



Violence and Constitutional Guarantees Against Women in India

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ABSTRACT

"Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women's lives, on their families and on society as a whole. Most societies prohibit such violence yet the reality is that too often, it is covered up or tacitly condoned" (Ban Ki-Moon). Violence against Women Any act of gender-based violence that results in or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. Women face violence due to their position of inequality; their vulnerability to violence being exacerbated due to their positions of dependency as well as prevailing patriarchal attitudes. The Indian Constitution guarantees women equality before the law and the equal protection of laws under Article 14 and prohibits discrimination on grounds of sex under Article 15. A unique feature of the Indian Constitution is Article 15(3), which empowers the State to take special measures for women and children. Despite these guarantees, the position of women in India remains unequal.

KEYWORDS : Violence, Constitutional Guarantees and Women.

INTRODUCTION

Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result. These expressions of violence take place in a man-woman relationship within the family, state and society. Usually, domestic aggression towards women and girls, due to various reasons remain hidden. Cultural and social factors are interlinked with the development and propagation of violent behaviour. Violence strikes women from all kinds of backgrounds and of all ages. It can happen at work, on the street, or at home. The abuse of women is effectively condoned in almost every society of the world. A female child grows up with a constant sense of being weak and in need of protection, whether physical social or economic. This helplessness has led to her exploitation at almost every stage of life.

VIOLENCE AGAINST WOMEN THROUGHOUT THE LIFE CYCLE

Phase	Type of violence
Pre-birth	Sex-selective abortion; effects of battering during pregnancy on birth outcomes
Infancy	Female infanticide; physical, sexual and psychological abuse
Girlhood	Child marriage; female genital mutilation; physical, sexual and psychological abuse; incest; child prostitution and pornography
Adolescence and adulthood	Dating and courtship violence (e.g. acid throwing and date rape); economically coerced sex (e.g. school girls having sex with "sugar daddies" in return for school fees); incest; sexual abuse in the workplace; rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape; dowry abuse and murders; partner homicide; psychological abuse; abuse of women with disabilities; forced pregnancy
Elderly	Forced "suicide" or homicide of widows for economic reasons; sexual, physical and psychological abuse

Violence against women causes pain, disability and death to an untold number of individuals every day, in every country in the world. Violence against women was declared to be a violation of human rights by the United Nations (UN) General Assembly in 1993, in its Declaration on the Elimination of Violence against Women. The UN Declaration defined Violence against women as including physical, sexual and psychological violence occurring in the family and general community, which is perpetrated or condoned by the State, and includes traditional practices such as child marriage and female genital cutting/mutilation. Violence against women takes place in a multitude of contexts, including homes, schools, and the workplace. In unstable situations such as armed conflict and its aftermath, or human trafficking, the incidence rates of Violence against women escalate sharply.

The most common type of violence that women experience worldwide is intimate partner violence. The WHO multi-country study observed that lifetime prevalence of physical or sexual violence from an intimate partner was reported by 15-71% of women from 15 sites in ten countries. Women who reported being abused at least once in their lifetime were also more likely to experience a range of poor physical and mental health outcomes than those who had never been abused. Sexual, psychological and emotional violence inflicted by an intimate partner is also widespread. It is estimated that at least one in three women are subjected to some type of intimate partner violence over their lifetime. Female infanticide and sex selective abortion in parts of Asia are so prevalent that sex ratios have been notably altered. Other forms of violence, such as sexual harassment and coercion are common in the workplace and schools worldwide. In situations of international and civil strife, rape is used as a tool of war to terrorize the population. Trafficking displaces and permanently alters the lives of thousands of girls and young women each year, many of whom are sold into sexual slavery.

All types of Violence against women stem from unequal power relations between women and men. Violence against women is used as a means of controlling and curbing women's autonomy and sexual behavior, and is perpetuated by gender norms that mediate expectations regarding the roles women and men are supposed to play in the family, community and society at large. Gender norms also define the parameters of acceptable behavior between boys and girls and men and women in the family, community and society within a given culture. In situations of conflict, violence against women is often employed as a tool of war to humiliate and demoralize the enemy.

CRIME HEAD-WISE INCIDENTS OF CRIME AGAINST WOMEN DURING 2008 - 2012 AND PERCENTAGE VARIATION IN 2012 OVER 2011

Sl. No.	Crime head	Year					Percentage variation in 2012 over 2011
		2008	2009	2010	2011	2012	
1	Rape (Sec. 376 IPC)	21,467	21,397	22,172	24,206	24,923	3.0
2	Kidnapping & abduction (Sec. 363 to 373 IPC)	22939	25,741	29,795	35,565	38,262	7.6
3	Dowry death (Sec. 302 / 304 IPC)	8,172	8,383	8,391	8,618	8,233	-4.5
4	Cruelty by husband and relatives (Sec. 498-A IPC)	81,344	89,546	94,041	99,135	106,527	7.5
5	Assault on women with intent to outrage her modesty (Sec. 354 IPC)	40,413	38,711	40,613	42,968	45,351	5.5
6	Insult to the modesty of women (Sec. 509 IPC)	12,214	11,009	9,916	8,570	9,173	7.0
7	Importation of girl from foreign country (Sec. 366-B IPC)	67	48	36	80	59	-26.3
A	Total IPC crime against Women	186,616	194,835	205,009	219,142	232,528	6.1
8	Commission of Sati Prevention Act, 1987	1	0	0	1	-	-100.0
9	Immoral Traffic (Prevention) Act, 1956	2,659	2,474	2,499	2,435	2,563	5.3
10	Indecent Representation of Women (Prohibition) Act, 1986	1,025	845	895	453	141	-68.9
11	Dowry Prohibition Act, 1961	5,555	5,650	5,182	6,619	9,038	36.5
B	Total SLL crime against Women	9,240	8,969	8,576	9,508	11,742	23.5
	Total(A+B)	195,856	203,804	213,585	228,650	244,270	6.8

National Crime Records Bureau of India

Violence against women has become a prominent topic of discussion in India in recent years. Politicians and media have placed great focus on the issue due to continuously increasing trends during 2008-2012. According to the National Crime Records Bureau of India, a reported incident of crime against women has increased 6.4% during 2012, and a crime against a woman is committed every three minutes. In 2012, there were a total of 2, 44,270 reported incidents of crime against women, while in 2011, there were 2, 28,650 reported incidents. Of the women living in India, 7.5% live in West Bengal where 12.7% of the total reported crime against women occurs. Andhra Pradesh is home to 7.3% of India's female population and accounts for 11.5% of the total reported crimes against women. 65% of Indian men believe women should tolerate violence in order to keep the family together, and women sometimes deserve to be beaten.

LAWS UNDER THE INDIAN PENAL CODE (IPC)

1. Dowry Prohibition Act: any property or valuable (direct or indirect) given before, at or after the marriage
2. Section 304B: Death of a woman within 7 years of her marriage
3. Section 498A: When husband or his family subjects woman to cruelty ("intentional" behaviour that causes serious injury or harassment for dowry)
4. Section 376: Rape law
5. Section 294: Obscene acts and songs
6. Section 354: Intent to outrage a woman's modesty

LAWS RELATING TO VIOLENCE AGAINST WOMEN (VAW)

Laws relating to VAW can be broadly classified into two categories:

1. Crimes under IPC –

Rape, Kidnapping and abduction, Dowry Deaths, Torture-both mental and physical, Molestation, Sexual Harassment etc.

2. Gender Specific Laws –

Pre-conception & Prenatal Diagnostic Techniques Act, 1994, Medical Termination of Pregnancy Act, 1971, Dowry Prohibition Act, 1961,

Protection of Women from Domestic Violence Act, 2005.

PRACTICE OF DOWRY

1. The Dowry Prohibition Act, 1961
2. Sec 304B IPC - addresses the particular offence of dowry death;
3. Sec 498A IPC - addresses the wide-scale violence against married women for dowry.

PROHIBITION OF CHILD MARRIAGE ACT, 2006

1. Was passed with a view to make marriages below the age of 18 years voidable and to provide relief in the matter of child marriages.
2. Every child marriage, whether solemnized before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage.

TRAFFICKING

1. Provisions under The Indian Penal Code, 1860
2. (IPC): Kidnapping, Abduction, Procurement of a minor girl, Importation of girl from a foreign country, Selling & Buying minors for prostitution
3. The Immoral Traffic (Prevention) Act, 1956

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 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.

CONCLUSION

Only legislation and law enforcement agencies cannot prevent the in-

cident of crime against women. There is need of social awakening and change in the attitude of masses, so that due respect and equal status is given to women. It's a time when the women need to be given her due. This awakening can be brought by education campaign among youth making them aware of existing social evils and the means to eradicate same. Mass media can play an active role here as in the present days it has reached every corner of the nation. Various NGOs can hold a responsible position here by assigning them with the task of highlighting socio-economic causes leading to such crimes and by disseminating information about their catastrophic effect on the womanhood and the society at large.

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