



Preventing crimes against women in India: A critical study

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Abstract

India as a country is fulfilled with various forms and diversities of livings, Its rich culture, tradition, rituals, customs make this place a unique and an extraordinary experience for the outsiders and the people living within, But accounting the present situation we as an analyzer would not believe that things really turned off, the society who heartily and graciously worships and are the tough devotees of various gods and goddesses are the same people who have turned to be a molester, a rapist, a cruel husband and many more of such kinds, Seriously, is this the India we talked and read about, this is really heartbreaking. The related article shows the unseen and brutal side of the male dominated Indian society, Crimes against women is not a problem of today, it is rooted decades before as we are very well aware of the evil practices such as Sati Pratha, Child marriage etc. In India patriarchy and gender discrimination are the main reasons of crimes and violence perpetrated against women and girls. Crimes relating to women includes sexual harassment, molestation, sexual assault and eve teasing, dowry deaths, cruelty, rape, attempting to place a women in fear of injury or psychological violence, Such inhuman activities shows the cheap and frustrated personality and characters of the male society in India which is a matter of great concern as it should be controlled as soon as possible and strict penal measures should be taken. If women of our country will be strong and independent than only the country will become strong, and this only would lead to true achievement.

Keywords: crimes, women, male dominated society, discrimination, rape

1. Introduction

Women in India have always been issues of great concern, since the society dominated by the male side justifies the current situation and the manner in which the females of our so called stable societies are treated and it is really shameful and unacceptable. The folks and society at large consider women as second class citizens and therefore pay them no attention and respect which is really heartbreaking. Though we admire and preach them in the name of Durga, Saraswati, Parvati and Kali, we also abuse her in the form of Child marriage, Female infanticide, Sati, Dowry death, sexual harassment and so on. Crimes against women is partly a result of gender inequality that assumes men to be superior to women. As presently we could not deny the facts that women in our country is rising the ladders of great success and opportunities in almost all the desirable fields and are concurring the every possible levels of success which as per our so called society could only be dominated and achieved by the males. The myth that the women are meant to do household works and has no right to practice any other work has now gone vanished because speaking on a current statistics women are working and progressing shoulder to shoulder than men in every possible working areas, A proud moment for the citizens of India and off course for the motherland, Government of India is also making efforts and are diverted towards a progressive female society and are working with full strength to make the women of India safe, strong and independent.

2. Position of Women

The status of women in India has been subject to many great changes over the past few periods and hence showing different conditions the women lived in and kind of treatments which the females faced at that time and still facing in the current era. From a largely unknown status in ancient times through the low points of the medieval period, to the advancement of equal rights by many reforms, the history of women in India has been eventful. Women in India have always been kept subordinate and deprived off from their own status and personality, still in this present world of technologies and advancements, there exist various places both on urban as well as rural side where the women are still the sufferers of age old practices and myths.

2.1 Women in ancient India

The position of women was not always so bad in India. In ancient India, during the Vedic period, women were placed on a high pedestal. In her role of a good wife and a worthy mother, she commanded a great deal of respect and honour in the society. As the women enjoyed equal Status^[1]. With men in all fields of life. Later 500 B.C, the status of women began to decline with the smritis and with the Islamic invasion of Babur and the Mughal Empire and later Christianity curtailing women's freedom and rights. The women enjoyed freedom, status and prestige in the society but

¹ D.N. Jha, *Ancient India: An Introductory Outline* 11 (People's Publishing House, New Delhi, 1981).

all this did not last long and women finally settled down to an indoor life thus dealing with the house hold material and workings.

2.2 Women in medieval India

The position of women in the medieval period was not so good as it further deteriorated during that era and the downfall of female society was clearly seen. Right to education was taken away from them. They became the victims of illiteracy, ignorance, complete male domination and many kinds of religious and social restrictions. Patriarchal system institutionalized unequal nature of family laws and traditions. Property was inherited only by sons. In some parts of northern India, Bengal and Rajputana, women from families of Rajah, Chiefs, Zamindars and upper castes suffered from renunciation of all the comforts and happiness by widows (young or old).

2.3 Women in modern India

The period of mid-19th century and early 20th century made many opportunities and advancements for the development and growth of women in various sectors of working as all this happened due to social reforms and incentives taken by many socialist and influential organizations. As far as India is concerned, social evils like Pardah system, Sati Pratha 'dowry' 'polygamy' and 'infanticide' vanished as the time passed and the country paved its way to a new emerging India, the social structure, cultural norms, and value systems are important determinants of women's role and their position in society [2].

3. Crimes against women

In recent years there has been an alarming increase in atrocities and crimes against women in the country. It is estimated that the growth rate of crimes against women have increased in the past ten years which is a matter of great concern and thus such incidents against women is a result of poor administration and enforcement of legal measures. The gender discrimination and biasness on every sort of grounds have eventually put women at certain disadvantageous positions as they are treated as the weaker section of the society.

In India where almost half of the populations are women, they have always been ill-treated and misbehaved, deprived of their right to life and personal liberty as provided under Article 21 of the Constitution of India. Women are always considered as physically and emotionally weaker than the males, whereas at present women have proved themselves in almost every field of life affirming that they are no less than men due to their hardwork whether at home or at working places. Crimes and unsocial practices against the women and girls is not a new case or phenomena, women have to bear the burden of society, family, mis-treated on marital grounds by the in-laws, socially and emotionally exploited, all such things affects the status of her in the society at the larger extent. Some of the common violence that are recorded in the past ten years are the offences of Rape, Dowry deaths, Sexual assault, women wrongfully confined at places as a matter of criminal

intimidation and so on.

Types of crimes against women in India

1. Obscenity and illicit activities

Provision relating to obscenity have been included in section 292-294 of the Indian Penal Code, 1980. They deal with sale, hire, distribution, public exhibition, circulation, import, export or advertisement etc. of many matter which is obscene and against public morality.

In *Neelam Mahajan Singh v. Commissioner off Police* on the question of the balance between freedom of speech and expression and public decency it was held that, We need not to attempt to bowdlerize all literate and thus rob speech and expression. A balance should be maintained between freedom of speech and expression and public decency and morality but when the latter is substantially transgressed the former must give way [3].

2. Indecent representation of women

To prevent the indecent representation of women in numerous form Indecent Representation of Women (Prohibition) Act, 1986 was passed by the parliament. The object of the Act was to prohibit indecent representation of women through advertisements or in publications, writing, painting, figures or in any other matter. Section 2 (C) of the Indian Representation of women (Prohibition) Act defines Indecent Representation of Women as follows: —Indecent representation of women means the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals.

3. Outraging the modesty of women

Section 354 of the Indian Penal Code provides for outraging the modesty According to this section whoever assaults or uses criminal force on any women, intending to outrage or knowing it to be likely that he will thereby, outrage her modesty, shall be punished with imprisonment or either description for a term which may extend to two years, or with fine, or with both.

In *State v. Het ram* a girl of about 15 years of age was coming from her mother's place. The accused suddenly appeared from a lane he dragged her towards the other side of the lane, and took her to a secluded spot, it was held sufficient to book the accused under Sec 354 IPC [4].

In *Jagmal Singh v. State*, the court held that since the intention of the offender could not be proved it was held that the appellant was wrongly convicted, so on appeal the conviction was set aside unless the culpable intention is proved, mere touching the belly of a woman in a public bus cannot be called a deliberate act of outraging the modesty of a woman within the meaning of this section [5].

In *State of Kerala v. Hamsu* the court held that the accused who beckoned the prosecution by winking his eyes in public

² S. Asha, *Narrative Discourses on Purdah in the Subcontinent* 3(ICFAI Journal of English Studies, June 2008).a

³ 1996 CrLJ 2725 (Cal).

⁴ 1982 Cr L.J. (Raj) 522.

⁵ 1980 Cr L.J 9 (Raj.) 446.

and caught hold of her arm was guilty of outraging her modesty and can be punished accordingly^[6].

4. Rape

Supreme Court of India while showing its concern over most heinous crime i.e. rape observed Rape is a crime not only against the person of a woman; it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. Rape is therefore the most hated crime. It is a crime against basic human rights and is violative of the victims' most cherished rights, namely right of life which includes right to live with human dignity contained in Article 21. Rape for a woman is deathless shame and must be dealt with as a grave against human dignity, it is violation with violence on the private person of a woman. Every animal on the earth is attracted by the opposite sex; it is not limited to human beings.

The response of the government was prompt. A Law Commission was set up to study the demands of various sections of the society regarding changes in the outdated rape laws which had existed in the IPC since 1860 and was against the Indian Culture and norms.

In 1979 the judgment of Mathura rape case snowballed with a mass movement with activists across the country demanding a new and more just law on Rape^[7].

In the penal laws of all countries sexual offences against women occupy a significant place and out of all the crimes, the one which seeks the conscience, and shakes its roots, and the most heinous is rape. Rape is not merely a physical assault. It is often destructive of the whole personality of the victim. A murder destroys the physical body of the victim, a rapist degrades the very soul of the helpless female. The courts therefore shoulder a greater responsibility while trying an accused on charges of rape^[8].

Section 375 and 376, 376-A to 376-D IPC are related with the rape. Section 375 and 376 have been substantially changed by Criminal Law (Amendment) Act, 1983 which also introduced several new sections namely 376-A to 376-D. These sections were introduced to top sexual abuse of women in custody care and control by various categories of persons, which though not amounting to rape were nevertheless considered highly reprehensible. According to Section 375 of Indian Penal Code, A man is said to commit rape who except in the case hereinafter accepted has sexual intercourse with a woman under circumstances falling under any of the six following descriptions: Firstly- The act committed should be against her will

Secondary- The act committed should be without her consent

Thirdly- With her consent, when her consent, has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly- With her consent, when the man knows that he is her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly- With her consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly- With or without her consent, when she is under sixteen years of age. Explanation- penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

The Law Commission of India has recommended that the offence of rape under section 375 shall be substituted with the offence of Sexual assault by including all kinds of penetration in vagina anus or urethra of another whether by part of human body or by an object^[9]. The Hon'ble Supreme Court did not adopt the definition of rape recommended by law commission and held that, the definition of rape cannot be enlarged to include all forms of penetration but the words sexual intercourse occurring in the definition of rape restricted only to case of penis- vagina penetration. The dictionary meaning of the word sexual intercourse is also heterosexual intercourse involving penetration of vagina by penis^[10].

Supreme Court went a step forward and held in *Madan Lal v. State of J&K*, that if an accused strips a girl and then forcibly rubs his organ on the private part of the girl but fails to penetrate the same into her private part, it is difficult for the court to hold that it was a case of merely assault under section 354 IPC and not an attempt to commit rape. In facts and circumstances of the instant case the offence was clearly established and the High Court rightly convicted him under section 376 read with section 511, IPC^[11].

In *Tuka Ram v. State of Maharashtra* popularly known as the Mathura Trial Here, the Session Judge found the evidence insufficient to convict the accused. The Bombay High Court reversed the finding and sentenced the accused to rigorous imprisonment.

The Supreme Court reversed the decision of Bombay High Court and held the accused not guilty on three grounds:

1. There were no injuries shown by the medical report and thus — stiff resistance having been put by the girl is false. The alleged intercourse was a peaceful affair
2. The court disbelieved the testimony that she had raised alarm.

The court held that under section 375 IPC only fear of death or hurt can vitiate consent for sexual intercourse. There was no such finding recorded and therefore since the girl was habituated to sexual intercourse there was consent. The time the judgment was not accepted silently. There was marked protests and it was highlighted that, firstly there was inadequate laws to protect women who are victims of rape and secondly, there were not enough legal safeguards to protect women who are summoned to police station^[12].

Therefore in order to eradicate and make a tough control over

⁶ 1988 (2) Crimes 161.

⁷ *Tukaram and others v. State of Maharashtra* AIR 1979 SC 185.

⁸ *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384.

⁹ 172nd Law Commission Report on the Review of Rape Law March, 2000.

¹⁰ *Sakshiv. Union of India* AIR 2004 SC 3566.

¹¹ (1997) 7 SCC 677.

¹² (1979) 2 SCC 143.

the rising atrocities and mainly the offence of rape against the women and girls less than 16 years, harsh penal actions should be initiated against the wrongdoers and amendment in the laws concerning women should be made without any delay.

5. Dowry death

Atrocities against the women basically involve the matrimonial Mis-happenings which are as always prevalent in the society whether it be rural or urban society, The topic of discussion is that according to the latest stats and the report of National Crimes Record Bureau, the offences of dowry death and violence against the women in context to extract dowry are at peak, several cases have been recorded and analyzed relating to dowry and its linked activities faced by the newly wedded bride either by the side of her husband or from the side of in-laws or both, which on a key basis make the life of the female painful and ignorant both from the side of the family and society. Section 304-B of the Indian Penal Code lays down the punishment relating to the offence of dowry death Explanation- For the purpose of this sub-section dowry shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may be extended to imprisonment for life.

By analyzing the definition of 304-B to cover the case under this offence following essential ingredients should be there:

1. The death of women should be caused by burns or bodily injury otherwise than under normal circumstances.
2. Such death should have occurred within seven years of her marriage.
3. She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
4. Such cruelty or harassment should be for or in connection with demand for dowry

This Act prohibited the giving and taking dowry as part of the contract of betrothal of marriage, prescribed limits for taking of dowry limits and also prescribed punishment for violating the provisions of the Act^[13].

6. Cruelty

Section 498-A of the Indian Penal Code lays down the offence committed by the husband or the relatives of the husband subjecting women to cruelty. "Whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine".

7. Domestic violence

The incidents of domestic violence are higher among the lower socio-economic classes. There are various instances where husbands are involved in brutally addressing their wives, beating up the wife often leading to severe injuries. Domestic violence is also seen in the form of physical abuse, As it basically includes harassment, mal-treatment, cruelty and

even the threat to kill, All such activities clearly show the criminal intention and guilty action on the part of the husbands, therefore creating the life of the wife worse than hell. Confining or detaining the spouse against one's will or damaging property are also considered as acts of violence.

8. Acid attacks

At times, acids such as sulphuric acid has been used to disfigure or kill women and girls for reasons such as family disputes, inability to meet dowry demands and for rejection of marriage proposals. The Government of India should come out with some stringent laws to protect the rights of women who are victims of violence of any kind occurring within the family, so that it will work as the preventive measure to eradicate the crime. A strict legislation should be passed to punish the offenders of such crimes so that a clear message should be given in the society and such atrocities against the women could be controlled.

4. Concluding Observation

Though constitutional protections have been provided and large number of protective laws were enacted to prevent and to control the crimes against women but these crimes have continued their upward trend. A large number of women are becoming the victims of rape, cruelty, bride burning, Molestation prostitution wife beating etc. Generally it has been found that women hesitate to knock the doors of the Court due to long, unending and extremely legal battles. Even the courts do not give priority to these cases. On the other hand the enforcement authorities seem to be reluctant or keep silence with regard to the cases of atrocities against women which are reported to them. Legislators, while enacting the protective laws pay their attention on various symptoms of the problem instead of getting to the root of the problem. Due to this reason, the problem may disappear for sometime but the root cause remains, and that results in the reappearance of the disease with greater vigor after few years.

Most of the crime against women cut across the barrier of religion, race, caste or social strata. Women are now educated and also economically independent but these factors hardly increase the moral courage to fight against the crime legislators should keep in mind the causes of the crime against women while enacting the new law or amending old ones. The law should be practically sound. Law makers must realize that any effort to change the centuries old cultural heritage and tradition by legislation, however desirable, will go against it.

- Mass media should play a critical role to create legal awareness amongst the masses. T.V. Cinema, radio and cultural forum should be used to spread the legal literacy through interesting and catchy programmes. The role of women's organization is very important in this regard.
- Conferences, seminars and workshops should be frequently organized police, lawyers, Judges, legislators and the representatives of the women's organization should be invited there so that, they all mutually exchanged their experience. Effective implementation of the laws should be frankly discussed and their suggestion should be put forward so that new law be passed and amendment could be made in existing laws to make them more effective. Efforts to eliminate atrocities against the

¹³ Parasdiwan and peeyushidiwan, *women and legal protection*.

women have to be made at all levels. There is need to understand the genesis of particular crime and then an appropriate law should be passed and infrastructure should be created to effectively deal with it.

Government of India is doing all its effort to curb the crimes against women. Ministry of Home Affairs have been advising the State Government from time to time regarding the steps that need to be taken to afford greater measures of protection to the women and in particular to prevent incidence of crime against them.

The National Commission of Women has also been undertaking visits to various state to review the status of women and has also been conducting its own investigations in certain cases of serious incidents of crime against women.

5. Suggestions

- To completely eradicate the inhuman activities against the women and minor girls can only be fruitful by bringing an amendment in the statutes and provisions relating to safeguard of women and thus adding strict penal measures against the persons committing such sin.
- Improving the Legal machinery and trial procedures relating to the cases of women victims, Respective governments should initiate steps in order to establish tribunals and fast track courts for easy and effective disposal of suits and complaints.
- Women helpline service and Women police assistance should be made more effective and advanced in every districts of each states in order to curb the crimes against the female community.
- Efficient women centric policies should be formulated by the authorities in order to assure females of the society feel safe and secure.

6. References

1. Aadesh K. Devgan, Crime against Women and Child, Cyber Tech Publications, New Delhi, 2008.
2. Shobha Saxena, Crimes against Women and Protective Laws, Deep & Deep Publications Pvt. Ltd, New Delhi, 2004.
3. Domestic Violence against Women in India, A.K. Singh, S.P. Singh and S.P. Pandey Journal of General Studies.
4. An Epidemic of Crimes against Women”. Mint (New Delhi), 13 September, 2013.
5. www.indiatogether.org/women/violence/violence.htm.
6. 84th Law Commission of India report, 1980
7. 172nd Law Commission of India report on The Review of Rape.