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Crime Against Women In India

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Received-13.11.2022, Revised-19.11.2022, Accepted-27.11.2022 E-mail: aaryvart2013@gmail.com

Abstract: *Crimes against women in India represent a pervasive and deeply rooted social issue that continues to challenge the country's progress towards gender equality and justice. This abstract explores the nature, extent, and causes of crimes committed against women, which range from domestic violence, sexual assault, and dowry-related harassment to human trafficking, honor killings, and cybercrimes. Despite constitutional provisions and legal frameworks designed to protect women, including laws like the "Protection of Women from Domestic Violence Act, 2005", and the "Criminal Law (Amendment) Act, 2013", the incidence of crimes against women remains high. This paper delves into the socio-cultural, economic, and institutional factors that contribute to these crimes, including patriarchal attitudes, gender-based discrimination, and gaps in law enforcement. Additionally, it examines the role of media, civil society, and the judiciary in both exacerbating and addressing these issues. The abstract highlights the need for more effective implementation of laws, widespread gender sensitization, and reforms in the criminal justice system to ensure timely justice and prevent violence against women. The ongoing struggle to protect women's rights underscores the urgent need for sustained efforts at multiple levels-legal, social, and political-to combat crimes against women and create a safer, more equitable society.*

Key Words: Domestic violence, crime against women, criminal, legal, social and political.

By definition "A woman with a voice is a strong woman. But the search to find that voice can be remarkably difficult."- Melinda G., philanthropist.

Laws are essential for regulating and sustaining society, just as women are a pivotal element in societal evolution. Even in ancient times, women were highly regarded, and rulers appointed females to their councils to deliberate on political matters. From the outset, they must fight for their rights, since they are always seen as the marginalized segment of society. They must continually validate their worth, and in many civilizations, they are prohibited from voicing their opinions, leaving them vulnerable to assault and abuse.

Numerous practices were only deemed illegal with the enactment of relevant legislation, such as the practice of Sati, which was forbidden by the Sati (Prevention) Act of 1987. The Act prohibits sati, the practice of forcibly or voluntarily burning a widow alive.

Sati was first prohibited by the Bengal Sati Regulation of 1829, and other social reformers endeavored to eradicate such barbaric customs. Raja Ram Mohan Roy was a prominent social reformer advocating for women's welfare.

Numerous egregious practices confront women, such as child marriage, dowry harassment and the trafficking of girls. This prejudice is evident in the workplace, where they get lower compensation than their male peers.

The progress of civilization has resulted in several laws that provide extensive rights to women. These rules elevate the status of women, rendering them no longer subjects of brutality or harassment.

CAUSES OF CRIME AGAINST WOMEN IN INDIAN SOCIETY

A marginalized segment of society includes women, who are seen as a weaker group and are viewed as inferior to males. They are the most vulnerable target during conflicts between two groups or among society at large. Perceived as a marginalized group, they are unable to combat the injustices they encounter in society. Due to this patriarchal structure, people endure suffering in silence both at home and in public. Crimes such as physical injury, rape, sexual harassment, and acid attacks are used as instructive examples for antagonistic groups.



The increase in crimes against women may be ascribed to their diminished standing in society. Attitudes regarding women have not much evolved since traditional times. Due to patriarchy, women are seen as a burden in society, resulting in their denial of education. Women are seen as commodities. The low educational attainment of women results in their economic dependence, exacerbating their societal conditions.

Women encountered violence inside their homes, workplaces, and society at large. The subordinate status of women pertains not just to rural areas but also to metropolitan areas. The male demographic in society has a very conservative worldview. Women who do not adhere to the detrimental patriarchal standards of society may encounter significant repercussions, although having no culpability.

PROTECTION FOR WOMEN UNDER INDIAN CONSTITUTION- The Constitution of India is the supreme legal authority, and no legislation may be enacted that is ultra vires the Constitution. All laws get their authority from the Constitution, which mandates equitable treatment of all individuals regardless of caste, race, sex, or religion. The Fundamental Rights are contained in Part III of the Constitution, and they can be enforced in a court of law through writs issued under Article 32 in the Hon'ble Supreme Court of India or Article 226 in the respective High Courts. The right to equality for all people, regardless of caste, color, gender, or place of birth, is addressed in Article 14 of the constitution.

In, "Air India vs. Nargis Mirza - the court held that the termination of service on pregnancy was unreasonable and arbitrary, therefore violation of Art. 14".

In "Indian Young Lawyers Association and Ors. vs. The State of Kerala and Ors The Hon'ble Supreme Court of India held that the entry of woman of any age is allow in the temple and ban of entry is the violation of the Fundamental Right under article 14, 19 and 25 of the Indian Constitution. If we read the Article 15(3) of the Constitution it says, Nothing in this article shall prevent the State from making any special provision for women and children. It simply means that the Government has the power to make any special law for woman so that their status in society can be uplift. The protection of the woman has also been provided under Article 39(d) in The Constitution of India which states, That is the duty of state to pay equal pay for equal work both to the men and the women".

LEGAL PROVISIONS FOR WOMEN ARE AS UNDER:

Maternity benefit act 1961: a woman is entitled 12 weeks maternity leave with full wages.

The dowry prohibition act, 1961

The equal remuneration Actr of 1976

The medical termination of pregnancy act of 1971

OFFENCES UNDER INDIAN PENAL CODE

The "I.P.C. is the Uniform Code it is apply to all people throughout the territory of India".

This legislation encompasses the provisions that offer protection to women against numerous offenses. Law is a dynamic notion that evolves in response to societal requirements. The law is rendered ineffective if society does not adapt to it.

Numerous amendments have been enacted via different Criminal Amendments; notably, the Criminal Amendment Act 2018 increased the sentence for rape, referencing the Protection of Children from Sexual Offences Act 2012.

"Section 304B - Dowry Death - (1) If a woman dies due to burns or bodily injury, or under abnormal circumstances within seven years of her marriage, and it is demonstrated that she was subjected to cruelty or harassment by her husband or his relatives in relation to a dowry demand shortly before her death, such a death shall be classified as 'dowry death', and the husband or relative shall be considered responsible for her death. Clarification. In this sub-part, "dowry" shall be defined as per section 2 of the Dowry Prohibition Act, 1961".

Any anyone found guilty of dowry death will face imprisonment for a minimum of seven years, which may increase to life imprisonment.



This clause was added by the Criminal Amendment Act of 1986.

- * The following are the components of Indian Penal Code Section 304 - B:
- * When a woman dies from burns or other physical injuries under unusual and suspicious circumstances.
- * Within the first seven years of marriage.
- * Dowry-related demands are cited as the cause of the death.
- * The expression shortly before her passing
- * The lady endured brutality or harassment from her husband or any of his family.

In "Kamlesh Panjiyar v. the State of Bihar", The Honorable Supreme Court observed that- Marriages are made in heaven is an adage. A bride leaves the parental home for the matrimonial home, leaving behind a sweet memory there with a hope that, she will see a new world full of love in her groom's house. She leaves behind not only her memories but also her surname gotra and maidenhood. She expects not only a daughter-in-law but a daughter. Alas! the alarming rise in the number of cases involving harassment to the newly wedded girls for dowry shatters the dreams. In-laws are characterized to be out-laws for perpetrating terrorism which destroyed the matrimonial home. The terrorist is dowry, and it is spreading tentacles in every possible direction"

S.C. WIDENS THE SCOPE OF SECTION 304-B- The ruling of CJI Ramana transcends a rigid and literal reading of the section.

In a decision issued on Friday, the Supreme Court stated that efforts to combat the "long-standing social evil" may have been hampered by a literal and rigid interpretation of the criminal clause.

From 1999 to 2018, dowry deaths accounted for 40% to 50% of all deaths in the nation. the decision made by a panel of three judges led by India's Chief Justice.

N.V. Ramana described dowry harassment as a "pestiferous" crime in which "covetous" spouses and in-laws torture women.

According to Section 304-B of the Indian Penal Code, 7,115 dowry-related deaths were reported in 2019.

However, the judiciary has consistently been perplexed by Section 304-B's terminology. One of the many legal measures taken to stop dowry was a strict and limited interpretation of the Article that courts have frequently chosen.

The opinion was written by Chief Justice of India N.V. Ramana, who said that courts should give Section 304-B a wide interpretation because the law aims to punish dowry and bride-burning.

According to "Section 304-B, to make out a case of dowry death, a woman should have died of burns or other bodily injuries or otherwise than under normal circumstances within seven years of her marriage. She should have suffered cruelty or harassment from her husband or in-laws soon before her death in connection with the demand for dowry".

Historically, "courts have construed the term 'soon before' in Section 304-B as synonymous with 'immediately before'. This view necessitates that a lady was harassed just before to her death. The supreme court said in its verdict on Friday that such "absurd" interpretations should be avoided".

Instead, C.J. Ramana said "the prosecution needed to show only a proximate and live link between the harassment and her death".

"It is safe to deduce that when the legislature used the words 'soon before' they did not mean 'immediately before'. Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal, or even emotional... No straitjacket formulae can therefore be laid down by this court to define what exactly the phrase 'soon before' entails, C.J. Ramana explained".

"The court further said the phrase otherwise than under normal circumstances in the Section also calls for a liberal interpretation. Section 304-B, IPC does not take a pigeonhole approach in categorizing death as



homicidal or suicidal or accidental. The reason for such non- categorization is because death occurring 'other than under normal circumstances can, in cases, be homicidal or suicidal or accidental, Chief Justice Raman noted the judgment also raised concern about the casual way in which trial courts examined accused persons in dowry death cases under Section 313 of the Code of Criminal Procedure. The examination of the accused about the incriminatory material against him should be done fairly. The court must put incriminating circumstances before the accused and seek his response. He should be given sufficient opportunity to give his side of the story. The court should question the accused fairly, with care and caution. Due to the precarious nature of Section 304-B, judges, prosecution and defense should be careful during the conduct of the trial."

Section 326A: Using acid, etc., with intent to cause severe injury

Section 326-A pertains to the offense of intentionally inflicting severe injury by the use of acid, among other means. This section covers the following topics:

- * "Causing permanent or partial damages or deformity to any person
- * Causing burns
- * Any person who maims or disfigures or disables any part or part of the body of a person ,or
- * Causing grievous hurt by throwing acid or by administering acid , or
- * Causing injury by any other means".

Section 326B - Voluntarily discharging or trying to discharge acid.

The following actions are subject to penalties under this section:

- * Throwing or trying to hurl acid on any anyone, or
- * trying to give acid to any person, or
- * Attempting to use any other method with the goal of
 - a) Inflicting permanent harm; or
 - b) Inflicting partial damages; or
 - c) Inducing the malformation; or
 - d) Inducing the burns; or
 - e) Inflicting severe injury; or
 - f) Inflicting deformity, disability, or severe injury.
 - g) These injuries may affect any individual.

Acid attack case- In "State of U.P. vs. Smt. Aqueela - this over the years various kinds of acid attacks have been registered under this section related to hurt, grievous hurt, murder etc. In most of the cases no compensation has been awarded".

In "Laxmi vs. U.O.I & Ors. - a landmark judgement on the guidelines laid down by S.C. for acid attack case."

Sec. 354. Against a woman with the intention of violating her modesty, assault or criminal force

Any person who assaults or uses criminal force against a woman with the intention of violating her modesty or with knowledge that such actions are likely to violate her modesty faces up to two years in prison, a fine, or both.

Consequently, for this offense to arise, the following conditions must be met:

- * A woman must be the target of the assault.
- * The woman must have been harmed by the accused.
- * The application of such criminal force must be intended to shock her modesty.

The word modesty is not defined in this statute, but several courts have interpreted it via notable judgments.

In "Rupan Deol Bajaj vs. K.P.S. Gil" - was related to guild of the charges of molestation".

In the "Ram Kripal S/O Shyam Lal Charmakar v. State of the Madhya Pradesh it was held that, the test to determine the modesty of a woman has been outraged is whether action of offender is such as could be perceived as



one which is capable of shocking sense of decency of a woman. By the way of the Criminal Law (Amendment) Act 2013 the four new sections has been inserted in order to protection of women".

Section 354-A-Sexual Harassment -This Section includes the various form of the Sexual Harassment which includes -

- * Uninvited physical contact and approaches with explicit sexual propositions; or
- * A solicitation or request for sexual favors; or o Displaying pornography without a woman's consent; or
- * Engaging in sexually explicit comments shall constitute the offense of sexual harassment. Section 354-B: Assault or use of criminal force on a woman with the aim to disrobe.- The following actions constitute an offense under this section:

- * Assaulting the female
- * Employing criminal force against any lady
- * Facilitating any of the aforementioned actions
- * Such abetment must be intended to disrobe a lady or cause her to be unclothed.

In "Vishakha vs. State of Rajasthan" - S.C. of India provided a landmark judgement on the area of sexual harassment at workplace against women".

Section 354-C. Voyeurism - This section stipulates that any male who observes or records a woman partaking in a private act commits an offense.

The dissemination of such a picture is an offense and is penalized upon first conviction.

Section 354-D. Stalking - The following actions are deemed criminal under this section:

Any guy who pursues a woman and initiates or tries to initiate contact with her is deemed to have committed an offense. The aforementioned actions must aim to promote persistent human engagement despite evident indifference from the woman, or any guy who surveils a woman's use of the internet, email, or any other electronic communication is likewise committing an offense.

Section 366-Kidnapping, abducting, or inducing a woman to force her to marry-punished anyone who, with the intention of marriage, kidnaps, abducts, or incites a woman, married or not, to force her to marry.

Section 376: Rape: "A man is considered to have committed "rape" if, with the exception of the case discussed below, he engages in sexual activity with a woman in any of the following six situations:

(First) - despite her wishes. (Secondly), without her permission.

(Thirdly) - With her consent, if her consent has been obtained by placing her or any person she is interested in in danger of harm or death.

(Fourthly) - With her consent, if the man is aware that he is not her husband and she gives her consent because she thinks he is another man to whom she is or believes she is legally married.

(Fifthly) - With her consent if, at the time of giving such consent, she is unable to comprehend the nature and consequences of that to which she gives consent due to unsoundness of mind, intoxication, or the administration of any stupefying or unwholesome substance by him personally or through another.

(Sixthly) - When she is under the age of sixteen, with or without her consent. Explanation: The sexual intercourse necessary for the crime of rape only requires penetration.

(Seventhly) - When she is unable to communicate consent.

(Exclusion:) It is not rape when a man has sex with his wife when the wife is older than 15 years old.]"

"But the above mention exception has been declared inconsistent with the POCSO through the Judgment Independent Thought vs. Union of India, and it was held that the Sexual Intercourse with the wife under the fifteen year of is also considered to be the Rape as the Protection of Children from Sexual Offences Act, 2012 says that, "the child means the person under the Eighteen years of age". And it is the irrelevant ground that the girl is the wife of that person. As per the provision of the POCSO the said girl is considered to be the child and making the sexual intercourse



with her is the offence under the same Act".

Nirbhaya case:

"Nirbhaya was a 23 year old girl who was physiotherapist intern. She was gang raped in Delhi in December 2012. She was raped in a moving bus at night when she was returning home. Nirbhaya was with his friend who was knocked down with iron rod by six rapists. The incident happened that night shook the whole nation. She was brutally raped. This crime provoked huge protests throughout the country. It was 16 December 2012 which is called as dark fateful night. This incident shook the nation and after the happening of this incident many laws were amended, fast track courts were introduced. And the list of crimes also included voyeurism, stalking, and intentional touching. Even the driver of the bus in which the crime has been done, committed suicide in Tihar jail. The accused were sentenced to death and one of them was sent juvenile court as he was a minor. The severity of punishments given to the accused of the crime of rape has been increased. The Indian Penal Code defines the punishments of the rapists according to the magnitude of the crime that how brutally it has been done. Immediately after the Nirbhaya incident on 23 December a three member committee was constituted which was headed by Justice J.S. Verma the chief justice of the Supreme Court. The report was submitted by the committee on January 23, 2013. That report provide recommendations on the laws that are related to rape, medical examination of survivors, trafficking, sexual harassment, child sexual abuse, police. The rape is differentiated within and outside the marriage in IPC. Some main schemes or proposals constructed by Verma committee after the brutal Delhi gang rape; It listed voyeurism, intentional touching and stalking in the category of offence.

- * Made amendments in the rape laws.
- * Analysis of security laws in disputed areas.
- * Observe legal patriarchal rural panels.
- * Human trafficking
- * Observe medical examination of rape victims.
- * Police reforms

Section 498A -Cruelty-following are the Ingredient of this Section-

- * The woman ought to tie the knot.
- * Cruelty or harassment should not be shown to a married woman.
- * The husband or the husband's relatives should be responsible for the harassment or cruelty.
- * The husband or the husband's relatives should have a Mens Rea.

In addition, "the Hon'ble Supreme Court ruled in the case of Pawan Kumar and others v. State of Haryana to strengthen society's faith in the country's legal system and to bring about justice for the deceased".

"The wife who died within 7 years of the marriage, which is the result of dowry death by committing suicide, then along with section 304 - B of the I.P.C and section 498 - A of the I.P.C. the accused can also be held liable under section 306 of the I.P.C. (which says Abetment of the attempt to commit suicide) as the treatment of the accused forced the wife to do so".

Criminal Procedure Code 1973- Section 125: Maintenance: The maintenance system was introduced into society solely to support women. The idea of maintenance is very old. This section applies to all Indian communities, regardless of religion, and is uniform in nature.

According to this section, the wife is entitled to maintenance if the husband has sufficient means and neglects or refuses to support his wife.

"The same thing has been said by the Hon'ble Supreme Court of India, through the Judgment of Mohd. Ahmed Khan v. Shah Bano Begum, it was held that the Muslim woman is also entitled to maintenance under this section, as for this section is uniform in nature and this uniformity strengthen the national Unity. Similarly in Shamim Ara case, the SC declared that the triple talaq is not a valid talaq."



Section 198A in The Code Of Criminal Procedure, 1973

Section 198A. "Prosecution of offenses under section 498A of the Indian Penal Code. No Court shall take cognizance of an Offence Punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offense or Upon a complaint made by the person aggrieved by the offense or by her father, mother, brother, sister, or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption".

Committal Of Dowry Related Death Cases -Section 209- In "Bajrang Lal v. State of Rajasthan that under Section 209, the Magistrate is only to examine the police report and other documents mentioned in Section 207 and find out whether the offense is exclusively triable by the Court of Session. Once, he reaches this conclusion, he has to commit the case for trial to the Court of Session. Informing the above opinion, the Magistrate is not to weigh the evidence and probabilities in the case; he is not required to hear the accused. He is only to consider whether a prima facie case is disclosed or not and is not competent to satisfy the merits of the case whether a prima facie case is made out or not".

CONCLUSION- There are a lot of laws, make for women protection and statutes that were passed by the legislature to protect women from various crimes, but in practice, these laws and provisions are useless because people don't feel threatened by them. Second, even if women are aware of their rights, they are unable to exercise those rights due to a lack of education and knowledge. Even though such complaints have been around for some time, the concerned authorities have not taken any severe action against them. The authorities' carelessness results in ongoing suffering from such things. In order to prevent such crimes against women, the legislature must conduct annual surveys and establish committees on a regular basis so that, rather than drafting theoretical laws, they can accurately reflect society's actual conditions. Women's awareness camps should be organized by the national and state women's commissions so that women in society can learn about the laws. Additionally, it is the responsibility of the courts to punish those who commit such offenses. So that these cases can be resolved, a speedy trial should be held. In addition, the court has the authority to issue obiter dicta, which serve as guidelines.

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