

VIOLENCE AGAINST WOMEN IN INDIA: AN ANALYSIS FOR HANDLING THE THREAT IN THE SOCIETY

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Abstract

The value of a civilization can be judged where a woman is placed in the society. In India the old orthodox society places the women in a very high respects, the Vedas consider that the women as the creator and worshipped her as a "Devi" or Goddess, but the condition of women in modern society of India have become a matter of grave concern. Violence against women has long been a problem, in times of peace and war. This violence ranges from very mild teasing to rape and murder, and takes place at home, in the streets, at workplaces, jails, in short everywhere. Few crimes against women are reported, fewer still prosecuted, and a negligent number of accused are punished. In the absence of detailed studies on incidence, it is difficult to come up with suggestions to reduce if not abolish such violence. There is an urgent need for more studies on this violence so that the psychology of the violators is better understood and also need of reformation of laws for protection of violence and crimes against the women. Instances of violence need to be thoroughly investigated, and ways and means devised to reduce their incidence. There is also need for quick and severe punishment for the accused. Any society, in which half the population is not assured of safety, needs to reconsider its claim to being civilised.

In this article the Author will have an analysis to provide a comprehensive review of what defines violence against women, and to study the many categories of crimes committed against women as defined by the Indian Penal Code (IPC), and Special and Local Laws, and the evolution of various laws and legislations aimed at ensuring the safety and protection of women in India.

Key Words: Women, Violence, Crime, Dowry, Law, IPC

CONCEPT OF VIOLENCE AGAINST WOMEN IN INDIA

1. INTRODUCTION

Violence against women is a violation of human rights. At the local, regional, national, and global levels, violence / crimes against women are on the increasing. Crime against women is a worldwide problem. The United Nations (UN) Declaration on the Exclusion of Crime against Women (1993) states that "crime against women is an expression of traditionally imbalanced power relations between men and women, which have led to command over and discrimination against women by men and to the anticipation of the full development of women¹."

Specialists in different fields are actively studying various aspects of violence against women. While collecting information on violence against women one point comes across very strongly, and that is there is not enough research done in the society on this subject. When one goes through the databases available, that there is inadequate and not enough of data on violence against women, all over the world. Of the 19,708 journals listed by SC, only 81 are devoted to gender studies, while 114 are devoted to artificial intelligence and 113 to anthropology.

It is the duty of the law to safeguard their rights in society and protect them from these outdated practices that are still being encouraged in the Country.

1.1 VIOLENCE AGAINST WOMEN

In studying violence, we encounter numerous problems, the first being that we really do not know what should be counted as violence against women and what should not. Right from the time of her birth or even before a girl could become victim of a violence or crime or target of a crime. Let's look at the below stages² in a woman's life and discuss the threats briefly.

¹http://memoires.scd.univtours.fr/EPU_DA/LOCAL/2015_M2RI_SHAKTHE_SHARAVANA%20KUMAAR.pdf (last accessed on 5th December 2022 @ 12:00 PM)

Stage 1	Foeticide and infanticide	Where there is an economic or cultural preference for sons, the pregnancy diagnostic tools can lead to female foeticide.
Stage2	School going age	Many Girls are not given the access to and completion of proper primary and secondary education as compared to boys and otherwise may also suffer from discrimination at the hands of parents and teachers in their upbringing.
Stage3	Adolescence	Many adolescent girls become victims of sexual abuse both on internet and otherwise, exploitation and violence, acid attacks, rape, early marriage, or even HIV/AIDS etc.
Stage 4	Marriage	Many women are tortured physically, economically and emotionally after their marriage by their husband and in laws for demanding dowry and other reasons etc.
Stage5	Workplace	often women suffer from exploitation, unequal pay for equal work, lack of promotions despite merit and physical, economic, and emotional abuse and sexual harassments at their workplace.

1.2 OTHER FORMS OF VIOLENCE AGAINST WOMEN

The other forms of violence against women are (a) Molestation is the act of subjecting someone to unwanted or improper sexual advances or activity. (b) Eve Teasing appears to be a common sport in India. Indian books, films and songs show such instances at alarming frequency. When a young man sees a film star (who may be his idol) teasing the female lead, does he start believing that this is an acceptable practice? During certain festivals in India (like Holi) eve teasing is the norm and is even encouraged. We believe that there is need to study its impact on young minds, both male and female.

2 INCIDENCE OF VIOLENCE:

Violence against women is extremely common. Kaur (2011)² has commented that 'Violence against women and girls is one of the most widespread violations of human rights. It can include physical, sexual, psychological, and economic abuse, and it cuts across boundaries of age, race, culture, wealth and geography' a statement that is amply justified by the events taking place in India every day. It takes place everywhere in the home, on the streets, in schools, the workplace, in farm fields, refugee camps, and in some places such as red-light areas and prisons it is extremely common. One study suggests that in cases of reported violence against women, charges are dropped in many cases and only more severe assaults are prosecuted more vigorously (Frazier and Haney 1986)³.

2.1 Underreporting is observed even in developed countries. Rennison (2002) studied 366,460 cases of attempted and completed rapes and sexual assaults on females in the US between 1992 and 2000, and found out that 63% of completed rapes, 65% of attempted rapes, and 74% of completed and attempted sexual assaults against females were not reported to the police. National Crime Records Bureau (NCRB)⁴ stated that 3,71,503 cases of wrongdoing against women were accounted for in 2020,

² https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2272617

³ [https://www.scirp.org/\(S\(i43dyn45teexjx455qlt3d2q\)\)/reference](https://www.scirp.org/(S(i43dyn45teexjx455qlt3d2q))/reference)

⁴ <https://www.hrw.org/sites/default/files/reports/general958.pdf> (last accessed on 6th December 2022 @ 2:50 PM)

addressing an 8.3 % decrease over 2019 (4,05,326 cases). Thus, crimes against women in the capital diminished by 24% in 2020, compared with 2019. As per the **National Crime Records Bureau (NCRB)**, the absolute number of crimes against women reported in 2020 tumbled to 9,782 cases from 12,902 out of 2019. Assaults against ladies were 938 in 2020 from 1,088 out of 2019, and sexual harassment remained at 862 cases in 2020 against 644 out of 2019. An aggregate of 967 cases of assault was accounted for in 2020 against 1,231 in 2019, a decrease of 21%. Stalking likewise saw a 40% drop, with 235 cases announced in 2020 contrasted with 388 the prior year.

3. CAUSE OF VIOLENCE AGAINST WOMEN:

3.1 Following the rape and murder of the Delhi student on December 16, 2012, there have been debates and discussions on the causes, remedies, and punishments for crimes against women. For weeks, news concerning the rape and agitations that followed reigned supreme on the country's news channels. Active in these debates were law makers, lawyers, jurists, police officers, celebrities, and women's activists, but conspicuous by their absence were criminal psychologists who have studied rape as a phenomenon and examined the methods or modus operandi of rapists. The debates were fuelled more by passion, emotion, and law, but what was lacking was expertise on criminal behaviour or psychology. One report seems to suggest that the rise in population has led to a fall in values and hence crime has risen (Naidu and Nayak 2007).

3.2 Criminalisation of politics is blamed by another for the rise in crime against women (Mukherjee, Rustagi and Krishnaji 2001). Blame has also been apportioned to the immensely popular film industry of India, which thrives on typecasting women and often glorifies crimes against them (Dasgupta 1996).

Women are vulnerable members of the society, but all women are not equally vulnerable. Those women who are poor or widowed or belong to a particular caste or region are more vulnerable than others. In the recent decades, people from Northeast of India, particularly women have been the target of attacks in different Indian cities.

North-eastern women have been particularly targeted for sexual assault, for reasons that seem to defy logic⁵.

3.3 Human Rights Watch investigations in the former Yugoslavia, Peru, Rwanda, and Somalia have revealed that rape and sexual assault of women are an integral part of conflict, whether internal or international in scope (Watts and Zimmerman 2002). Since biblical times, the incentive for the march of an advancing army has been the rape and loot of conquest. Rape as a weapon has been widely used in Bangladesh, the former Yugoslavia and Rwanda (The Human Rights Watch Global Report 1995, Sharlach 2000). More than sex, rape is used to demonstrate power over women, to humiliate and break them. Not all rapes involve violence, nor do all rapists hurt their victim. The interaction between a rapist and the victim is very complex and any attempt to simplify it, goes wrong (Hauer and Armentrout 1978).

The classification of rape as sexual, aggressive and sex-aggressive diffusion, also tells us that the causes of rape could be very different from case to case (Cohen, Garofalo, Boucher and Seghorn 1971).

4. PUNISHMENT FOR VIOLENCE:

The definition of cruelty is given under Section 498 A of the Indian Penal Code 1860, according to which, whoever being the husband or the relative or friend of the husband, subjects such women to cruelty shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine.

4.1 When the Indian Penal Code (45 of 1860), was amended in 1983, Section 498 A was inserted. Section 498A deals with 'Matrimonial Cruelty' perpetrated on a

⁵ <https://www.unwomen.org/en/what-we-do/ending-violence-against-women#> (last accessed on 6th December 2022 @ 5:35 PM)

woman. Matrimonial Cruelty in India has now been made a cognizable, non-bailable and non-compoundable offence⁶.

4.2 Protection of Women from Domestic Violence Act, 2005 an Act of the Parliament of India enacted to protect women from domestic violence, defined as including physical, emotional, verbal, sexual and economic abuse within the family and the home.

4.3 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was passed with the objective of providing protection to the women at workplace. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. As per the law, every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The Act covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Any aggrieved woman may file a complaint in writing to the Internal committee / Local Committee within 3 months from the date of incident or the date of the last incident in case of a series of incidents. The victim can also file a complaint with Police under **Sections 294, 354, 354A, 509 of IPC, 1860.**

4.4 In the case of Nirbhaya Kand⁷, the public outcry over the rape in Delhi in December 2012, forced the government to push through several initiatives to improve women's safety in India. These have been more of knee jerk reactions. The Justice Verma Committee has already handed over its recommendations to the Government of India. It has made widespread recommendations for prevention and management of rape cases and other incidents of violence against women.

The Verma Committee too observes that sexual assault degenerates to its gravest form of rape beginning with sexual harassment in milder forms, which remain uncontrolled. It has, therefore, to be curbed at the initial stage (Verma et al 2013).

⁶ Crime in India. New Delhi: National Crime Records Bureau; 2011

⁷ Mukesh v. State (NCT of Delhi), (2017) 6 SCC

4.5 In 2005, the Protection of Women from Domestic Violence Act was passed, which added to protect women from dowry harassment. Section 304B was added to the Indian Penal Code, 1860 (“IPC”), which made dowry death a specific offence punishable with a minimum sentence of imprisonment for 7 years and a maximum imprisonment for life. Further, under **Section 4 of the Dowry Prohibition Act, 1961** a demand for Dowry is an offence wherein demand is made at the time of or even after marriage even where no cruelty is involved. To curtail the growing incidents of dowry torture and dowry death, a new Section was incorporated into Indian Penal Code, that is Section 498A of IPC.

Violence against women and girls is a human rights violation, and the immediate and long-term physical, sexual, and mental consequences for women and girls can be devastating, including death.

Violence negatively affects women’s general well-being and prevents women from fully participating in society. At least 155 countries have passed laws on domestic violence, and 140 have legislation on sexual harassment in the workplace (World Bank 2020). But challenges remain in enforcing these laws, limiting women and girls’ access to safety and justice. Not enough is done to prevent violence.

4.6 The Committee on the Elimination of Discrimination against Women (CEDAW) classifies India as a state where ‘Laws are generally consonant with CEDAW, with little effective enforcement; improving the situation of women appears to be a low priority for the government’.

5. CONSTITUTIONAL AND LEGAL PROVISION FOR WOMEN:

The Indian Constitution not only guarantees women's equality, but also permits the government to implement measures of positive discrimination in their favour in order to mitigate the collective socioeconomic, educational, and political disadvantages they experience. Certain legislative and constitutional articles, such as the Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles of State Policy, are established in the Indian Constitution with the objective of securing a safe environment for women against any misbehaviour. India has ratified a number of international treaties binding the country to ensuring equal rights for women.

6. CONCLUSION:

It is urged that comprehensive studies should be undertaken at the earliest in India to provide a basis for measures taken to fight the major problem of Violence against the Women. It is only through research that one can hope to get insight into the genesis of this and afford protection to women. It is essential to provide women with an environment, where they are mentally and physically safe. Safety of women is another parameter to be added to the index evaluating a country's development. Any society, in which half the members live in perpetual fear, needs to re-examine its claim of being civilised.

Generally, the women are always assumed to be vulnerable because they are not given the chance to show what they can do and thus, have been deprived of their rights. But then, with the new generation and their level of awareness, legal aid, and the judicial system, human rights advocates, etc. women are speaking up and are no longer tolerating the inhuman acts done to them anymore. This is why the authors believe the Indian government can put up a good fight and do more in order to protect our women in India at large from these archaic practices against the women.

Apart from the discriminatory practices, inheritance, and domestic violence a lot of women in the society go through unimaginable situations where most of them are forced to go into depression, many of them no longer speak up because they feel no one can help them or come to their aid. The government should adopt more laws and implement them for the betterment and safety of the women in the society. The laws and government should ensure that women are not meant to be banned to only household roles they should be given enough freedom free from these archaic practices to do whatsoever they want. The law should be just fair and strictly implemented as it should so everyone in the Indian society can leave peacefully and freely.

** Most of the data for this research paper were collected from the publications of NCRB (National Crime Record Bureau of India) and also have been obtained from sources such as the review papers, journal publishing and books by famous authors on violence and crime against women and other weblinks through internet search⁸.

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