



## CRIMES AGAINST WOMEN IN INDIA : CONSTITUTIONAL PROVISIONS AND LEGISLATIVE MEASURES TO MITIGATE

**Dr. Dilip M. Javalkar**  
Dept. of Sociology , GFG College, Khanapur.



### ABSTRACT:

*In this article an attempt has been made to address the various crimes against women and girl child in contemporary society. This article is also highlighted the measures undertaken for curbing the issues of crimes in post-independence period. Crimes are not confined to a selected group, gender, country, class, or culture. Crime against women has become a prominent topic of discussion in India since from long time. Women the fair sex; are considered to be the weaker sex and are of marginalized and powerless sections of the society. Women as a class; is subject to a greater criminal victimization both inside and outside the homes.*

**KEYWORDS:** women and girl child , contemporary society , criminal victimization.

### INTRODUCTION:

In recent days crimes against women are on the rise. Psychologists, sociologists, politicians, psychiatrists etc., have different theories, explanations and recommendations for the offences against women. Crime against women is innumerable and variable in nature. Violence or crime against women is defined as; it is any kind of gender-based violence that results in physical, sexual or mental detriment or suffering to women and girls.

After Independence, India is emerging as a global power but still across the nation women are facing problems in every sphere of life. The status of women in India has been variegated, as it has seen many ups and downs. In Vedic period they were worshiped as goddesses, in the Muslim era their status suffered a sharp decline and in the British regime they were looked down upon as slaves of slaves. In independent India women has accorded equal rights and opportunities but are getting harassment every day by their family and surroundings.

The crimes against women in India are growing at a rampant speed; irrespective of their caste, educational status, class etc. This crime against women includes physical, psychological, emotional, sexual, verbal and financial abuse etc. Crime against women is seen in the different phases of life and these all are rooted in the societal norms.

Though India is emerging as global power but still women is facing many problems with related to crime. Crime against women continues to be a major problem in India and a major crisis in human development. Hence, Indian constitution makers were quite aware of the pathetic condition of women in Indian society. With a view to improve their condition by removing inequality in the society, the principle of gender equality is enshrined in the Indian constitution.

### METHODOLOGY:

Here researcher has used the secondary data and observation method to explore the information. Qualitative Research Methodology has been practiced to extract the information with related to crime against women. The secondary data such as; Books, News Papers, Journals, Thesis, Mass

Media, Google links etc. It is expected that; this paper taking a critical look at the gender disparity and crime against women.

### OBJECTIVE OF THE PAPER:

1. To understand the different forms of crimes against women
2. To throw light on the constitutional and legal provisions
3. Obstacles for successful implementation of laws
4. Suggestions and recommendations for curbing the crime against women

### FORMS OF CRIMES AGAINST WOMEN:

Across India every day women and girl child experience various crimes and violences against women. Several of crimes against women begins even before their birth, in the adult hood and other phases of life. Hence, it is opined that women has been sufferer from womb to tomb and cradle to grave.

- ❖ **KIDNAPPING:** Kidnapping and abduction of women cases have reported an increasing in nature. In a criminal law; kidnapping is a criminal offense or unlawful confinement of a person against their will. In other words, it consists of the unlawful act i.e., carrying away of a person by force or fraud or unlawful seizure of a person against her or his will. Whoever kidnaps a person from India shall be punished with imprisonment for a term or which may extend up to 7 years and shall also be liable to fine. Indian Penal Code (IPC) section 363 indicates the punishment for kidnapping.
- **RAPE IS AKINDOF CRIME:** Rape as a clearly defined in the Indian penal code in 1860. The rape is derived from the Latin term 'rapio' which means to seize. By the common law definition, rape is sex without consent and thus it is a sexual robbery. Since rape is primarily a sexual act; it is defined as the penetration of the mouth, vagina, or anus by any part of the attackers' body or by an object used by attacker, without the consent of the victim. Section 375 of the IPC made punishable the act of sex by man with a woman, if it was done against her will or consent. Rape is the fastest growing crime in India compared to murder, kidnapping and robbery. According to National Crime Records Bureau (NCRB) every 1 minutes 2 women are raped in India.
- **HONOUR KILLING:** In India women are not considered as individuals with lives and choices of their own. Instead, they are seen as the torchbearers of family honour. Honour killing has been prevalent mostly in Northern part of India and unfortunately it is widespread in rural community. Honour killing or shame killing is the murder of a woman or girl by male family members either an outsider or a member of the family. The killers justify their actions by claiming that the victim has brought dishonour to their family. The murder of a woman constitutes a gender violation. Section 299-304 punish any person guilty of murder and culpable homicide. The penalty for murder is life imprisonment or death and fine. Article 19 and 21 of the Indian constitution envisages the right to freedom and life respectively. No one can take away anyone's right to freedom and life.
- **ASSULT TO OUTRAGE MODESTY:** It is a common phenomenon in India. Section 509 in the Indian penal Code the word gesture, words or act intended to insult the modesty of a woman. Whoever assaults or uses criminal force to any women; intending to outrage or knowing it to be likely that he will thereby outrage her modesty. Section 354 in the Indian Penal Code; assault or criminal force to women with intent to outrage her modesty. They shall be punished with imprisonment of either description for a term which may extend to two years or with fine or both.
- **WOMAN AND HUMAN TRAFFICKING:** Trafficking of women is an international commercial activity. Human trafficking is a form of slavery involving in the illegal transport of persons. It is either for the purpose of labour or sexual activities in which others benefit financially. In other words, human trafficking involves the use of force or fraud to obtain some type of labour or commercial sex act. Trafficked women encounter high rates of physical and sexual violence including homicide torture, psychological abuse etc. Regarding control; this evil there are several laws which deal with specific forms of trafficking for example; immortal trafficking for commercial sexual exploitation. It is exploitation of humans for commercial sex which includes prostitution pornography sex tourism etc. Victims of sex trafficking often face physical injuries, psychological

trauma, venereal diseases like HIV/ AIDs etc. There are various laws to deal with human trafficking. The INDIAN PENAL CODE, 1860 and Section 347 of the constitution explains that; any person wrongly confines any other persons to exhort from them or to constrain them to engage in acts. illegal.

- **FEMALE INFANTICIDE AND FOETICIDE:** Female infanticide is the intentional killing of new born female babies due to the preference for males. Foeticide is the abortion of a female foetus outside of legal methods. Dowry system, poverty, births to unmarried women, deformed infants, lack of support services and maternal illness etc. are the reasons for this problem. The female infanticide prevention act 1870 was a legislative act passed in British India to cease the murder of females. This act declares that female infanticide is illegal and considered as equal to murder.
- **FORCED PROSTITUTION:** Prostitution is the exchange of sexual acts for money, food, drugs or something else of value. Forced prostitution is also known as involuntary prostitution or compulsory prostitution or sexual slavery which takes place as a result of coercion or forced by third party. According to the report 1918 study reveals that; in India there are 20 million commercial prostitutes.
- **EVE TEASING:** Eve teasing is an assault or sexual harassment of women either verbally or by making any type of vulgar gestures in a public place. For example; touching, winking, vulgar gestures, sexual remarks, whistling etc. The person whoever commits the offence of eve teasing shall be punished with imprisonment of either for a term which may extend to five years. Whoever commits the offence of eve teasing shall be punished u/s 376 G with imprisonment of either description for a term which may extend to 5 years and shall be liable to fine.
- **MOLESTATION:** Molestation is another form of violence against women or it is commonly known as sexual abuse. It is the forcing of sexual behaviour by a man over the women. It is a sexual exploitation of a girl child or woman by an adult or male person for sexual gratification.
- **SEXUAL HARASSMENT:** Sexual harassment is any type of harassment involving the use of explicit or implicit sexual overtones including the unwelcome and inappropriate promises of rewards in exchange for sexual favours, verbal or physical harassment of a sexual nature etc. in other words it is referred to as any sort of unwelcomed, uninvited action or behaviour which caused discomfort, humiliation, or distress to a person. The examples of sexual harassment are personal insults, intolerance, derogatory, jokes racial slurs etc. In modern legal context, sexual harassment is illegal. Sexual harassment is considered as a violation of women's fundamental right to equality, which is guaranteed by Article 14 and 15 of the constitution. There are some sections in Acts/ sections protect the dignity of the female; the acts like Indian Penal Code section 294, 354, 354 A, 354 C, 354 D, 499, 503 are protect the females from being harassed.
- **DOWRY HARASSMENT AS A CRIME:** Dowry system in India refers to the giving and taking of durable goods, cash, movable property that the bride's family gives to the bridegroom, his parents and his relatives as a condition of the marriage. In other words, dowry means any property or valuable security given or agreed to be given either directly or indirectly. Dowry harassment is a cruelty or torture on women with objective of forcing her to meet a demand for property or valuable security in the form of dowry is a crime. Dowry prohibition Act enacted on 1961, intended to prevent the giving or taking of dowry. This legislation (Act) provides a penalty in section 3 if any person gives or takes or receiving dowry. The punishment could be imprisonment for minimum 5 years and fine of Rs. More than 15000 or the value of the dowry received, whichever is higher.
- **TORTURE AND CRUELTY:** Torture has been carried out since ancient times. Torture is the deliberate infliction of severe pain or suffering on a person for reasons such as punishment, extracting a confession, interrogation for information or intimidating third parties. The cases of torture committed in India have increasing. Moreover, the number of cases reported from West Bengal, followed by Rajasthan, Andhra Pradesh etc. Cruelty is a characteristic of deliberately causing someone pain. The word cruelty is crudelis which means rude unfeeling or hard hearted. Section 498 A of IPC, husband or relatives of husband of a woman subjecting her to cruelty.

Whoever, being the husband or relative of the husband of a woman, to cruelty shall be punished with imprisonment for a term which may extend to 3 years and shall also be liable to fine.

- **DOMESTIC VIOLENCE OR FAMILY CRIMES:** This is also called as domestic abuse or intimate partners criminal behaviours. The Statistics reveals that, females are at greater risk of experiencing criminal activities from their husband or life partner.
  - **Physical abuses:** Physical violence or physical abuse includes Kicking, hitting, driving dangerously, pushing, trying to choke and physical restraint etc.
  - **Emotional abuse:** This consists; harassment, Stalking, Yelling, insulting etc.
  - **Verbal abuse:** This type of abuse or violence against women includes; name calling, criticism, attack on some ones intelligence etc.
  - **Sexual abuse:** Sexual abuse includes; rape, sexual jokes, forced sex, unwanted touching, deliberately causing pain during sex etc.
  - **Financial abuse:** This includes restricting their access to money, credit cards or bank accounts and identity theft etc.
  - **Social abuse:** This includes; keeping someone away from family and friends, controlling whom they; see, monitoring phone calls, insulting or undermine in front of others.

### CYBER CRIMES AGAINST WOMEN:

New technologies create new criminal opportunities by using digital technology. In simple we can say that cybercrime is unlawful acts wherein the computer is either a tool or a target or both. Cybercrime is also called computer crime, cybercrimes especially involving the Internet. The use computer as an instrument to illegal ends, for example committing fraud, pornography and intellectual property, stealing identities or violating privacy. Technology Act 2000 is popularly known as the IT Act. The first ever cybercrime was recorded in the year 1820. The penalty for such acts is imprisonment and fines up to 2 years and Rs. 2000 respectively.

- ❖ **ACID ATTACKS OR ACID THROWING:** An acid attack is also known as acid throwing; it is a kind of violent. Assault involving the act of throwing acid or similar substance. The motivation behind the acid attack is rejection of marriage or sex. With intention to disfigure, torture or kill. In recent days acid attacks are commonly reported in many parts of India, more in developing countries. Section 326A of IPC section provides minimum 10 years imprisonment for the offence of causing hurt by acid attack and with fine.

### CONSTITUTIONAL PROVISIONS TO CURB GENDER VIOLENCE:

Constitution of India provided equal status and opportunities for both men and women. Article 14 of the Indian constitution states that state shall not deny any person equality before law. Article 15 states that; the state should discriminate against any citizen on grounds of sex, caste, religion or any other grounds. However, Article 15 (3) (e). indicates; states shall provide special provisions in favour of women. Article 16 guarantees equal opportunities for all citizens in related to appointment and employment opportunities.

Article 21 of the Indian constitution holds that; mere existence is not the right to live but it is the right to live with dignity. Article 23 guarantees right against exploitation. Article 38 it requires state to strive to eliminate inequalities in status, facilities, and opportunities. Article 39 declares; men and women have to an adequate and equal right to means of livelihood. Article 39 (d) provided equal pay for equal work for both men and women.

Article 42 provided that; state shall make provision for securing just an humane conditions of work and for maternity relief. Article 45 provided free and compulsory education until they reach the age of 14 years. Article 46 strive towards gender just society, in order to improve the conditions of women. Article 47 facilitated the to raise the level of nutrition and the standard of living of its citizens. Article 51 renounces practice of derogatory the benefits and the dignity of women. Amendment of the Indian constitution (Article 73 & 74) act 1993 was the land mark attempt to ensure political

empowerment of women reservation seats in panchayat system. Thus; the dream of Gandhiji i.e. feminization of politics has been achieved.

### LEGISLATIVE MEASURES:

- Abolition of sati practice act of- 1829
- Widow remarriage act of -1856
- Child marriage abolition amendment act of – 1860
- Rape sec. 376 IPC act
- Hindu marriage and divorce act- 1955
- The immoral traffic prevention act- 1956
- Dowry prohibition act of 1961
- Indecent representation of women (prohibition)act- 1986
- Medical termination and pregnancy act of -1974
- Domestic violence act of 2005
- Kidnapping and abduction section- 363-373
- Torture both mental and physical section- 498 IPC
- Molestation IPC Section -354
- Sexual harassment Section- 509 IPC etc.

### SUGGESTIONS & RECOMANDATIONS:

Fight for gender justice and fight against men. It is fight against traditions that have chained the women. A fight against attitudes that ingrained in the society. It is fight against system. Women, yet need support, resource, training and freedom from men. There should be the need of tolerance towards women and also spirit of live and let live. Change of heart, attitude and also change in mindset is also equal important to curb crimes against women. ManuSmruthi which was given in 200 BC i.e. a girl, a woman or even an aged could not do anything independently. In childhood, a female must be subject to under control of her father, in youth to her husband and at her old age to her sons.

The Government is making lot of efforts towards minimising crime against women but the efforts of the Govt. and its implementation tardy, as the lower-level government functionaries are not gender sensitive and women folk is also not more alert and sensitive regarding all these sorts of crimes against women.

Hence, yet need to create awareness about social issues and change in attitudes towards all kinds of violation against women.

- ❖ Collective awareness should be more essential
- ❖ Provide to socio-economic security
- ❖ To make necessary changes in the procedure and approaches of judiciary administration to get desired results
- ❖ Building confidence among women
- ❖ Promoting awareness of human rights and laws
- ❖ Women should voluntarily involve to take decisions in all matters
- ❖ There is the need of social awareness, socialization and motivation among the women
- ❖ To conducting local camps
- ❖ Conducting para legal training programmes for social workers and NGO's
- ❖ Political will is essentially needed for the upliftment of women
- ❖ Policies, programmes and laws made for woman development should be in simple language
- ❖ The programmes for women being holistic and integral approach is the need of the hour

### CONCLUSION:

In modern age due to democratization/ homogenization, modernization, globalization and women's liberation movement the role and status of the women has changed considerably in post-independence era. But again, this changed scenario has given ample impetus for men to exploit

women. Women in India is still exploiting and ill-treated. However; the constitution and legal provisions are playing a significant role in tackling all sorts of crimes against women.

The constitution not only guaranteed equality but also empowers the women in all fields of life. Indian constitution, 1950 played the significant role in reducing the discrimination. There are many provisions in the Indian constitution which are against the discrimination between genders. Preamble of the Indian constitution does not discriminate men and women but on the other treats them equal in all respect and aspects. Women are suffering from long period in India. Even after the several legislative and other measures by the Government the speed of crime against women is not declining.

Women represent almost half of the total population of our country and their participation in development programme is counted for imperative significance. No schemes; whether of economic development or social development can be successful unless women play their constructive role in such programs. Crimes have physical and psychological impact on women which caused for women from leading a standard life. Crimes against women harm families and communities across generations. Therefore; mere legislations cannot work effectively. The need of the hour is to change our attitudes, mindset and severe punishment for criminals and also there should not any body's interference.

In spite of the social imbalances existing in the society, there has been considerable improvement in their socio-economic and political status and today women folk occupy good positions. Therefore, women's role in directing and shaping the destiny of the society is very significant and crucial.

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