

VIOLENCE AGAINST WOMEN: CAUSES AND CONSEQUENCES

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ABSTRACT

While women can be victims of various general crimes like 'murder,' 'robbery,' and 'fraud,' only those crimes specifically targeting women are termed 'crimes against women.' Several new laws have been introduced and changes have been applied to current regulations to address these crimes efficiently. These are generally categorized into two groups.

Keywords: Women, Crime, violence, Sex, Law.

INTRODUCTION

On a semantic or psychological level, the term refers to any harm caused directly or indirectly that results in physical or mental suffering for women. Crimes specifically targeting women, where only women are the victims, are defined as "Crimes against Women." Clarifying the concept of "Violence against women" is equally important. Violence is also referred to as abuse and encompasses any form of physical aggression or misconduct. When violence occurs within the home, it is classified as domestic violence and includes family members like children, spouses, parents, or servants. Domestic violence can take various forms, including hitting, kicking, biting, pushing, restraining, and throwing objects. While women can be victims of various general crimes like Murder, Robbery, and Cheating, only those crimes that are specifically targeted at women are termed "Crimes against Women."

Women have led Indian culture and tradition, serving as its torchbearers. The existence of an Indian is considered lacking without a woman, whether a mother, wife, or daughter. Due to significant western influence and the diaspora impacting the upbringing of the younger generation, a noticeable shift is observed in the attitudes of males towards females. They are being treated as objects and marginalized. The liberation of women has discarded the constraints of the past, bringing forth a new generation of modern, strong, educated, independent, working, yet traditional and value-driven women. They are aware of their strengths and weaknesses. They understand their rights and responsibilities. They have extended their energy into fruitful extensions. A reality check reveals that women are significantly stronger than men in biological, emotional, and mental aspects, and contemporary women are now equally strong in financial and political spheres. Why are such atrocious acts perpetrated against them? Does this suggest that men are confronting a threat or an undisclosed anxiety about losing dominance to a now-stronger gender? While it is a worldwide occurrence, it appears more complicated in the Indian context due to fears of ostracism and societal delay.

(1) THE CRIMES UNDER THE INDIAN PENAL CODE (IPC)

i) Rape (Sec. 376 IPC) ii) Kidnapping & abduction for specified purposes (Sec. 363 - 373 IPC) iii) Homicide for dowry, dowry deaths or their attempts (Sec. 302/304-B IPC) iv) Torture - both mental and physical (Sec. 498-A IPC) v) Assault on women with intent to outrage her modesty (Sec. 354 IPC) vi) Insult to the modesty of women (Sec. 509 IPC) vii) Importation of girl from foreign country (upto 21 years of age) (Sec. 366-B IPC)

(2) THE CRIMES UNDER THE SPECIAL & LOCAL LAWS (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. The gender specific laws for which crime statistics are recorded throughout the country are - (i) The Immoral Traffic (Prevention) Act, 1956 (ii) The Dowry Prohibition Act, 1961 (iii) The Indecent Representation of Women (Prohibition) Act, 1986 (iv) The Commission of Sati Prevention Act, 1987

‘Crime rate’ for crimes committed against women has been calculated using only female population based on RGI’s projected mid-year female population for the year 2013.

INSTANCES OF CRIME AGAINST WOMEN IN INDIA

Some of the instances where women have experienced crimes against them in India over the last few years are as follows

1. Suryanelli: A 16-year-old girl, who went missing from her school hostel in Munnar in January 1996, was taken to various places in Kerala and Tamil Nadu by the convicts. She was travelling about 3000 km during a 40-day ordeal when she was raped by over 40 persons, including then Union Minister P. J. Kurien. In April 2014, the 24 accused, who had been acquitted earlier, were held guilty of gang rape by Kerala high court.

2. Guwahati molestation incident: A teenage girl was stripped and molested by a gang in full public view in Guwahati in 2012. The incident occurred in front of a bar at Christian Basti on the Guwahati-Shillong Road. A video of the assault taken by a TV channel and uploaded on YouTube sparked a nationwide outcry. 16 men were identified as accused with the help of the video.

3. Rohtak gang rape case: A mentally-challenged Nepalese woman was gang-raped in Rohtak, Haryana in February this year. Eight men have confessed to the brutal crime while the ninth is still at large.

4. Park Street gang rape: A 37-year old woman was raped at gunpoint in a car early on February 6, 2012, by five young men who picked her up from Park Street in Kolkata. The police, in its charge sheet, named five men, of which three are behind bars. Two others, including the prime accused, are yet to be arrested

5. Uber rape case: A 27-year-old woman was allegedly raped by the driver of the Uber cab she had hired to go back to her home in Northwest Delhi's Inderlok. The woman, who works in a finance company in Gurgaon, was returning home after having dinner with her friends. Following this, Delhi government banned Uber taxis in the state.

6. Nirbhaya gang-rape: On 16 December 2012, a 23-year-old medical student was brutally gang-raped and assaulted by six men in a moving bus in Delhi. The incident resulted in a massive outrage among citizens followed by several protests across the country. Four of the accused were convicted. While one other accused was found hanging inside his prison cell, the last juvenile accused is currently behind bars.

7. Shakthi Mills case: A photojournalist in Mumbai was gang-raped by five men at Shakti Mills Compound on August 22, 2013. She was accompanied by a male colleague. Two of the accused were juveniles who were convicted and have been sent to reformation house. The other three were convicted.

8. Badaun sisters rape and death: Two Dalit girls, who were cousins aged 14 and 15, went missing on May 27 last year and were found hanging from a mango tree the next day in

Badaun village in Uttar Pradesh. The victims were allegedly raped. Five of the accused were arrested by the police which included a police constable

CONSTITUTIONAL AND LEGAL PROVISION FOR WOMEN

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women.

CONSTITUTIONAL PROVISIONS FOR WOMEN ARE AS UNDER:

- Article 14, confers on men and women equal rights and opportunities in political, economic and social sphere.
- Article 15, prohibits, discrimination against any citizen on grounds of religion, race, caste, sex etc.
- Article 16, provides for equality of opportunities matters relating to employment or appointment to any office under the state.
- Article 39(a)(d), mentions policy security of state equality for both men and women the right to a means of livelihood and equal pay for equal work for both men and women.
- Article 42, Direct the State to make provision for ensuring just and humane conditions of work and maternity relief.

LEGAL PROVISIONS FOR WOMEN ARE AS UNDER:

The impoverished status of women is in sharp contrast to an otherwise developing milieu in which social change does not accompany the rapid modernization process, The prevalent gender bias being offensive to human dignity and human rights, has emerged as a fundamental crisis to the world over. Human rights can be taken as those minimal rights which every individual must have against the state or other public authority by virtue of his being a member of human family, irrespective of any other consideration. Democracy, development, respect for human rights and fundamental freedoms are interdependent and have mutual reinforcement.

Human rights for illiterate women are therefore an inalienable, integral and indivisible part of human rights. The full development of personality, fundamental freedom and equal participation by illiterate women in political, social, economic and cultural scenarios are commitment for international as well as national development, social and family stability and growth- culturally, socially and economically. All forms of discrimination on grounds of gender are thus, violative of fundamental freedom and human rights. Gender injustice and insensitiveness manifests itself in the form of discrimination, crime and violence against illiterate women.

- **Factories Act 1948:** Under this Act, a woman cannot be forced to work beyond 8 hours and prohibits employment of women except between 6 A.M. and 7 P.M.

- **Maternity Benefit Act 1961:** A Woman is entitled 12 weeks maternity leave with full wages.
- **The Dowry Prohibition Act, 1961:** Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.
- **The Equal Remuneration Act of 1976:** This act provides equal wages for equal work: It provides for the payment of equal wages to both men and women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment
- **The Child Marriage Restrain Act of 1976:** This act raises the age for marriage of a girl to 18 years from 15 years and that of a boy to 21 years.
- **Indian Penal Code:** Section 354 and 509 safeguards the interests of women.
- **The Medical Termination of Pregnancy Act of 1971:** The Act safeguards women from unnecessary and compulsory abortions.
- **Amendments to Criminal Law 1983, which** provides for a punishment of 7 years in ordinary cases and 10 years for custodial rape cases.
- **Protection of Women from Domestic Violence Act, 2005:** This Act protects women from any act/conduct/omission/commission that harms, injures or potential to harm is to be considered as domestic violence. It protects the women from physical, sexual, emotional, verbal, psychological, economic abuse.
- **Protection of Women against Sexual Harassment at Workplace Bill, 2010:** on November 4, 2010, the Government introduced protection of Women Against Sexual Harassment at Workplace Bill, 2010, which aims at protecting the women at workplace not only to women employee but also to female clients, customer, students, research scholars in colleges and universities patients in hospitals. The Bill was passed in Lok Sabha on 3.9.2012.

INTERNATIONAL INITIATIVES TO CURB GENDER VIOLENCE

The advancement of women has been a focus of the work of United Nations since its creation. The Preamble of UN Charter sets as a basic goal to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women. In 1946 the Commission on the Status of Women was established to deal with women's issues. The Universal Declaration of Human Rights had affirmed the principle of inadmissibility of discrimination and proclaimed that all human beings are born free and equal in dignity and rights and everyone is entitled to all rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex. However, there continued to exist considerable discrimination against women primarily because women and girls face a multitude of constraints imposed by society, not by law. It violated the principle of equality of rights and respect for human rights.

The UN General Assembly in 2000 convened a Special session on „Women: Gender Equality, Development and Peace for 21st Century“ to assess the progress on women's issues. In February 2005, the Commission on the Status of Women at its 49th Session viewed the progress made on Women's Human Rights Agreement, known as Beijing Platform for Action. The Conference focused on many areas including poverty, environment, economy, education, human rights, power and decision making and girl child. In 2005, twenty third Special Session of the General Assembly was reiterated as World Summit Outcome. The Summit resolved to promote gender equality and eliminate pervasive gender discrimination.

U.N. Commission on the Status of Women met on March 14, 2011 in the Economic and Social Council Chamber to discuss the present scenario of gender violence in the world.

1. National Commission for Women In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.
2. Reservation for Women in Local Self –Government The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure onethird of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.
3. The National Plan of Action for the Girl Child (1991-2000) The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.
4. (iv) National Policy for the Empowerment of Women, 2001 The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.
5. National Mission for empowerment of Women, 2010 The launch of the National Mission for Empowerment of Women in March 2010 is an important development that will provide the much required fillip to a coordinated assessment of current government interventions and aligning future programmes so as to translate the MPEW prescription into reality. The Mission was operationalized during 2011-12.

SPECIAL INITIATIVES FOR WOMEN

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ROLE OF JUDICIARY

Women enjoy a unique position in every society and country of the world. In spite of their contribution in all spheres of life, they suffer in silence and belong to a class which is in a disadvantaged position on account of several barriers and impediments. India being a country of paradoxes is no exception. Here too a woman, who is called to be an epitome of Shakhty, once given an exalted status, are in need of empowerment.

Empowerment-legal, social and economic, however, empowerment and equality are based on the gender sensitivity of society towards their problems. The intensification of women's issues and rights movement all over the world is reflected in the form of various Conventions passed by the United Nations. These international protections have helped in the articulation of feminist ideology.

Gender equality, as an ideal has always eluded the constitutional provisions of equality before the law or the equal protection of law. This is because equality is always supposed to be between equals and since the judges did not concede that man and women were equal, gender equality did not seem to them to be a legally forbidden inequality.

Justice Bradley of the United States Supreme Court said: The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.....The paramount destiny and mission of women are to fulfill the noble benign offices of wife and mother. This is the law of Creator.[3] It is also worthwhile to quote words of an eminent American judge who, after tracking the historical background, explained the need for special provisions being made for women.

LEGAL FRAME WORK AND ROLE OF JUDICIARY IN INDIA

Overall Crime, Atrocity and violence against Women in a Legal Frame Work and Role of Judiciary in India for Women have been studied in two category; In *Neera Mathur V. LIC*, The court decided that privacy was an important aspect of personal liberty. In this case, the Supreme Court was shocked to learn that an LIC questionnaire sought information about the dates of menstrual periods and past pregnancies, and the petitioner was terminated for not providing correct information to the LIC.

The Supreme Court held that the questionnaire amounted to invasion of privacy and that, therefore such probes could not be made. The right to personal liberty guaranteed under article 21 included the right to privacy. Information about health could be sought where such information was relevant- it was relevant for selling insurance cover but not for the person seeking employment.

In *Gautam Kundu v. State of west Bengal*, the apex Court ensured that an application for a blood test to disprove paternity of a child in a maintenance suit was rejected. It was held that a child born of a married woman is deemed to be legitimate unless the contrary is proved. Such a presumption could be rebutted by a strong preponderance of evidence and not a mere balance of probabilities.

THE COURT LAID DOWN THE FOLLOWING PRINCIPLES:

- That courts in India cannot order a blood test as a matter of course;
- An application for subjecting a child to a blood test, made in order to have a roving inquiry, cannot be entertained,
- There must be a prima facie case for suspecting the fatherhood of a child which can be established by proving non-access,
- The court must carefully examine as to what would be the consequences of ordering a blood test, whether it would have the effect of branding a child as a bastard and its mother as an unchaste woman.

The Court observed that such a demand for subjecting the child to a blood test was contrary to the right to personal liberty guaranteed by Article 21 of the Constitution and said;

Permitting blood test to prove or disprove paternity unless there is a strong case and access was ruled out would be slanderous, embarrassing and humiliating for the woman.

CONCLUSION

Fear of castration in the society and shaming has given way to people coming out and speaking about their experiences. The “ME TOO” campaign has given the people the platform and strength to air their grievance. Many cases which never so light of the day had surfaced and very high and mighty have been prosecuted. The law has tooth and now it is biting as well. It has been seen that any revolution be it political or social, it requires people participation and nothing can be accomplished without their involvement. The way we teach the good and bad touch to children we should also inculcate habits of normal decent behavior in life. The onus rest upon us and the family to teach values to our children. It is the male member who is to be taught about how to respect the females and behave in a civilized fashion and not vice versa.

The settings up of special Police cell exclusively looking into such matters have speed up the case trial and decreased the pendency. The setting up of special courts and speedy trial has increased the conviction rate. Time bound trial has helped the disposal rate. Equally important is the respect and fear of law in the minds of criminals which can drastically reduce the offence rate. Above all the education and moral teaching coupled with religious discourses instill a fulfilment of life in god fearing people to make our earth a happy and livable place.

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