOLENCE AGAINST WOMEN**

According to a 2018 Center for Disease Control ("CDC") report, 43.6% of women in the U.S. (nearly 52.2 million) have experienced some form of sexual violence in their

---

**188** Ibid.

**189** Ibid., 2, 8.

**190** Ibid., 9.

**191** Ibid.

**192** Casey E. Faucon, "Marriage Outlaws: Regulating Polygamy in America," *Duke Journal of Gender Law & Policy*, vol. 22, no. 1 (2014): 1-2, accessed October 26, 2019, LexisNexis.

**193** Faucon, 2.

**194** Organisation for Economic Co-operation and Development, Social Institutions & Gender Index: United States, (2019), OECD: Gender, Institutions and Development Database ("SIGI: United States"), 3, accessed September 7, 2019, <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/US.pdf>.

**195** SIGI: United States, 3.

**196** Michael J. Rosenfeld, "Who Wants the Breakup?: Gender and Breakup in Heterosexual Couples," (June, 2017), 3, accessed October 26, 2019, [http://web.stanford.edu/~mrosenfe/Rosenfeld\\_gender\\_of\\_breakup.pdf](http://web.stanford.edu/~mrosenfe/Rosenfeld_gender_of_breakup.pdf).

**197** Rosenfeld, 21.

**198** This section on "Adultery" draws from Alyssa Miller, "Punishing Passion: A Comparative Analysis of Adultery Laws in the United States of America and Taiwan and their Effects on Women," *Fordham International Law Journal*, vol. 41, no. 2 (January 2018): 425, 428-35, footnote on page 34 (states include Alabama, Arizona, Florida, Georgia, Idaho, Illinois, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Utah, Virginia and Wisconsin), accessed October 26, 2019, LexisNexis.

lifetime.<sup>199</sup> Approximately 1 in 6 women (an estimated 19.2 million) have experienced sexual coercion.<sup>200</sup> More than a third of women (approximately 44.3 million) have reported unwanted sexual contact.<sup>201</sup> Over half of female stalking victims were stalked before the age of 25, including 21.2% who reported being stalked before the age of 18.<sup>202</sup>

The U.S. has federal laws against violence against women.<sup>203</sup> The federal government administers assistance to communities across the country that are developing policies aimed at ending domestic violence, dating violence, sexual assault, and stalking.<sup>204</sup>

### **Domestic Violence**

According to a 2015 CDC's survey, over one in three women (43.6 million) experienced sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime.<sup>205</sup> Most women were under 25 when they first experienced such victimization (71% or nearly 31 million), 25.8% were under 18.<sup>206</sup>

Domestic laws vary from state to state, including the definition of domestic abuse, when mandatory reporting is required and police arrest policies.<sup>207</sup> Most states have adopted preferred arrest policies that require police to either arrest one or both parties at the scene, or justify why an arrest is not made.<sup>208</sup> Some states have *mandatory* arrest policies requiring that an officer make an arrest if the domestic violence meets certain criteria.<sup>209</sup>

### **Rape**

Sexual assault is a significant problem in the United States. It is defined by the DOJ as “any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.”<sup>210</sup> Anyone can experience sexual violence, but most victims are female; the person responsible for the violence is typically male and usually someone known to the victim.<sup>211</sup>

According to a 2018 CDC report, 1 in 5 women experienced rape or attempted rape during her lifetime. Approximately 81.3% of female victims reported the age of their first rape or attempted rape was before the age 25. Those under the age of 18 was 43%.

---

**199** “National Intimate Partner and Sexual Violence Survey: 2015 Data Brief-Updated Release,” Center for Disease Control, November 2018, 2, accessed November 2, 2019, <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

**200** *Ibid.*

**201** *Ibid.*

**202** *Ibid.*, 6.

**203** The Violence Against Women Act of 1994 (VAWA). Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act, H.R. 3355, signed as Pub.L. 103–322 by President Bill Clinton on September 13, 1994 (codified in part at 42 U.S.C. sections 13701 through 14040).

**204** “About the Office,” U.S. Dept. of Justice Office on Violence Against Women, accessed October 26, 2019, <https://www.justice.gov/ovw/about-office>.

**205** “National Intimate Partner and Sexual Violence Survey,” 7.

**206** *Ibid.*, 10.

**207** “State Domestic Violence Laws,” *FindLaw*, accessed November 2, 2019, <https://family.findlaw.com/domestic-violence/state-domestic-violence-legislation.html>.

**208** *Ibid.*

**209** *Ibid.*

**210** “What is Sexual Assault?” U.S. Dept. of Justice Office on Violence Against Women, accessed October 26, 2019, <https://www.justice.gov/ovw/sexual-assault>.

**211** “Sexual Violence,” Centers for Disease Control and Prevention, accessed November 2, 2019, <https://www.cdc.gov/violenceprevention/sexualviolence/index.html>.

And those between 11 and 17 was 30.5%.<sup>212</sup>

### **Female Genital Mutilation**

FGM of a girl under the age of 18 is a federal crime in the U.S. and punishable for up to 5 years in prison.<sup>213</sup> At least 23 states have passed FGM laws.<sup>214</sup> In 2016, the CDC reported that approximately 513,000 women and girls in the U.S. were at risk for FGM in 2012.<sup>215</sup> This was three times higher than an earlier estimate based on 1990 data.<sup>216</sup> The increase was entirely the result of fast growth in the number of U.S. immigrants from FGM practicing countries.<sup>217</sup> They did not estimate the number of women and girls who actually suffered the procedure.<sup>218</sup> FGM violates several human rights principles and is associated with a wide variety of physical, sexual, and psychological/emotional complications, both immediate and long term.<sup>219</sup>

### **EXTRACTION**

Comparatively speaking, laws in the U.S. offer women greater protection from invidious discrimination and violence than Saudi Arabia, India or China. Child marriages and FGM are due to an influx of immigrants bringing their cultural traditions. While discrimination and violence against women exists, the legal remedies in the U.S. offer better protection and enforcement than in the other three countries. Biblical Christian principles undergird the foundation of the American system of government and laws. This is key to understanding why the U.S. offers more protection for women against discrimination and violence. The final section of this booklet demonstrates how the biblical Christian worldview offers the best hope for women to end invidious discrimination and violence.

---

**212** This paragraph draws from “National Intimate Partner and Sexual Violence Survey,” 2, 4.

**213** 18 U.S.C.S. § 116.

**214** Mark Mather and Charlotte Feldman-Jacobs, “Women and Girls at Risk of Female Genital Mutilation/Cutting in the United States,” February 5, 2016, Population Reference Bureau, accessed November 9, 2019, at <https://www.prb.org/us-fgmc/>.

**215** Howard Goldberg, et al., “Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012,” *Public Health Reports*, vol. 131 (March-April 2016): 1, accessed November 9, 2019, <https://doi.org/10.1177/003335491613100218>.

**216** *Ibid.*

**217** *Ibid.*

**218** *Ibid.*, 2.

**219** *Ibid.*, 2.

## SECTION III: THE BEST HOPE FOR WOMEN

*Lord, to whom shall we go? You have the words of eternal life. We have come to believe and to know that you are the Holy One of God.*

JOHN 6:68-69

The idea of dignity, value, and equality for women did not develop in a vacuum. This idea has been nurtured because the ancient problem of invidious discrimination and violence against women has persisted. This booklet identified the problem of discrimination and violence against women. Section I discussed women's rights in the context of human rights. Section II explored various laws as they relate to women from four different countries, representing four different religious worldviews: Saudi Arabia (Islam), India (Hinduism), China (Atheism), U.S. (Christian). The treatment of women, as viewed through the lens of the laws, varied significantly between the countries. While none of them may seem perfect in the treatment of women, one country stood out as superior than the others in its efforts to achieve better treatment for women. This Section will highlight the results of that comparative religious worldview analysis as viewed through the lens of the law.

The UDHR Article 2 announces: “*Everyone* is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>220</sup> Since everyone necessarily includes women, what is the source for this instinct for universality?

This instinct for the universality of human rights cannot come from Islam. Islam was born in Saudi Arabia. An examination of Saudi laws as they pertain to women, family, discrimination and violence against women, expose Islam as not providing for equal treatment of women, but rather treat women as inferior and subservient. Islamic law is based on the Quran and Sharia. It is higher law, as revealed from Allah to the Muslims' Prophet Muhammad. The problem is that Sharia favors men and devalues

---

**220** Universal Declaration of Human Rights, Article 2, United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A), accessed September 7, 2019, [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf).



women. Women must have male guardians, who dictate what they can do. Women are treated unequally in marriage, divorce, child custody, inheritance, adultery, and rape. Men may beat their wives and have sex slaves. None of these are examples of inherent human rights for everyone, certainly not for women.

This instinct for the universality of human rights cannot come from Hinduism. Hinduism is a pluralistic belief system and the basis for India's laws. It has made a theology out of the abolished caste system. Upper castes have more rights than lower castes. Indians prefer sons over daughters. Hinduism has contributed to the inferior value of women as evidenced by child marriages, purdah, sati, rape, bride-burning, acid attacks, female genital mutilation, etc. There is no evidence of inherent human rights for everyone in a Hindu religious worldview. Thus, it does not offer hope for ending discrimination and violence against women.

This instinct for the universality of human rights cannot come from an atheist worldview like China. An atheistic worldview is anti-supernatural, and therefore, materialistic. It cannot look to a higher law—God's law—as a source for human rights. Without an objective, transcendent basis for equality laws, they must be purely man-made, which are subjective, arbitrary, and subject to change on a whim by those in power. A naturalistic, materialistic worldview values the strong more than the weak (ponder Charles Darwin's "survival of the fittest"). Therefore, an atheistic worldview must devalue those lacking capacity, competency, or agency. It must devalue the weak, poor, old, uneducated, unborn, disabled, ill and infirm. Like India, China has son-preference—it favors boys over girls. Due to birth limitations, China also has forced abortion (usually baby girls). In addition, China also has a growing human trafficking problem. Despite China's purported equality laws, the reality is that women are viewed as inferior and less valuable than men. China does not demonstrate inherent human rights for all. Therefore, it cannot offer hope to end discrimination and violence against women.

Admittedly, there are Muslims, Hindus, and atheists who strongly believe and advocate for the equality of all human beings. This is a common global moral understanding. And rightly so. But the irony is that their worldviews, when followed consistently, do not support their advocacy for human rights.

Human rights is the common language of morality in our time. However, human rights are impossible without the transcendent basis for human rights that Christianity offers. The United States was highly influenced by biblical Christian principles at its founding. Its laws and the progression of laws protecting women from discrimination and violence demonstrate a view of women that is superior than other worldviews—even if it is still imperfect. In addition, the United States demonstrates a more consistent enforcement of its laws. The Christian worldview is the only worldview that grounds human rights in a sustainable, coherent, and consistent way. A recent article in *Christianity Today* magazine summarized it this way:

*It is in Christianity and, more specifically, in the Bible that we find the source of universal human rights. All humans are created in the image of God—this is the abolitionists’ argument for the dissolution of slavery. All women are created in the image of God—this is the argument of women’s rights advocates for equal pay and voting rights. Children are created in the image of God—this is the argument against child labor. For pro-life advocates, this truth extends even into the womb, as they argue that every fetus is a human being, an image bearer in utero, and therefore is deserving of freedom and life.*<sup>221</sup>

The consistent message of Christian Scripture is that human beings are inherently and universally valuable not because of rationality, agency, capability or anything else, but because human beings are created in the image of God, and He loves them. Though this lesson is simple, it is deeply profound.

The Christian worldview identifies the ultimate source of the human rights problem and a lasting solution. As described in Genesis chapters 1 and 2, while in paradise, God created man and woman in His image.<sup>222</sup> Human beings are his image bearers. As such, human beings should reflect the nature of God. God is love, and he commanded human beings to love him and each other.<sup>223</sup> This is the essence of human rights, treating one another with love because human beings are God’s image bearers.

But then came the fall in Genesis 3. Sin infected all humanity.

Understanding this creates a context for the real problem underlying human rights violations, and underlying discrimination and violence against women. These problems are not external—they are internal. The problem is the human heart due to the sin nature.

Human efforts alone cannot solve the problem of the human heart and our sin nature. The forces of evil are strong. Human beings need the help of one who is stronger. In the gospel of Luke, Jesus tells a story: “When a strong man, fully armed, guards his own house, his possessions are safe. But when someone stronger attacks and overpowers him, he takes away the armor in which the man trusted and divides up his plunder.”<sup>224</sup> In this parable, Satan is the strong man, guarding his evil dominion, over people’s naturally evil hearts. However, Jesus is the “someone stronger,” more powerful than Satan, attacking and overpowering him, taking away his defense and possessions. In other words, Jesus can destroy the evil dominion in hearts. His death on the cross provided the way for humanity to be saved from the penalty, power, and eventually the presence of sin. Jesus is the only way to take a wicked heart and make it new.<sup>225</sup>

---

**221** Lauren Green McAfee and Michael McAfee, “The Bible’s Impact on Human Rights: The ideas of human dignity and respect for all didn’t develop in a vacuum.” *Christianity Today*, June 29, 2019, accessed November 25, 2019, <https://www.christianitytoday.com/ct/2019/june-web-only/not-what-you-think-michael-lauren-mcafee.html>.

**222** Genesis 1:27

**223** 1 John 4:8; Matthew 22:36-39.

**224** Luke 11:21-11.

**225** Ezekiel 11:19 (“And I will give them one heart, and a new spirit I will put within them. I will remove the heart of stone from their flesh and give them a heart of flesh.”); Jeremiah 36:26 (“And I will give you a new heart, and a new spirit I will put within you. And I will remove the heart of stone from your flesh and give you a heart of flesh.”); Jeremiah 31:33 (“For this is the covenant that I will make with the house of Israel after those

Jesus' death and resurrection provide a way for a new heart, a new life, a life of freedom, freedom from the bondage of the sin nature and evil heart, for those who believe and follow him. After all, Jesus declared: "I am the way, the truth and the life. No one comes to the Father but through me."<sup>226</sup> Apart from Jesus we can do nothing.<sup>227</sup> Only through a transformed life in Jesus are human beings able to truly love others. This is the only lasting way to stop invidious discrimination and violence against women.

All human beings have inherent dignity, value and worth because God created us in His image. As image-bearers, women are enormously valuable. As such, women should be treated with equal dignity, value and worth. All people should advocate for laws that reflect this.

---

days, declares the LORD: I will put my law within them, and I will write it on their hearts. And I will be their God, and they shall be my people."); Hebrews 8:10 ("For this is the covenant that I will make with the house of Israel after those days, declares the Lord: I will put my laws into their minds, and write them on their hearts, and I will be their God, and they shall be my people.").

**226** John 14:6.

**227** John 15:5.

## CONCLUSION

The problem of discrimination and violence against women is undeniable and exists in all countries and all cultures. Saudi Arabia, India, China and the United States all have laws designed to remedy unfair treatment of women. However, in practice, only the laws of the United States deliver the protections women deserve and elevate the status of women to equal men. This booklet has presented evidence to support the primary reason for why American laws and practices are superior for women, namely that they are derived from a transcendent God and are rooted in biblical Christianity. Christianity is still the prevalent worldview of America, even if it is losing traction.<sup>228</sup> Biblical Christianity reveals both the root of the problem (sin in the human heart) and the solution (a new heart through faith in Jesus). From Scripture, we see that women's rights are human rights, such as when Jesus affirmed the humanity of the Samaritan women at the well by caring for her soul and offering her "living water,"<sup>229</sup> and the Apostle Paul stating that "in Christ there is neither male nor female."<sup>230</sup>

The evidence presented demonstrates that laws shaped by a Christian worldview are much better for women than laws shaped by Islam, Hinduism or Atheism. Biblical Christianity, therefore, has the best answers for ending invidious discrimination and violence toward women. This evidence further serves to defeat the challenge that somehow Christianity oppresses women. Thus, for purposes of Christian Apologetics, we can point to both the laws and the application of the laws of America that affect women, and the biblical foundation behind those laws, as a demonstration of the superiority of the Christian worldview. In Christ, women are free. And if the Son makes you free, you will be free indeed.<sup>231</sup>

---

**228** "In U.S., Decline of Christianity Continues at Rapid Pace." Pew Research Center's Religion & Public Life Project, October 17, 2019, accessed June 12, 2021.

**229** John 4:1-42.

**230** Galatians 3:28.

**231** John 8:36.

## FURTHER READING

- Belleville, Linda L, Craig L. Blomberg, Craig S. Keener, and Thomas R. Schreiner. *Two Views on Women in Ministry*. Rev. ed. Grand Rapids, MI: Zondervan, 2005.
- Lee-Barnewell, Michelle. *Neither Complementarian nor Egalitarian: A Kingdom Corrective to the Evangelical Gender Debate*. Grand Rapids, MI: Baker Academic, 2016.
- Montgomery, John Warwick. *Defending the Gospel in Legal Style: Essays on Legal Apologetics & the Justification of Classical Christian Faith*. Eugene, OR: Wipf & Stock, 2017.
- Montgomery, John Warwick. *The Law Above the Law*. Irvine, CA: NRP Books, 2015.
- Pluckrose, Helen, and James Lindsay. “Feminism and Gender Studies: Simplification as Sophistication.” In *Cynical Theories: How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody*. Durham, NC: Pitchstone Publishing, 2020.
- Pierce, Ronald W., and Rebecca Merrill Groothuis, eds. *Discovering Biblical Equality: Complementarity without Hierarchy*. 2nd ed. Downers Grove, IL: IVP Academic, 2005.
- Piper, John, and Wayne Grudem, eds. *Recovering Biblical Manhood and Womanhood: A Response to Evangelical Feminism*. 2nd ed. Wheaton, IL: Crossway, 2006.

## ABOUT THE AUTHOR

Laurie Stewart is an attorney, law school professor, mediator, Christian Conciliator, Christian apologist, and event speaker. She earned a J.D. from Chapman University School of Law in Orange, CA, an M.A. in Christian Apologetics from Talbot School of Theology in La Mirada, CA, and a B.A. from CSUF in Fullerton, CA.

Laurie and her husband, John, founded Intelligent Faith an international organization committed to presenting an intelligent Christian faith through teaching, speaking, and writing. They have been involved with Ratio Christi since its early formative years. Laurie is honored to have formerly served as President of Women in Apologetics. She is a frequent speaker on a variety of topics, including Christian Apologetics, Conflict Resolution, and Human Rights at universities, churches, seminars, conferences and women's groups, in the U.S., Europe, Africa, Asia, and the Middle East.

*Do You Believe? Series*  
General Editor Chris Van Allsburg

ratiochristi.org | info@ratiochristi.org  
Facebook, Instagram, & Twitter: @ratiochristi

