



Women Security and Protection in India: the Legal and Judicial Perspective, Challenges and Remedies

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ABSTRACT: There are many laws protecting women in India. For the protection and advancement of women, our constitution grants them unique rights. In addition, the IPC, CrPC, and Evidence Act all play a role in the protection of women. The Protection of Women from Domestic Violence Act, 2005; the Immoral Traffic (Prevention) Act, 1956; the Dowry Prohibition Act, 1961; the Indecent Representation of Women (Prohibition) Act, 1986; the Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013; and the Hindu Marriage Act are some of the additional special laws we have in place to effectively implement the rights of women against abuse, harassment and violence.

KEYWORDS-legal, judicial, women, security, protection, India

I. INTRODUCTION

Right to Maintenance

The needs of life, such as food, clothing, shelter, education, access to healthcare, and other necessities, are included in maintenance. Even after a divorce, a married woman is entitled to maintenance from her husband as long as she doesn't remarry. The wife's style of living, as well as the husband's financial situation and circumstances, determine maintenance. Except when the wife is living in adultery, refuses to remain with her husband without good reason, or when both of them live apart with mutual consent, the husband is required by Section 125 of the Code of Criminal Procedure, 1973, to support his divorced wife. Any Indian woman, regardless of caste or religion, may request maintenance from her husband under the aforementioned law.

The Dissolution of Muslim Marriage Act, however, exclusively applies to Muslim women.

Right to Equal Pay

Our laws are now gender-neutral. Equal remuneration for equal effort is due to both men and women. The same is provided for by the Equal Remuneration Act. Equal compensation for equal work—or work of a similar nature—is guaranteed for both male and female employees. There won't be any gender-based discrimination in the context of hiring practises or working conditions.

Right to Dignity and Decency

The Hindu Marriage Act of 1955 also provided facilities, but only for Hindu women. The personal jewels of women are dignity and decency. Anyone who attempts to kidnap and disrobe her modesty is seen as a sinner, and the law very likely mandates punishment for such behaviour. Each and every woman has the right to live in dignity, free from intimidation, compulsion, violence, and prejudice. Law very much upholds the modesty and dignity of women.



The criminal code outlines the penalties for offences against women such as sexual harassment (Section 354), assault with the purpose to strip her naked or violate her sense of modesty (Section 354), voyeurism (Section 354), stalking (354D), etc.[1]

In the event that the lady herself is charged with a crime and taken into custody, she acts properly and is treated decently. Her arrest, search, and medical examination should all be carried out either directly under the supervision of a woman medical officer or with careful adherence to decency by a woman medical officer. As much as possible, a female police officer should file the FIR in rape cases. She also cannot be detained by a female police officer without the specific consent of the Magistrate throughout the hours of darkness and light.

Right Against Domestic Violence

Since the Protection of Women from Domestic Violence Act was passed in 2005, every woman has a legal right to protection from domestic violence. Domestic violence covers not only physical but also psychological, sexual, and financial abuse. Therefore, if you are a daughter, wife, live-in partner, and you experience any of these abuses from your partner, husband, or one of his relatives, or from someone who is biologically or adoptively related to you and lives or has lived with you in a shared household, you are well covered by the provisions of the Domestic Violence Act and may seek out the various remedies it offers. To file a complaint, call the women's helpline at (800) 1091. They'll let the police know about your situation. You can also contact the local women's cell, which you can discover via Google. They offer specific services to these ladies and assist them in presenting their claims to the Magistrate after properly preparing their complaints. You can also go to the police and file a report.

Since domestic violence is a cognizable offence, the police are required to file a FIR and conduct an investigation. If the police refuse to do so, you may write a letter to the superintendent of police outlining your situation and post it. If the SP determines that the information discloses a cognizable offence, he may either conduct his own investigation or instruct a subordinate police officer to file the case and conduct the investigation. If SP rejects you as well, you can go straight to the Magistrate in charge of your local area and file your application in accordance with Section 12 of the Domestic Violence Act with the aid of a lawyer to obtain the protection, custody, and compensation orders you need to stop domestic violence.

Sec. 498A of the Indian Penal Code protects women who are victims of domestic violence by penalising the husband or his family members with up to three years in prison and a fine.

Rights of Women at Workplace

You are entitled to a women's restroom where you work. Facilities for child care and feeding must be provided in workplaces with more than 30 female employees. Additionally, the Supreme Court and the government have taken steps to guarantee the security of women at work. The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013, was passed by the government in 2013 as a result of the Hon. Supreme Court's exclusive instructions for protecting women from workplace sexual harassment in Vishakha v. State of Rajasthan.

Therefore, if anyone at your place of employment solicits your sexual favours, makes sexually suggestive comments, whistles or sings obscene songs while staring at you, touches you inappropriately, or displays pornography, all of these actions constitute sexual harassment, and you may report them to the internal complaints committee, which the employer is required to establish at each office or branch with 10 or more employees. A Local Complaints Committee must be established by the District Officer in each district and, if necessary, at the block level. In addition, the IPC punishes sexual harassment under section 354A by imposing a prison sentence of one to three years.



Right Against Dowry

The Dowry Prohibition Act of 1961 makes it illegal for brides, grooms, or their parents to give or accept dowries during, prior to, or after a marriage. The definition of "dowry" in the Act is any property or valued security given or agreed to be given by one party to the other, directly or indirectly, but it excludes dower or mahr in the case of individuals to whom the Muslim Personal Law (Shariat) applies. If you provide, take, or help someone else give or take dowry, you will be punished with at least five years in jail and a Rs. 15,000 fine.[2,3]

Right to Free Legal Aid

Whether or whether you can afford legal representation on your own, if you are a woman who has been wronged, you have the right to request free legal services from the legal services authority authorised under the Legal Services Authorities Act, 1987. Authorities for legal services have been established at the district, state, and national levels, respectively. Legal services range from providing advice on legal issues to assisting with cases or other legal actions before any court, tribunal, or authority.

Right of Private Defense

It is a right of defence. When defending your body or the body of another person from the attacker, you run the risk of causing serious harm, severe harm, or even death. However, there are only a few situations in which killing the attacker is permitted without triggering legal consequences and penalties, such as:

If you believe your attacker is about to kill you, seriously injure you, rape you, kidnap you, lock you in a room, or throw or attempt to throw acid at you, you are allowed to kill them and the law will defend you.

Women are well protected under Indian law. Every Indian woman should be aware of these 8 fundamental rights for women. A person who understands the law does not require a weapon. He is the most powerful individual because he uses the law itself as a weapon. Knowing your rights makes you wise and moral. You can only fight against any injustice done to you at home, at work, or in society if you are informed of your rights. So, darling women, here's the gist:

Because when one woman stands up for herself, she speaks up for all women, therefore don't be oppressed, know your rights, and assert them.

II. DISCUSSION

Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India. State Governments are thus responsible for safety and security of the citizens including women and girls.

However, safety and security of women and children in the country is utmost priority for the Government. The Ministry of Women and Child Development has been administering various special laws relating to women such as the Protection of Women from Domestic Violence Act, 2005; Dowry Prohibition Act, 1961; Indecent Representation of Women (Prohibition) Act, 1986; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the Prohibition of Child Marriage Act, 2006. The said Ministry is also administering the Juvenile Justice (care and protection of children) Act, 2015, the Commissions for Protection of Child Rights Act, 2005 and the Protection of Children from Sexual Offences Act, 2012.

The Criminal Law (Amendments), Act 2013 was enacted for effective legal deterrence against sexual offences. Further, the Criminal Law (Amendment) Act, 2018 was enacted to prescribe even more stringent penal provisions



including death penalty for rape of a girl below the age of 12 years. The Act also inter-alia mandates completion of investigation and trials within 2 months each.[4]

The Government has also taken a number of initiatives for safety of women and girls, which are given below:

- a. The Government has set up Nirbhaya Fund for projects for safety and security of women, for which Ministry of Women and Child Development is the nodal authority for appraising/ recommending the proposals / schemes to be funded under Nirbhaya Fund.
 - b. In order to facilitate States/UTs, MHA has launched an online analytic tool for police on 19th February 2018 called “Investigation Tracking System for Sexual Offences” to monitor and track time-bound investigation in sexual assault cases in accordance with Criminal Law (Amendment) Act 2018.
 - c. MHA has launched the “National Database on Sexual Offenders” (NDSO) on 20th September 2018 to facilitate investigation and tracking of sexual offenders across the country by law enforcement agencies. NDSO has data of over 5 lakh sexual offenders.
 - d. Emergency Response Support System, which provides a single emergency number (112) based computer aided dispatch of field resources to the location of distress has been operationalized in 20 States/ UTs in 2018-19.
 - f. MHA has launched a cyber-crime portal on 20th September 2018 for citizens to report obscene content. Further, Cyber Crime Forensic Labs have been set up in several States, and training of over 3,664 personnel, including 410 Public Prosecutors and Judicial Officers in identifying, detecting and resolving cyber-crimes against women and children has been imparted.
 - g. Using technology to aid smart policing and safety management, Safe City Projects have been sanctioned in phase I in 8 cities (Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Lucknow and Mumbai).[5,7]
 - h. In order to improve investigation, MHA has taken steps to strengthen DNA analysis units in Central and State Forensic Science Laboratories. This includes setting up of a State-of-the-Art DNA Analysis Unit in Central Forensic Science Laboratory, Chandigarh. MHA has also sanctioned setting-up and upgrading of DNA Analysis units in State Forensic Science Laboratories in 13 States/ UTs.
 - i. MHA has notified guidelines for collection of forensic evidence in sexual assault cases and the standard composition in a sexual assault evidence collection kit. To facilitate adequate capacity in manpower training and skill building programs for Investigation Officers, Prosecution Officers and Medical Officers has commenced. 2,575 Officers have already been trained by Bureau of Police Research and Development (BPR&D) and Lok Narayan Jayaprakash Narayan National Institute of Criminology and Forensic Science in collection, handling and transportation of forensic evidence. BPR&D has distributed 3,120 Sexual Assault Evidence Collection Kits to States/ UTs as orientation kit as part of training.
- a. In order to coordinate various initiatives for women safety, MHA has set up a Women Safety Division.
 - j. Ministry of Women and Child Development has also introduced the scheme of One Stop Centres to provide integrated support and assistance to women affected by violence and a Scheme for Universalisation of Women Helpline to provide 24 hours emergency and non-emergency response to women affected by violence. Apart from above, the Ministry of Women and Child Development in collaboration with the Ministry of Home Affairs has envisaged engagement of Mahila Police Volunteers in States/UTs who will act as a link between police and community and facilitate women in distress.
 - k. Further, Government of India conducts awareness generation programmes and publicity campaigns on various laws relating to women and their rights through workshops, cultural programmes, seminars, training programmes, advertisements in print and electronic media etc.
 - l. MHA has issued advisories to all State Governments/UTs, advising them to ensure thorough investigation, conducting of medical examination of rape victims without delay and for increasing gender sensitivity in Police. [6]



III. RESULTS

Women's rights issues are a matter of concern for everyone. Every day the newspapers carry stories of exploitation and atrocities against girls and women. Irrespective of age, qualification, or background, women seem to make easy targets for abuse. Part of this is because there is a general denial that a problem exists, the other stems from the fact that girls and women are often unaware of their rights. Here's an outline of what they need to know:

Women's rights in India

Some of the important rights of women are:

- Discrimination based on gender is prohibited by the Constitution of India.
- Women are entitled to equal pay as their male counterparts for work.
- Female rape victims have the right to free legal aid and the right to remain anonymous.
- Women cannot be arrested after sunset and before sunrise, unless in exceptional circumstances.
- Women have the right to file First Information Reports or FIRs in any police station, even if the police station does not have jurisdiction with respect to the offense.
- Women have special rights with regard to the inheritance of property.
- Women also have certain protective rights against sexual harassment at the workplace and harassment for dowry.[8,9]

The above-mentioned rights of women stem from various legislations that are geared towards protecting women. Some of the important laws in favor of women in India are:

1. Marriage and family matters

- The Prohibition of Child Marriage Act, 2006 defines a 'child' as a boy under the age of 21 and a girl under the age of 18. This means that the marriage of a girl below the age of 18 is considered to be child marriage and is prohibited by the law. There are certain contradictions to this rule in personal laws.
- The Medical Termination of Pregnancy Act, 1971 lays down the law regarding abortion in India. Right now, it is not easy to get an abortion even in cases of rape as this Act lays down a number of conditions. However, this Act is soon to be amended.
- Domestic violence is prohibited by law and is considered to be a criminal offense according to S. 498-A of the Indian Penal Code. Certain provisions in the Indian Evidence Act and the Criminal Procedure Code also deal with this issue. Finally, legislation devoted to this issue was enacted in 2005 - The Protection of Women from Domestic Violence Act.
- The Dowry Prohibition Act, 1961 was enacted, criminalizing the practice of harassment for dowry.
- Indian law does not criminalize pre-marital sex as long as it is between consenting adults. With regards to live-in relationships, courts have developed laws on this subject through decisions in cases, to the extent that the law against domestic violence applies to couples who are in live-in relationships, and children born out of such relationships are treated as legitimate in certain circumstances.



2. Sexual abuse and exploitation

- Various forms of sexual harassment such as singing lewd songs, eve-teasing, making sexual advances despite refusal, watching, capturing, or sharing images and other media of a woman engaging in a private act without prior consent have all been criminalized by the Indian Penal Code. There is entire legislation dedicated to sexual harassment in the workplace - Sexual Harassment of Women at Workplace Act, 2013.
- Harassment and crimes against women committed by online sexual predators are prohibited under S. 67 of the Information Technology Act.[10]
- Any indecent representation of women is banned by the Indecent Representation of Women (Prohibition) Act, 1986. This law, as it is considered to be too narrow for this day and age, has undergone certain changes and an Amendment Bill was drafted in 2012 which broadened its scope.
- Sections 375 and 376(2) of The Indian Penal Code criminalize rape. These sections spell out 7 years and 10 years' imprisonment, respectively, as the punishment for rape. The key feature of these sections is the requirement for consent by the woman in question for the act not to be considered as rape. Intercourse with a woman of unsound mind or a girl below 16 years of age is considered to be rape irrespective of consent being given. Unfortunately, marital rape has not yet been criminalized.[11]

3. Property laws

- While traditionally, the rights of women with regard to succession and inheritance of property in India were next to non-existent, as of now, according to the amendments to the Hindu Succession Act in 2005, daughters have been given the same rights as sons with regard to inheritance and succession.
- The Indian Succession Act does not differentiate between the heirs of the deceased.
- Muslim women enjoy rights of inheritance, though limited to some extent by custom and practice.

4. Women in the workplace:

- Women in India have the right to earn as much as men and gender discrimination is also prohibited at the time of recruitment. Sections 4 and 5 of the Equal Remunerations Act, 1976 lay down the law regarding this.
- The Maternity Benefit (Amendment) Act, 2017 has brought about certain groundbreaking laws which concern working women including the increase of paid maternity leave from 12 weeks to 26 weeks (S.5(3)) and 'work from home' options for new mothers (S.5(5)).

Organizations that promote Women's Rights

There are a number of organizations that work for the upliftment and protection of women such as the National Commission for Women, One Stop Crisis Centres (or) Nirbhaya Centres, National Association of Rural Women India, etc. There are also a number of NGOs working for women's rights.

While keeping a daughter informed of her rights is a basic obligation of every parent, it is also important that you take a more active part in ensuring that your daughter has a better and happier future. By taking steps such as not providing a dowry and by shifting the focus from marriage to education, you can do your part in breaking the cycle of abuse that has been going on for centuries. However, to ensure a complete change in society's views on women, it



is essential that you teach not only your daughters but also your sons to recognize the problems faced by women today and how to treat women with the respect that is their due.[12]

IV. CONCLUSIONS

Important Constitutional and Legal Provisions for Women in India

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 favor of women. 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 (CEDAW) in 1993.

Constitutional Provisions

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favor of women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them.

Fundamental Rights, among others, ensure equality before the law and equal protection of the law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Constitutional Privileges

- (i) Equality before the law for women (Article 14).
- (ii) The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i)).
- (iii) The State to make any special provision in favor of women and children (Article 15 (3)).
- (iv) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16).
- (v) The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d)).
- (vi) To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A).
- (vii) The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42).[11]
- (viii) The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46).
- (ix) The State to raise the level of nutrition and the standard of living of its people (Article 47).
- (x) To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e)).
- (xi) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3)).
- (xii) Not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4)).
- (xiii) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be



reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3)).

(xiv) Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4)).

Though the constitution has provided equality of both the sexes man and women but the biological condition of the female and developed sense of subordination demand extra protection for them. The reason is that “women’s physical structure and the performance of certain functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigor of the race”. Thus the law and justice demand additional privileges and safeguards for maintaining the proper socio-legal status of women in the society.

Legal Provisions

(1) The Crimes Identified Under The Indian Penal Code (IPC)

(i) Rape (Sec. 376 IPC)

(ii) Kidnapping & Abduction for different purposes (Sec. 363-373)

(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) Molestation (Sec. 354 IPC)

(vi) Sexual Harassment (Sec. 509 IPC)

(vii) Importation of girls (up to 21 years of age)[12]

(2) The Crimes Identified Under The Special 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. Some acts which have special provisions to safeguard women and their interests are:

(i) The Employees State Insurance Act, 1948

(ii) The Plantation Labour Act, 1951

(iii) The Family Courts Act, 1954

(iv) The Special Marriage Act, 1954

(v) The Hindu Marriage Act, 1955

(vi) The Hindu Succession Act, 1956 with an amendment in 2005



- (vii) Immoral Traffic (Prevention) Act, 1956
- (viii) The Maternity Benefit Act, 1961 (Amended in 1995)
- (ix) Dowry Prohibition Act, 1961
- (x) The Medical Termination of Pregnancy Act, 1971
- (xi) The Contract Labour (Regulation and Abolition) Act, 1976
- (xii) The Equal Remuneration Act, 1976
- (xiii) The Prohibition of Child Marriage Act, 2006
- (xiv) The Criminal Law (Amendment) Act, 1983
- (xv) The Factories (Amendment) Act, 1986
- (xvi) Indecent Representation of Women (Prohibition) Act, 1986
- (xvii) Commission of Sati (Prevention) Act, 1987
- (xviii) The Protection of Women from Domestic Violence Act, 2005

State Initiatives For Women

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.

Reservation For Women In Local Self –Government

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.[11,12]

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.

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.



Women's Security: Indian Scenario

Policies relating to women's rights have had a positive trajectory in the past few decades with the central government articulating many progressive measures to advance gender equality in social, economic, and political arenas.

Inequality between men and women runs across the board, including in education, economic opportunities, representation in governance, and other state and private institutions.

The multiple forms of violence experienced in the household, at the community level, and in some instances by the state, threaten women's security in India. Some recent statistics on women include: India ranks the worst G-20 country in which to be a woman. (TrustLaw, Thomson Reuters)•

One bride was murdered every hour over dowry demands in 2010. (National Crime Records Bureau)•

Almost 45 percent of Indian girls are married before they turn 18. (International Center for Research on Women)•

One in five Indian women, many child mothers, die during pregnancy or childbirth. (the United Nations)•

Up to 50 million girls are "missing" over the past century due to female infanticide and foeticide. •

66% of women who have experienced physical violence in their lifetimes are divorced, widowed, or deserted. •

85.3% of women reporting violence claimed that their current husbands were the perpetrators. •

A total of 2,28,650 incidents of crime against women (both under IPC and SLL) were reported in the country during the year 2011 as compared to 2,13,585 incidences in the year 2010 recording an increase of 7.1% during the year 2011. •

Women and girls in urban India are also at high risk of gender-based violence. In Delhi, the country's capital, a scan of daily newspapers reveals shocking numbers of cases of violence against women. Street violence in urban centers is a growing concern for young women and girls, who are increasingly moving away from rural areas for economic opportunities and higher education.

Particularly women and girls from the northeast region of India living in urban centers such as Delhi have reported experiencing social discrimination and marginalization, and many times physical violence. In 2005, according to the North East Support Centre, among the 100,000 people from the northeast living in Delhi 86% had reported racial discrimination and 41% of cases were sexual abuse cases.

Trafficking Of Women and Girls

India is both a source and destination for trafficked women and girls into prostitution and bonded labor. While exact numbers of trafficked women and girls are difficult to ascertain, there have been figures projected by various national and international organizations.

The NHRC report on "missing children", which finds a mention, says on an average 44,000 children go missing in the country every year. Of these, 11,000 remain untraced. It is quite unacceptable that cases of 'missing children',



which may or may not be the result of human trafficking, are considered on a par with a 'lost and found', adds the report.●

The Nobel Prize-winning economist Amartya Sen has estimated that more than 100m women are "missing" worldwide – women who would have been around had they received similar healthcare, medicine, and nutrition as men.●

New research by economists Siwan Anderson and Debraj Ray show, that in India more than 2m women are missing in a given year.●

The economists found that roughly 12% of the missing women disappear at birth, 25% die in childhood, 18% at the reproductive ages, and 45% at older ages.●

Sexual Harassment And Rape Cases[10,11]

Rape cases in India increased by 3.6 percent to 22,172 in 2010 from 21,397 cases the previous year, according to figures from the National Crime Records Bureau. Nearly 68,000 rape cases were registered across the country during 2009-11 but only 16,000 rapists were sentenced to prison, presenting a dismal picture of conviction of sexual offenders.

According to the National Crime Records Bureau, 24,206 rape cases were registered in India in 2011 but only 5,724 people were convicted for the crime. Similarly, in 2010, 22,172 rape cases were registered while the number of convicted persons for the crime was 5,632. A total of 21,397 rape cases were registered in 2009 but only 5,316 persons could be convicted. Forty percent of all sexual abuse cases in India are incest, and 94% of the incest cases had a known member of the household as the perpetrator.

The number of such cases has decreased by 14.0% during the year over the previous year (9,961 cases). Andhra Pradesh has reported 42.7% (3,658 cases) followed by Maharashtra 12.5% (1,071 cases) of total incidences during the year 2011. Andhra Pradesh has reported the highest crime rate (4.3%) as compared to the National average of 0.7%. An increasing trend in cases of rape has been observed during 2007 – 2008.

A mixed trend in the incidence of rape has been observed during the periods 2008 – 2011. These cases have reported an increase of 3.5% in the year 2008 over the year 2007, a decline of 0.3% in the year 2009 over 2008 and an increase of 3.6% in 2010 over 2009 and further an increase of 9.2% in the year 2011 over the year 2010. Madhya Pradesh has reported the highest number of Rape cases (3,406) accounting for 14.1% of total such cases reported in the country. Mizoram has reported of crime rate 7.1 as compared to the National average of 2.0%. Rape cases have been further categorized as Incest Rape and other Rape cases.

Incest Rape

Incest rape cases have decreased by 7.3% from 288 cases in 2010 to 267 cases in 2011 as compared to 9.2% increase in overall Rape cases. Maharashtra (44 cases) has accounted for the highest (15.3%) of the total such cases reported in the country.

Rape Victims

There were 24,270 victims of Rape out of 24,206 reported Rape cases in the country. 10.6% (2,582) of the total victims of Rape were girls under 14 years of age, while 19.0% (4,646 victims) were teen-aged girls (14-18 years). 54.7% (13,264 victims) were women in the age group 18-30 years. However, 15.0% (3,637 victims) victims were in the age group of 30-50 years while 0.6% (141 victims) was over 50 years of age.



Offenders were known to the victims in as many as in 22,549 (94.2%) cases. Parents / close family members were involved in 1.2% (267 out of 22,549 cases) of these cases, neighbors were involved in 34.7% cases (7,835 out of 22,549 cases) and relatives were involved in 6.9% (1,560 out of 22,549 cases) cases.

Sexual Harassment

The number of such cases has decreased (8,570 cases) by 14.0% during the year over the previous year (9,961 cases). Andhra Pradesh has reported 42.7% (3,658 cases) followed by Maharashtra 12.5% (1,071 cases) of total incidences during the year 2011. Andhra Pradesh has reported the highest crime rate (4.3) as compared to the National average of 0.7.[9,10]

Molestation

Incidents of Molestation (42,968 cases) in the country have increased by 5.8% over the previous year (40,613 cases). Madhya Pradesh has reported the highest incidence (6,665) amounting to 15.5% of total such incidences. Kerala has reported the highest crime rate (11.2) as compared to the National average of 3.6.

Kidnapping & Abduction

These cases have reported an increase (35,565 cases) of 19.4% during the year as compared to the previous year (29,795 cases). Uttar Pradesh with 7,525 cases has accounted for 21.2% of the total cases at the National level. Delhi UT has reported the highest crime rate at 12.4 as compared to the National average of 2.9.

Domestic Violence and Dowry Deaths

Newspaper pages in south Asia are full of tales of domestic violence. In 2002, 450 honor killings were reported in Pakistan, 15,000 young brides are burnt to death every year in India, and 10 women a week are subject to acid attacks in Bangladesh (OXFAM 2004). Violence by intimate family members is one of South Asia's darkest legacies.

Forty percent of all sexual abuse cases in India is about incest. In a survey on violence against women in India, 94 percent of the cases involved an offender who was a member of the family (Naved 2004). The violence against women in South Asia often begins before birth. It is estimated the 50 million women are missing in India either through sex-selective abortions, female infanticide or female neglect. So much so that the sex ratio in certain states of India is very disturbing. There are 79.3 girls for every 100 males in the Punjab and 87.8 girls for every 100 males in Gujarat (OXFAM 2004:10).

Domestic violence rates in South Asia does vary from community to community and depends on the questions asked. A survey of 1,842 women in Uttar Pradesh and Tamil Nadu in India presented a rate of 40 percent of women interviewed stating they were victims of wife beating.

In Pakistan, a survey of 1,000 women indicated that 55 percent in the urban areas and 35 percent in the rural areas stated that they were victims of domestic violence. In Sri Lanka, one survey put the figure at 60 percent, another at 32 percent (UNIFEM 2004). They found that women died more from "injuries" in a given year than while giving birth – injuries, they say, "appear to be an indicator of violence against women".

Deaths from fire-related incidents is a major cause- each year more than 100,000 women are killed by fires in India. The researchers say many cases could be linked to demands over a dowry leading to women being set on fire. In many cases, violence against women has a level of social acceptability. A government survey found 51 percent of Indian men and 54 percent of women justified wife beating.



The cases under this Act have increased (6,619) by 27.7% during the year 2011 as compared to the previous year (5,182 cases). 28.7% of cases were reported from Andhra Pradesh (1,899) followed by Karnataka (1210 cases) accounting for 18.3% of total cases at the National level. The highest crime rate of 2.5 was reported from Odisha as compared to 0.5 at the National level.

Torture (Cruelty By Husband & Relatives)

'Torture' cases in the country have increased (99,135 cases) by 5.4% over the previous year (94,041 cases). 19.9% of these were reported from West Bengal (19,772 cases). The highest crime rate of 21.6 was also reported from West Bengal as compared to the National rate at 8.2.

Importation of Girls

An increase of 122.2% has been observed in Crime Head as 80 cases were reported during the year 2011 as compared to 36 cases in the previous year (2010). Madhya Pradesh (45 cases), Bihar (10 cases) and Karnataka (12 cases) have together contributed more than two-thirds of total such cases at the National level.[8,9]

Crime-Head Wise Analysis (Special Laws)

Immoral Traffic (Prevention) Act, 1956

Cases under this Act have registered a decrease of 2.6% (2,435) during the year as compared to the previous year (2,499). 20.4% (497) cases were reported from Andhra Pradesh followed by Tamil Nadu 17.2% (420 cases). Daman & Diu reported the highest crime rate of 2.5 as compared to the National average of 0.2%.

Sati Prevention Act, 1987

One case was registered under this Crime Head in Jammu & Kashmir during the year 2011.

Indecent Representation of Women (Prohibition) Act

A decrease of 49.4% (453 cases) was noticed in this crime head during the year 2011 as compared to the previous year (895 cases). Andhra Pradesh with 314 cases has accounted for 69.3% of total such cases at the National level which has also reported the highest crime rate of 0.4%.

Crime against Women In Cities

53 cities having a population over 10 lakh have been identified as Megacities as per population census 2011. A total of 33,789 cases of crimes against women were reported from these 53 cities during the year 2011 as compared to 24,335 cases (35 mega cities) in the year 2010. The rate of crime in cities at 21.0 was comparatively higher as compared to the National rate of 18.9. Among 53 cities, Delhi (4,489 cases) has accounted for 13.3% of total such crimes followed by Bengaluru (1,890 cases) (5.6%), Hyderabad (1,860 cases) (5.5%) and Vijayawada (1,797 cases) (5.3%).

The crime rate was significantly higher in Vijayawada, Kota, Kollam, Jaipur, and Asansol at 120.5, 57.5, 54.2, 48.6, and 48.2% respectively as compared to an average of mega cities at 21.0%. Delhi city has accounted for 17.6% of Rape cases, 31.8% of Kidnapping & Abduction cases, 14.0% of Dowry Deaths and 10.1% of Molestation cases among 53 cities. Hyderabad has reported 12.2% (1,390 cases) of incidences of Cruelty by Husband and Relatives. Vijayawada has reported 18.0% incidence of Eve-teasing.

Indore and Jabalpur having 3 cases and 2 cases respectively, have altogether contributed 83.3% of total cases of 'Importation of Girls' at all India level. It is worthwhile to mention that Bengaluru, Hyderabad, Mumbai, and Patna have booked more cases under Special & Local Laws among the mega cities. 15.5% (191 out of 1,234) of cases under Immoral Traffic (Prevention) Act and 10.1% (553 out of 5501) of cases under Molestation was reported in Mumbai alone. Similarly, 56.0% (42) and 34.7% (26) of 75 cases of Indecent Representation of Women Act was



reported in Jaipur and Jodhpur respectively. 70.7% (605) cases under the Dowry Prohibition Act during the year 2011 was registered in Bengaluru city alone.[7,8]

Post Delhi Gang Rape Case

Justice Verma Committee Recommendations In keeping with the public outrage over Nirbhaya's brutal gang rape in Delhi on November 16, the Justice J S Verma Committee has raised the bar of punishment for a wide range of existing and proposed sexual offenses even as it rejected the demand for introducing death for rape. The report released on 23rd January 2013, has proposed codification of a stringent alternative to the life sentence, evolved through judicial activism in the last five years.

Major recommendations made by the Justice Verma Committee are as follows-

The Panel rejects the death penalty for rape, retains existing punishment of 7 years of life imprisonment (in which convict may be released after 14 years at govt's discretion)•

But if rape causes death or leaves the victim in a vegetative state, imprisonment should be 20 years to rest of convict life. •

Punishment for gang rape to 20 years to rest of convict life. If gang rape causes death or leaves the victim in a vegetative state, convicts should be jailed for the rest of their lives. Same punishment for repeat offenders. •

If the victim is a minor, the panel recommends a minimum 10 years of jail, going up to life sentence. If the minor dies during rape or is reduce to a vegetative state, the sentence should range from 20 years to rest of convict's life. •

Panel for recognizing new offenses, such as disrobing a woman, trafficking and stalking. •

Introducing offense of 'breach of command responsibility', making a senior officer of security forces liable to the jail of 7-10 years if subordinates commit rape. •

'Intentional touching' to constitute the offense of sexual assault with a maximum punishment of 5 years. •

Custodial rape to attract a minimum of 10 years jail, a maximum life term. •

Public disrobing of a woman made a specific offense and will attract jail 3 to 7 years. •

'Voyeurism' or 'peeping toms' could get 3 years in jail. •

Stalking offense referred to as 'eve teasing' included in the specific offense. •

Rape to be made gender-neutral. Violent and forced sex on either gender to be 'sexual assault'. •

The panel doesn't recommend lowering juvenile age but wants juvenile justice system strengthened. •



Marital rape to be an offense for women of all ages.*•

Recommended the rape cases by Armed Forces be treated in ordinary court, not Court Marshal.*•

Acid attack to be a specific offense: will attract a minimum of 10 years in jail as the victim's right to live with dignity is impaired. •[8]

Rise in Rape Complaints

After Delhi, gang rape case, a rise in rape cases reported by 50% in Uttar Pradesh. Statistics reveal that 75 cases of rape were lodged with police during the second half of December 2012 as compared to 50 and 40 cases during the corresponding period in 2011 and 2010.

A total of 163 cases of molestation, 325 of kidnapping and 92 cases of sexual assault were reported between December 16 and 31 in UP. Statistics show a minimum of 13% increase in the number of cases lodged under different heads as compared to the same period in 2011 and 2010.[11,12]

REFERENCES

- [1] AlertNet, 'The world's most dangerous countries for women', TrustLaw, Thomson Reuters Foundation, accessed on www.trust.org/trustlaw/news/factsheet-theworlds-most-dangerous-countries-for-women retrieved on 6th February 2013.
- [2] BBC report on 'How India treats its women' dated 29 December 2012, www.bbc.com retrieved on 12th February 2013.
- [3] NCRB, (2011), Crime in India: Compendium-2011, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi.
- [4] NCRB, (2011), Crime in India: Statistics-2011, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi.
- [5] Coomaraswamy, Radhika, (2005), 'Human Security and Gender Violence', Economic and Political Weekly Vol. 40, No. 44/45 (Oct. 29 -Nov. 4, 2005).
- [6] Prajanya Trust, (2010) GENDER VIOLENCE IN INDIA: A Prajnya Report 2010, Prajanya Trust, Chennai.
- [7] OXFAM, (2004), Oxfam Briefing Paper, August 2004, 'Towards Ending Violence against Women in South Asia', OXFAM International, Washington DC.
- [8] Patel, C.L.,(1996), 'Empowerment of Women and Law', Central India Law Quarterly, Vol. IX: IV, New Delhi.
- [9] Reuters, 'India advances, but many women still trapped in dark ages' quoted in AlertNet, Thomson Reuters Foundation, accessed on www.trust.org/alertnet/news/feature-indiaadvances-but-many-women-still-trapped-indark-ages/ retrieved on 6th February 2013.
- [10] UNIFEM, (2010), Who Answers to Women? GENDER & ACCOUNTABILITY, UNIFEM, New York City
- [11] Wardak, Ariana, 'Indian woman gangraped, set on fire by abusers', TrustLaw, Thomson Reuters Foundation, accessed on www.trust.org/trustlaw/news/indian-womangangraped-set-on-fire-by-abusers-report retrieved on 6th February 2013.
- [12] Times of India.