

Women Safety Laws and Crime against Women in India

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Abstract - There has been a recent uptick in the number of violent crimes committed against women in India. Any sort of violence against women is a blatant violation of the basic rights of women, which are established in Articles 14 and 15 of the Constitution of India. This is the case regardless of the type of abuse. Women in India's patriarchal society continue to be oppressed and to be victims of a variety of forms of abuse, both inside and outside of their homes, despite the fact that there are a variety of provisions available to maintain the rights, dignity, and well-being of women. Despite these provisions, women in India's patriarchal society continue to be oppressed. A recent report that was presented by the National Crime Records Bureau (NCRB) stated that the number of crimes committed against women in India increased from 3, 793 per million in 2016 to 3, 886 per million in 2017. However, the majority of the data is believed to be unreliable due to the fact that many cases do not get reported in India due to the influence of factors such as social stigma, loss of family reputation, etc. As a result, the issue of violence against women and crimes committed against women is currently being discussed at the national level in this country.

Keywords - Crime, Abuse, Crimes against women, National Crime Records Bureau (NCRB), Indian Penal Code (IPC), Special and Local Laws , Legislation, Laws.

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1 INTRODUCTION

Since ancient times, women in India's predominantly male society have faced discrimination, harassment, and sometimes physical assault. Domestic and public, physical and psychological forms of violence against women coexist. The rise in violent acts against women has a negative impact on the country's social, economic, political, and cultural development. Throughout the Vedic period, women in India enjoyed a relatively secure position; nevertheless, due to widespread violence against women, their status deteriorated throughout time. However, when violence against women rose, they began to be excluded from many aspects of society, including the classroom, the political arena, the economy, and even the arts. Since males began viewing women as a resource to be exploited for domestic labour, women have become commodities. Although the Constitution of India guarantees women full equality and freedom, it appears that this is not the case in today's culture. She is a victim of and fighter against crime and violence. Every 1.7 minutes in India, a crime is committed against women, according to data compiled by the National Crime Records Bureau (NCRB). In the United States, a rape occurs every 16 minutes on average, and every 4.4 minutes, a girl is a victim of domestic abuse. Vitriolic attacks are a form of gender-based violence that mostly targets women. Around 1,500 people a year are victims of this type of attack worldwide. Women need to know their rights and the

laws that protect them in order to feel safe and to be able to provide for their own needs. It is important for a woman to be informed of the various constitutional protections for women. [1]

1.1 Meaning of crime against women

Cruelty to women in whatever form, whether intentional or unintentional, is what we mean when we say "crime against women." The term "Crime against Women" refers to any criminal conduct "directed exclusively towards women" in which "only women are victims."

Equally essential is elaborating on what we mean when we talk about "violence" against women. Physical aggressiveness or other forms of misbehaviour are all examples of violence, which is also known as abuse. Domestic violence encompasses any form of physical or sexual abuse done against a family member, whether it be a kid, spouse, parent, or even a domestic worker. As well as physical contact, domestic violence can also manifest in other ways, such as via the use of threats, intimidation, or the use of physical restraint and control. Domestic violence encompasses acts like eve-teasing, forcing a wife or daughter-in-law to go for feticide, forcing a young widow to commit sati, etc., while criminal violence includes rape, abduction, kidnapping, murder, dowry deaths, wife

battering, sexual abuse, maltreatment of widows and the elderly.[2]

1.2 Crime against women

The phrase refers, semantically and psychologically, to any damage that causes women bodily or mental suffering, whether it is perpetrated directly or indirectly. "Crime against Women" refers to any criminal conduct when females are the intended and/or exclusive target. The definition of "violence against women" also has to be made clear. Any aggressive or disruptive behaviour, whether physical or verbal, is considered violence. The term "domestic violence" is used to describe acts of physical or sexual aggression performed against members of the same household, whether they be children, spouses, parents, or even domestic help. Many forms of physical and sexual violence can occur within intimate partner relationships, including but not limited to: striking, kicking, biting, shoving, restraint, and hurling things. Although women can be victims of any type of crime, including murder, robbery, forgery, etc., only those crimes committed with the express intent to victimise women are referred to as "Crimes against Women." [3]

1.3 Classification of crimes against women

The Indian penal code, based on a synthesis of western scientific rationality and eastern cultural sensitivity, is the backbone of our criminal justice system. There is a wide variety of antisocial behaviour covered by the code, which reflects the state of society when it was enacted more than a century ago. Seven types of violence against women can be identified as "women-only crimes," including rape, kidnapping and abduction, dowry killing, torture and cruelty, molestation, sexual harassment, and the importation of minors. [4]

i. Rape

When compared to other violent crimes like murder, robbery, and kidnapping, rape has the highest growth rate in India. Every 60 minutes, two women are raped in the United States, as reported by the National Crime Records Bureau (NCRB).

Rapping may take several forms:

a) Custodial rape- The punishment for this type of rape was increased in comparison to rape perpetrated by someone who did not have custody of the victim.

b) Rape on a pregnant woman - Rape committed against a pregnant woman is particularly horrible. A male offender committed rape in this location. Sexual assault against a pregnant woman, regardless of her age, is considered very severe and is classified as more than one type of rape.

c) Rape on a girl under twelve years - The rape of a girl younger than twelve is the most horrific kind of

rape and goes against the values of any civilised culture. Humanity should not lose. Every member of society has a responsibility to put an end to this type of abuse.

d) Gang rape - Rape in a gang is just as horrific as rape committed by an individual. Anyone who participates in the rape of a woman by one or more others in a group acting in pursuit of their shared aim is guilty of gang rape.

e) Rape by husband - When a guy has sexual contact with his wife and she is over the age of 15, it is not considered rape. If a husband has sexual relations with his wife and she is under the age of 15, but over the age of 12, he has committed rape.

ii. Kidnapping and abduction

The United Nations defines human trafficking as "illicit and clandestine movements of persons across national borders, largely from developing countries and some countries with economically in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploited situation for profit of recruiters, traffickers, and crime syndicates," with "other legal activity related to trafficking," such as forced domestic labour, false marriage, clandestine employ, and so on. It has been stated that there has been a 35.6% rise in kidnapping and abduction cases involving women in India this year compared to 2012 (38,262 instances). The state of Uttar Pradesh has had 9,737 cases, or 18.8 percent of the total in the country. With a whopping 41.1 per 100,000 residents, Delhi UT has more than double the crime rate of the rest of India (8.8).

iii. Dowry death

In India, dowry is still the primary cause of prejudice and injustice against women. The consequences for the young bride when the dowry is not paid can be devastating. The Government of India made its first move to identify dowry as a societal ill and end the practise with the passing of the Dowry Prohibition Act in 1961. Yet it is absurd to observe that even in the most enlightened communities, dowry items are flaunted in marriage as a badge of honour. The usage of excessive dowries is on the rise in India. No well-educated woman would ever admit to being proud of her dowry, but surprisingly many women still pay it.

The number of dowry-related fatalities in India fell by 1.8% last year compared to the previous year (8,233 cases). Uttar Pradesh (2,335 cases) and Bihar (1,182 cases) together accounted for 28.9% of all cases recorded in the country. Bihar has the highest crime rate (2.43 per 100,000 people), followed by Uttar Pradesh (2.36 per 100,000

people), compared to the national average of 1.4 per 100,000 people.

iv. Molestation

Molestation, sometimes known as sexual abuse or assault, is another kind of violence against women. It's when a guy tries to get a girl do anything sexual against her will. Molestation occurs when a male or adult takes advantage of a youngster or a woman's sexuality for the perpetrator's own sexual pleasure. The number of reported occurrences of assault on women in the country with the intention of outraging her modesty rose by 56.0% in 2013 compared to 2012. (45,351 cases). The biggest number of recorded cases is in Madhya Pradesh (8,252), followed by Maharashtra (8,132) for a respective 11.7% and 11.5% of the national total. Compared to the rest of India, where the average crime rate is 11.9, Delhi UT has the highest recorded rate (40).

v. Sexual harrasment

The United Nations defines sexual harassment as "any unwanted, insulting, or humiliating conduct of a sexual nature that either directly or indirectly produces a hostile or threatening work environment for the target or its coworkers." Assault of any kind, repeated or persistent requests for sexual favours, requests for favours tied to implied threats or promises about advancement in one's career, unwanted physical contact, public displays of graphic sexual imagery, sexually suggestive behaviour, or offensive comments of a sexual nature all fall under the umbrella of sexual harassment. Harassment on the basis of sexual orientation can occur between people of different sexes or within the same sex group. Although it most often manifests as a series of incidents, bullying can also take the shape of a single occurrence, and it can be aimed at a group or an individual.

2. CONSTITUTIONAL AND LEGAL PROVISION FOR WOMEN

In the Preamble, the Declaration of Fundamental Rights, the Declaration of Fundamental Duties, and the Directive Principles of the Indian Constitution, gender equality is firmly established. In addition to guaranteeing women's right to vote and equal protection under the law, the Constitution allows the state to take affirmative action in favour of women in order to alleviate their disadvantages in the areas of economics, education, and politics. Our laws, development strategies, plans, and programmes have all worked within the framework of a democratic state to improve the lives of women. The Indian government has signed on to several international treaties and human rights instruments that guarantee women's rights. In 1993, the country ratified CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women. [5]

Constitutional Provisions for women are as under:

- Article 14 guarantees women and men equal protection under the law and equal access to economic, political, and social possibilities.
- No citizen should be subjected to prejudice on the basis of his or her religion, race, caste, gender, or sexual orientation, as stated in Article 15.
- Article 16 guarantees everyone a fair shot at public sector jobs or political appointments.
- In Article 39(a)(d), it is stated that men and women have the right to equal protection under the law, equal access to education, and equal compensation for equal effort.
- Article 42 requires the government to establish policies that protect workers' rights to safe working conditions and maternity leave.

Legal Provisions for women are as under:

- According to the Factories Act of 1948, it is illegal to hire a woman outside the hours of 6 a.m. and 7 p.m., and no employer can require a woman to work more than 8 hours each day.
- Under the Maternity Benefit Act of 1961, women are eligible for 12 weeks of paid leave during pregnancy.
- Prohibition of the Payment of a Dowry Act of 1961: Premarital, marital, and postmarital dowry demands are all illegal under this Act.
- Legislation passed in 1976 to ensure equal pay for equal work: In accordance with this law, all workers are guaranteed the same salary. It mandates equal remuneration for labour of equal or comparable value performed by men and women. Similarly, it forbids any kind of bias towards female applicants.
- In 1976, Congress passed the Child Marriage Restraint Act, which increased the minimum age of marriage from 15 to 18 for girls and from 18 to 21 for boys. [6]

3. THE INDIAN SCENARIO OF GENDER BASED VIOLENCE

Honored femininity, which had been celebrated for so long, had been diluted by the influence of new ideas and practises. Worldly activities have grown to excessive levels throughout time, causing the decline of traditional culture. Heartbreaking atrocities such as bride burning, dowry killings, torture, brutality, and so on, have robbed people of the joy and consolation they formerly found in their families. Murderous suffering is inflicted against the female embryo as well. The safety of a girl kid is constantly at risk. Because being born a girl is a misfortune in and of itself by some sectors of society. According to data collected at the turn of the century, there were 972 females for every 1000 men in the population in 1901, but in 2001 that

number had dropped to 933. What's more striking is that there are only 927 girls for every 1000 males in the 0-6 age range. A mere 793 females are produced for every 1000 males in some Indian areas like Punjab. [7]

Women suffer the burden of violence because they are on the receiving end of power and status hierarchies at home and at work. While police reports document some instances of violence against women, many more go undocumented. Even men who are meant to defend women occasionally use violence against them. Table 1 shows a 102 percent increase in crimes against women between 1989 and 1999. The decade had a net rise of 68699 incidents. Data reveals that in the previous three years, the number of charges brought under the Indian Penal Code and specialised legislation like the Immoral Traffic (Prevention) Act and the Indecent Representation of Women (Prevention) Act has risen. Terrorizing female victims soared by 278%, rape by 69%, and molestation by 24%. From 1995 to 1999, cases of sexual harassment rose 86%. [8]

4. LEVELS OF GENDER-BASED VIOLENCE

As with any scale, there are three distinct forms of gender-based violence. There are three tiers of society: the individual household or family, the local neighbourhood, and the national government.

i. Violence within the Home:

The most common kind of violence against women is that which occurs within the home. Violence against women is common when men abuse their partners. The majority of battered women have been assaulted several times, and psychological abuse is invariably accompanied by physical abuse. Marital rape, dowry-related violence, incest, non-spousal forms of violence like a son's violence against his mother, and forms of violence related to exploitation and the deprivation of freedom all fall under the umbrella of physical, sexual, and psychological violence against women within a couple's or family's context. While some nations do collect data on gender-based violence, others, like the United States, do not. In many nations, including Nigeria, there is a stigma attached to speaking out about violence against women, so it is difficult to acquire an accurate picture of the problem. The fact that most acts of gender-based violence take place in the privacy of homes and inside families is a major contributing factor to the difficulty of compiling reliable statistics.

ii. Violence Against Women within the General Community:

Battery, rape, sexual assault, sexual harassment and intimidation at school or work, forced treatments and abusive medication, and the exploitation and commercialization of women's bodies are all examples of the physical, sexual, and psychological violence that

occurs in the general community and is related to increased poverty, which is largely a result of unchecked economic liberalism. Additionally, selective abortion of female fetuses, female infanticide, and other forms of forced or coerced contraception are also forms of violence against women that can be found in the broader community (World March of Women, 2000).

iii. Violence Against Women Perpetrated by the State:

States that value tradition or custom more than the protection of human rights are more likely to commit or allow acts of physical, sexual, and psychological violence. The emergence of religious fundamentalism in some nations is deeply concerning for the safety of women's economic independence and personal freedom of choice. The widespread discrimination against women now amounts to a new kind of apartheid. Women are treated as second-rate citizens and denied basic freedoms because of this bias. As with any kind of violence, violence against women is often used as a weapon in times of war. Murder, rape, sexual enslavement, kidnapping, and forced pregnancies are only a few examples (World march of Women, 2000). [9]

4.1 Effects of Gender Based Violence

The aftermath of gender-based violence can have catastrophic and long-term repercussions. They represent a threat to a woman's reproductive health and have the potential to leave a survivor with psychological, cognitive, and interpersonal scars as well. A woman who has experienced domestic violence and lives in an abusive relationship with her partner may be forced to become pregnant or have an abortion against her will, or her partner may knowingly expose her to a sexually transmitted infection. Both of these scenarios are possible for a woman who has been victimised by domestic violence.

A child psychologist was quoted in Bitangaro (1999:9) as saying that "violence clearly effects on children." A kid who has seen or witnessed violence may, on the one hand, become introverted, worried, or sad; on the other side, the youngster may become aggressive, and they may try to exercise authority over their younger siblings.[10]

5. LAWS RELATING TO WORKING WOMEN

i. Contract Labour (Regulation and Abolition) Act, 1976

An Act to control the use of contract labour in certain businesses, to provide for its elimination in specific cases, and to address concerns related therewith. In addition to addressing current

concerns, this Act also anticipates future safety and healthcare requirements.

ii. Employees State Insurance Act, 1948

An Act to provide for the payment of certain benefits to employees in the event of sickness, maternity, or occupational injury, and to provide for other things connected thereto. It is practical to offer workers compensation in the event of illness or accident on the job, as well as maternity leave and other perks. It is required under Section 10 that one of the three members of the Medical Benefit Council be a woman. In this section 50, we will discuss the maternity benefits that are provided to insured workers.

iii. Equal Remuneration Act, 1976

An Act to ensure that men and women receive the same wages for the same job, and to prohibit discrimination against women on the basis of gender in the workplace. Section 2 of this Act defines men and women and prohibits discrimination on the basis of either gender in the workplace. Section 15 of this Act addresses the special circumstances that may apply to a female worker during her leave for pregnancy or retirement.

iv. Factories (Amendment) Act, 1948

No woman or minor under the age of 18 should clean, lubricate, or adjust any portion of a prime-mover or transmission machinery while such prime-mover or transmission equipment is in operation. No woman must be required to lift anything of significant weight. Article 48 addresses the provision of crèche facilities for the use of female employees.[11]

6. CONCLUSIONS

The term "violence against women" refers to violent acts that are mostly committed against females, including girls and women, in a culture. As a result, we refer to it as gender-based violence, which means that these crimes are done against women and girls solely due to the fact that they are females, i.e., the opposite sex, and because they are expected to maintain a position that is subordinate to men in society. Therefore, violence against women is a worldwide issue that demands the highest attention. These kinds of wrongdoings can be arranged into a number of different categories, ranging from covert to overt, such as rape, female genital mutilation, forced prostitution, and so on. In India, several new pieces of legislation have been enacted, and numerous adjustments have been made to the laws that are already in place, all with the goal of efficiently combating these types of crimes.

REFERENCES

1. Deshpande Sunil and Seth Sunita, Role and Position of Women Empowerment in Indian Society, Res. J International Referred Research Journal, 1(17), 24-27, (2009)
2. NCRB, (2012), Crime in India: Statistics-2011, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi
3. Awadhesh Kumar Singh and Jayanta Choudhury, Violence against Women and Children-Issues and Concerns, Serials Publications, New Delhi, 2012,
4. NCRB, (2013), Crime in India: Compendium-2011, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi
5. B.V. Babu & S.K. Kar (2010). Domestic Violence in Eastern India: Factors associated with victimization and perpetration. Public Health. 2010; 124:136-48.
6. Study of the Secretary General (2006). 'Ending Violence against Women'. UN Publications No.E.06.IV.8. Retrieved from http://www.un.org/womenwatch/daw/public/VAW_Study/VAWstudyE.pdf
7. Declaration on the Elimination of Violence against Women (1993). UN Documents: Gathering a body of global agreements. United Nations General Assembly Resolution No. 48/104 on 20.12.1993.
8. Crimes in India (2018). National Crime records Bureau. Government of India, New Delhi.
9. Violence Against Women in India By Guruappa Naidu, New Delhi, Serials Publications, 2011, p. 23
10. India, Ministry of Statistics and programme Implementation, Women and Men in India 2012, 14th Issue, p. xiii
11. G.B.Reddy, Women and the Law 2 (2001).

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