

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 3 | Issue 3

2020

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Crimes against Women-One Life No Price

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यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।
यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः ।

This is a famous sloka taken from Manusmruthi which means where Women are honored, divinity blossoms there, and where women are dishonored, all action no matter how noble remain unfruitful.

ABSTRACT

This paper unveils a serious social and global phenomenon which involves a spectrum of physical, sexual, psychological acts of control, threat, aggression, abuse and assault against women². Violence against women happens at home, workplace, streets and is a human rights violation of pandemic proportions that take place in public and private spaces. Female infanticide, child abuse, incest, rape, sexual harassment, intimate partner violence and neglect of older women are the forms of crime. Crimes against women dates to the history of mankind where several forms of abuse have been described since ancient times. However, in the 21st century where women had made to the space marking sky as the limit, the other side of the coin shows the increasing rate of the crime against women which off-late is highly alarming as most of the women, girls, in present society are subjugated, oppressed sexually, physically, verbally and also mentally and emotionally which are the most unnoticed face of the crimes. However, despite growing awareness in the international arena regarding the gender-based violence³ women continue to suffer disproportionately as the crime is frequently ignored or the abuse is justified with a reference to “culture” as the societies across the globe are patriarchal. Hence, though there are stringent laws and legislation made they don't seem to have any effect as people are unaware of the laws of the land or scant respect for laws as most of the times the justice is being delayed which indulges the culprit to commit most heinous crimes as seen in most known case 'NIRBHAYA.' So, holistic approach with gender sensitization, setting up fast track courts for expeditious disposal of cases and general awareness to public towards laws would give long term solutions for these issues.

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² Violence against women journal - World Health Organization, Available on Internet.

³ Reference drawn from unhr.org.

I. INTRODUCTION

A woman is said to be the ultimate strength and support behind the success of an individual in the society and is seen as divine, creative, nurturing and supportive. Even according to Hindu mythology it is believed that Lord Shiva becomes powerful only when joined with Goddess Shakti, the idea being that man is incomplete in his potential until he is associated with the woman, but unfortunately, since later Vedic times there is a lot of differentiation and discrimination in the name of gender and culture by exploiting women in the name of archaic and barbaric practices and traditions such as Sati, Devadasi, enforced widowhood, polygamy, female foeticide, female infanticide, Purdah⁴ system which made women give away her rights confining herself into a mere reproductive machine. However, these injustices against women were echoed by several leaders like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar during the British regime for the upliftment of women through social reform movements and enactments such as

- (a) The Bengal Regulation XXI of 1795 and Regulation VI of 1802 Prohibited female infanticide
- (b) Sati Abolition Act of 1829
- (c) Widow Remarriage Act XV of 1856

and others Acts are some of the historic milestones were the Indian society underwent significant changes by slowly succeeding in providing an alternative way of life for women who wanted social change bypassing these legislations. Although women were suppressed in the feudal social order and patriarchal families mention of warriors like Chand Biwi, Razia Sultana, Rani Rudrama Devi, Jhansi Laxmi Bhai were mere exceptions of the time.

II. CHANGES IN LIFESTYLE OF WOMEN

The despicable situation of women underwent a significant change since the Colonial rule as they were the first rulers in India who unified the Country politically and were liberal in their thinking⁵. There was a slow pace of improvement in the lifestyle of women during this period as the colonists were kind enough to introduce a new type of educational system which is an outcome of western ideologies which made a handful of women to think of their rights. However, regardless with the advent of the industrial revolution in the 18th Century, took the

⁴ Purdah system is prevalent in certain Muslim and Hindu societies by which women would be screened from strangers by means of a veil or curtain.

⁵ Charles Heisman, *Indian Nationalism and Hindu Social Reform*, Princeton Press, Calcutta, 1964, p.7.

initiative to implant the seed of gender equality it couldn't reap the benefits as expected. Though urbanization and Westernization and to extent globalization helped women to be on par with men in education, employment and other activities aiming them to dream higher on par with men but on the other side the atrocities against women which are brutal and heinous such as Rape, Sexual harassment, Women trafficking, Molestation, Murder⁶ which are increasing at the rapid pace as according to the statistics.

1. According to the National Crime Records Bureau (NCRB) 2018 report there were 378277 cases of crime against women. Out of then 33356 rape cases were reported and on average there are 91 rapes occurring in India per day.
2. Global estimates published by the World Health Organization (WHO) indicate that about 1 in 3 (35%) of women worldwide have experienced either physical and or sexual intimate partner violence.⁷
3. World wide almost 3 in 5 women were killed by their partners or family in 2017.
4. Approximant 15 million adolescent girls aged between 15-19 years worldwide have experienced forced sex at some point in their life.
5. Approximately 72% of all trafficking victims worldwide are women girls I.e 4 out of 5 trafficked women are trafficked for sexual exploitation.
6. Among all the rape cases reported in 2018, 93.7% of rapists were related to the victims⁸

III. EVOLUTION OF LAWS

A saga of new dreams for the Indian Women has started with the dawn of independence.

Promulgation of the constitution of India on Jan 26th 1950 was a defining moment in the history of human rights in India. To enable the citizens to enjoy the human rights many pieces of social legislation has been enacted and are applicable in equal measure to Men and Women. Hence the Preamble, Fundamental Rights, Directive principles of state policy had stressed and provided the dynamic movement towards the goal of providing equal rights to women along with men.

Article 14 of the constitution confers the equality of status on women firstly. The word "Status" refers to Women Position and rights in property, succession, matrimonial, relief guardianship and in choice of adoption. Secondly, the article protects them against any violation of this principle. By this, the legislator was empowered to pass the Hindu

⁶ Interactive.unwomen.org.

⁷ Violence against women- World Health Organization

⁸ Whole statistics drawn from interactive.unwomen.org

Succession Act 1956.

(A) FAVOURABLE DISCRIMINATION

Within the framework of a democratic polity the Constitution of India have aimed at women's advancements in different spheres along with the development policies, plans and programmes .India has also ratified various international conventions and key among them is the ratification of the Conventions on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993 and human rights instruments committing to secure equal rights of women.

1. Constitutional Privileges:

- (a) Equality before law for women(Article 14)
- (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth(Article 15(1))
- (c) The state to make any special provision in favour of women and children(Article 15(3))
- (d) Equality of opportunity for all citizens in matters relating to employment or appointment of any office under the state(Article 16)
- (e) Protection of life and personal liberty (Article 21)⁹
- (f) Prohibition of traffic in human beings and forced labour (Article 23)¹⁰

2. Directive Principals of State Policies and Fundamental Duties:

Although the DPSP's are not enforceable by the courts they are fundamental principles for guidance to various organs of the state hence in recent times judiciary has to broaden the concept of directive principles and give a wider definition to them under

- (a) Certain principles of policy to be followed by the state (Article 39)
- (b) Equal justice and free legal aid(Article 39A)¹¹
- (c) Equal pay for equal work for both men and women (Article 39(d))
- (d) Provisions for just and humane conditions of work and maternity relief(Article42)
- (e) To promote harmony and spirit of common brotherhood amongst all the people of India and to denounce practices derogatory to women(Article51(A)(e))

and other constitutional provision for reservation of seats for women in panchayats and municipalities.

⁹ "State of Maharastra v. Chandrabhan", AIR, 1986, SC, p. 773.

¹⁰ See, D.D.Basu Introduction to Constitution of India, constitutional privileges, DPSP's , Fundamental Duties.

¹¹ "Hussainara Khatoon v. State of Bihar", AIR, 1979, SC, p.1369.

Although the respective state governments are empowered by the Constitution of India to grant equality of women and adopt positive discriminant measures for neutralizing the cumulative social-economic, educational, political disadvantage in favour of women the women enjoy only theoretical importance but in practice had always been in subservient positions than men with deterioration and exploitation of women, as women have been the victims of general crimes such as murder, Robbery, Cheating and also against crimes which are directed specifically against women such as rape, Sexual harassment, Immoral Trafficking of women and girls molestation, intimate partner violence etc. which has facilitated the Indian government to devote more attention on women legislation and also made judicial intervention inevitable.

During the Colonial period, their legal system paved the way for the inculcation and spread of the concept of equality of all before the law. Hence the enactment of the Code of Civil procedure 1859, The Indian penal code 1860 and the Code of Criminal Procedure had been enacted to lay down clear, the precise and exact language of law applicable to all citizens irrespective of caste, the creed or religion ensuring emancipation, Progress and equality of women . Such favourable conditions prompted the government of India to go in for further legislative measures as

1. The Hindu Marriage Act of 1955
2. Special Marriage of 1954
3. Hindu Succession act 1956 (Amended in 2005)
4. Immoral Traffic (Prevention) Act 1956
5. The Protection of Women from domestic violence act 2005
6. Sexual harassment of women at workplace (Prevention, Prohibition and redressal Act) 2013
7. Protection of children from sexual offence Act 2012
8. Nirbhaya Act 2013
9. Dowry Prohibition Act of 1961

Nevertheless basing on the incidents of crime the provisions of the law have been Significantly reviewed periodically and amendments carry out to keep pace with emerging requirements.

IV. OTHER LEGISLATION PROTECTING WOMEN

There is 54 Major legislation along with the legal provisions imbibed in Indian Penal Code 1860, The Code of Criminal Procedure 1973 and the Indian Evidence Act 1872 to protect and

promote women rights.

(A) PENAL LAWS:

The Indian Penal Code has offered special provisions for the protection of a woman who might become a victim of offenses relating to her sexual identity and to guard against special offenses faced by women in her public and private life because of her womanhood and social position.

The crimes identified under the Indian Penal Code are

- (a) Rape (Sec. 376 IPC)¹²
- (b) Kidnapping & Abduction¹³ for different purposes(Sec. 363-373)
- (c) Homicide for Dowry, Dowry Deaths¹⁴ or their attempts (Sec. 302/304-B)
- (d) Torture¹⁵, both mental and physical(Sec. 498-A)
- (e) Molestation¹⁶ (Sec.354 IPC)
- (f) Sexual Harassment¹⁷ (Sec.509IPC)
- (g) Importation of Girls(up to 21years of age)
- (h) There are also certain provisions regarding the protection of women with respect to search, seizure, arrest and imprisonment etc. in the Criminal Procedure Code¹⁸.
- (i) A search of place entered by person sought to be arrested(Sec.47(2))
- (j) A search of arrested person (Sec.51(2))
- (k) Examination of accused by medical practitioner at the request of the police officer(Sec 53(2))

The Criminal Law (Second Amendment) Act of 1983 has introduced

- (a) Police to inquire and report on suicide, etc.(Sec. 174)
- (b) Postponement of Capital Sentence on pregnant women(Sec.415)

¹² Punishment for Rape

Whoever, except in the cases provided for in sub section to commits rape shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years but which may extent to imprisonment of life.

¹³ Whoever kidnaps any person from India or from lawful guardianship shall be punished with imprisonment of either description for a term which may extent to seven years and shall also be liable to fine

¹⁴ Were the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is show that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with , any demand for dowry, such death shall be called dowry death and such husband or relative shall be deemed to have caused her death.

¹⁵ Husband and relative of the husband of a women subjecting her to cruelty.

¹⁶ Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will their by outrage her modesty

¹⁷ Word gesture or act intended to insult the modesty of a women.

¹⁸ References for all sections drawn from criminal procedure code 1973 & (Amendment) 1983

- (c) When bail may be taken in case of non-bailable offence (Sec.437)

(B) SPECIAL INITIATIVES FOR WOMEN

- (a) **National Commission for Women:** A statutory body was setup by the Government in January 1992 with a mandate to review the existing legislation to suggest amendments and to study and monitor all matters relating to constitutional and legal safeguards provided for women.
- (b) **Reservation for women in local self Government:** One-third of the total seats for women in all elected offices in local bodies is enacted after 73rd constitutional amendment act passed in 1992 by Parliament.
- (c) **The National Plan of Action for the Girl Child (1991-2000):** This plan ensured protection, survival and development of the girl child with the ultimate objective of building up a better future for the girl child.
- (d) **National Policy for the Empowerment of Women, 2001:** In the year 2001 the “National Policy for the Empowerment of Women” has been prepared by The Department of Women & Child Development in the Ministry of Human Resource Development with the goal to bring about the development, empowerment and advancement of women.

V. CRITICISM

- (a) The existing laws are sufficient to maintain law and order to protect the dignity and safety of the people if faithfully and effectively implemented, but there is lack of awareness and knowledge regarding the laws of the land for women.
- (b) Though tireless effort has been made by the central and state governments through implementation and enactment of several laws for the protection of women and children became unsuccessful in making these laws reach to the general public.
- (c) Some instances through laws of the land are known in the matter of women. The laws have two little force, serving chiefly as a civil rather than criminal law and at times huge political interference is involved.
- (d) The most attention-drawing aspect is the number of years being taken for cases to get resolved for crimes against women as the maxim goes that Justice delayed is Justice Denied
- (e) On the other hand, the police need to be sensitized as to the barrage of questions put to a victim make to feel herself like a culprit and the ground reality needs to be changed with ZERO FIR being registered.

- (f) Generally, the violence women go home doesn't come under the scanner and is always unnoticed as women needs a lot of gumption to stand for herself against her own family and so many times a lot of cases go unreported.

VI. CONCLUSION

Despite legislation and stringent laws being enforced they don't seem to yield any deterrence in the protection of women to a larger extent as people in the public life have a very skewed view of what acuity is as Justice system often fails women particularly so perhaps in countries like India as to why most women won't complain the abuse against them for the fear of being mocked in the society.

Hence rather than only making laws the government must focus on the holistic approach of inculcating good values and morals through training and counselling people from a very young age with girls being counseled regarding the good touch and bad touch and boys must be trained how to treat women with dignity and respect.

Henceforth approach through gender sensitization and regaining belief through setting up fast track courts for expeditious disposal of cases to public towards laws give a long term solution for these issues
