

CRUELTY AGAINST WOMEN IN INDIAN PENAL CODE

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ABSTRACT:

Women were considered inferior to men in practical life. But in scriptures they were given high position. Thus in past, the status of women in India was not clear. It was theoretically high but practically low. Women were prohibited to take part in domestic as well as in external matter. There are a variety of psychological, economical, sociological forms of victimization of women. In our society we have been seen that women are economically discriminated at working places. At the same time women are also exploited physically, emotionally and sexually by their husbands. It is shocking to hear that women had no right to decide whether they could continue their pregnancy or terminated it. The following are categories of crimes against women in India: Sexual offences, Offences for gain, Molestation and rape, Harassment at home leading to suicide and murder of young brides, Immoral trafficking, exploitation of women. Physical torture,

INTRODUCTION

“That country and that nation that do not respect women have never become great, nor ever be in future”. Women are considered as a weaker sex not only from physical point of view but also from sociological aspect also. When we refer to smritis, we notice that woman has always been dependent on man. During child hood, on her father, after marriage on her husband, and during her old age on her son. However in olden times we find say “Where women are respected there Gods reside” Mahatma Gandhi once observed[i]. To call women a weaker sex it's liable in mans injustice to women if by strength means brute strength, then indeed women are less brute than men. If by strength means moral power then women is work of Gabon the spirit

of man in every position like priest, husband guardian perpetuated the female sex as to obey the man but no one questioned as to why she must be treated as obeying person. Women were considered inferior to men in practical life. But in scriptures they were given high position. Thus in past, the status of women in India was not clear. It was theoretically high but practically low. Women were prohibited to take part in domestic as well as in external matter. They were under the influence of their parents before marriage and their husbands after marriage. Thus, the position of women in ancient India was inferior. The position became worse even during the Moghul rule. They could not overcome the nasty Pardah system of the time. Further, there was the custom of Sati. Many women were forcibly sent to the funeral pyre of their dead husbands. There was no change in the fate of women even during the British rule in India. The situation began to change when many national figures started a struggle for India's freedom. Mahatma Gandhi openly invited the help from women. Many women came forward. Among them were Sarojini Naidu, Vijaya Laxmi Pandit, Mrs. Aruna Asaf Ali and others[ii]. Many women thereafter occupied prestigious positions in India. They excelled in almost all fields such as sports, politics, administration, science and arts.[Final Strategy 2010-2013, 2010](#)

Keywords: Women Trafficking, Exploitation, Harassment, Sexual Offences

OBJECTIVES

- To study about the cruelty against women in ipc
- To seek the meaning of crime against women in ipc
- To search the provisions they seek provided justice of women's or crime committed towards under ipc
- To delve about the legislations passed

HYPOTHESIS

NULL HYPOTHESIS

- As women freedom is the main reason for cruelty against women in many countries.

POSITIVE HYPOTHESIS

- Legislation passed gradually development in punishment for offence against women many countries

RESEARCH METHODOLOGY

The method used in this research paper is doctrinal method. The present study demands an analytical and descriptive type of research. The data I collected for this research is secondary data from various sources. The sources I took are books, websites, references, articles, journals.

CONTENT OF THE PAPER

CLASSIFICATION OF OFFENCES AGAINST WOMEN

Women are victims of crimes such as rape, murder, robbery, cheating etc. Which are not specially directed at them, there are designated as crimes against women, which are directed specifically against them and are detailed herein.

INDIAN PENAL CODE, 1860:

Rape (section 375-377)

Sexual offences: as per section 375 to 377 of IPC talks about sexual offences as per section 375 defined as Rape, this term is derived from the Latin term *rapio*, which means to seize. Thus rape literally means a forcible seizure and that is essential characteristics of offence. We can also say that intercourse with a woman without her consent. [Healy & O'Connor: The Links Between Prostitution and Sex Trafficking: Briefing Handbook \(2006\).](#)

As per section 375 : A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with woman under circumstances falling under any of the six following descriptions:-

Firstly- Against her will.

Secondly- Without her consent. Thirdly- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly- With her consent, when the man knows that he is not her husband, and that consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. [Final Strategy 2010-2013, 2010](#)

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

Sixth- With or without her consent, when she is under age of sixteen years.

[iii]

Essentials ingredients of section of 375:

- There must be sexual intercourse with a woman by a man;
- Such a sexual intercourse should be under any of the following circumstances:
- Against her will;
- Without her consent;
- With consent obtained under fear of death or hurt;
- With consent given under misconception of fact that the man is her husband;
- Consent given by reason of unsoundness of mind, intoxication or under influence of any stupefying or unwholesome substance;
- With women under 16 years of age, with or without consent.

Punishment for Rape:

Section 376. Punishment for rape.—(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years. Healy & O'Connor: The Links Between Prostitution and Sex Trafficking: Briefing Handbook (2006). (2) Whoever: (a) being a police officer commits rape-

- Within the limits of the police station to which he is appointed; or
 - In the premises of any station house whether or not situated in the police station to which he is appointed; or
 - On a woman is his custody or in the custody of a police officer subordinate to him; or
- (b) Being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
- (c) Being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's

institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) Being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

(e) Commits rape on a woman knowing her to be pregnant; or

(f) Commits rape when she is under twelve years of age; or

(g) Commits gang rape,

Shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years. National Rape Crisis Statistics 2011.

OFFENCES AGAINST WOMEN IN INDIA

There are a variety of psychological, economical, sociological forms of victimization of women. In our society we have been seen that women are economically discriminated at working places. At the same time women are also exploited physically, emotionally and sexually by their husbands. It is shocking to hear that women had no right to decide whether they could continue their pregnancy or terminated it. The following are categories of crimes against women in India: Sexual offences, Offences for gain, Molestation and rape, Harassment at home leading to suicide and murder of young brides, Immoral trafficking, exploitation of women. Physical torture, Mental Cruelties. [European Women's Lobby Barometer on Rape Report - 2013.](#)

CAUSES OF CRIME AGAINST WOMEN IN INDIA

Crimes against women is not considered from only physical point of view but also sociological aspect also. There are records of women raped, beaten, abduct, and given humiliating treatment. Women have been subjected to socioeconomic and culture deprivations for such a long time that there is a general indifference and lack of awareness of crimes against them. Over 32000 murders, 19,000 rapes, 7500 dowry deaths and 36500 molestation cases are the violent crimes reported in India in 2006 against women.[xii] At least one out of three women has been beaten, forced into sex, or abused during her lifetime, according to a study based on 50

surveys from around the world[xiii]. On most occasions, the abuser was a member of the woman's family or someone known to her.

- One woman in four has been abused during pregnancy.
- More than 60 million women worldwide are considered 'missing' as a result of sex-selective abortions and female infanticide, according to an estimate by Nobel Laureate Amartya Sen.
- The World Health Organisation has reported that up to 70% of female murder victims are killed by their male partners.;
- 1 crime committed against women every three minutes;
- 1 molestation case every 15 minutes;
- 1 sexual harassment case every 53 minutes;
- 1 kidnapping and abduction case every 23 minutes;
- 1 rape case every 29 minutes;
- Four out of 10 women in India have experienced violence in the home;
- 45% of women have suffered at least one incident of physical or psychological violence in their life;
- 26% have experienced at least one moderate form of physical violence;
- More than 50% of pregnant women have experienced severe violent physical injuries.
- According to the NCRB, approximately 6,000 women are killed in India every year because of dowry. Unofficial estimates are as high as 15,000 deaths a year. In other words, between 16 and 40 women die every day because of dowry.

Mathura rape Case

The infamous rape case of Mathura in the late-1970s was one of the main catalysts for the Indian women's movement campaigns to amend the law on rape. Mathura was a 16-year-old tribal girl from Maharashtra who was raped by a policeman within a police station. When the case went to the lower court, the accused police constable was acquitted on grounds that since Mathura had eloped with her boyfriend she was used to sexual intercourse and hence could not be raped. The court further held that Mathura had consented to sexual intercourse with the policeman because she was of loose moral character. On appeal, the high court convicted the policeman and held that mere passive submission or helpless surrender by threats or fear could

not be equated with consent. The Supreme Court acquitted the policeman again. It held that since Mathura had not raised any alarm and there were no visible marks of injury on her body she had indeed consented to having sex. [European Women's Lobby Barometer on Rape Report - 2013](#)

Women's groups and human rights groups all across India rose in unison to criticize this arbitrary judgment of the Supreme Court, and a sustained campaign for law reform resulted in custodial rape being added to the law on rape in the IPC, and the burden of proof being shifted to the accused in cases of custodial rape occurring within institutions like jails, remand homes, nari niketans, etc. [EU Campaign against Violence 2000](#)

These are following the causes of crime against women:

1. Social causes:
 1. Broken Homes
 2. Psychological environment
2. Orthodox thought:
 1. Personal causes
 2. Unemployment
 3. Poverty
 4. Addiction
 5. Lack of proper moral education

CONCLUSION

In the present work we have tried to put forth before the criminal justice system of India that Indian women are now no safe and always a kind of threat feelings generated among the women that in the present scenario they can be easily victimized from any nook and corner of the society. As per our hypothesis its crystal clear that the sharp increased in crime rates from (7.6%) in 2003 to (8.8%) 2007 in last five years at the national level and when we only compared mega cities with the total national crime rate, it is sharply increased from (24,709) in 2007 to (21,861) in 2006, a total increase of (13.0%) in just one year[xv]. These figures show a hazardous situation in the country like India with respect safety and security of women. Not only that even foreigners are also not been spared who are coming to India as many cases have been booked under rape and murders against the foreigners. In this era of globalization there is an urgent need to motion our Criminal Justice System of India in maintaining law and order

situation of the country that one should feel safe and secure. Within the research and literature around violence against women it seems that all roads eventually lead to the need to readjust structural power imbalances to alleviate the greater privileges men have. However, the lack of clear and definite conclusions about which aspects of this power and how it drives perpetrators of violence indicates that more research is needed into the broad, societal level factors that underlie violence against women. Observations around the persistence of gender hierarchies that accord men greater status despite extensive social changes must be understood.

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