

# Crimes Against Women in India

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## Abstract

Crime against women arises as a direct result of violence against them. The issue of violence against women has been the most important issue of women's movement in India since 1974-75. First it was the ever-increasing number of 'dowry deaths'. Then, from 1980, different rape cases for grounded rape as a major issue. This was followed by the revival of the ancient custom of Sati. The limelight next shifted to female infanticide as well as female foeticide. There was the advent of ultra modern medical forms of violence against females through bio medical practices, such as amniocentesis. Domestic violence, sexual harassment at work Crimes against women, like all other acts of violence and crimes, have to be seen in the social, economic and political contexts of power relations. It occurs within class and caste because of patriarchal social relations under which male power dominates. A narrow view of crime and violence sees it merely an act of illegal, criminal use of physical force. But a broader view includes exploitation, discrimination, upholding of unequal economic and social structures, the creation of an atmosphere of terror, threat or reprisal and all forms of religio-cultural and political violence. This research paper will concern with the crimes identified in the Indian Penal Code (IPC) and also those which come under Special Law (SL).

**Keywords:** mutilation, humiliation, exploitation, sexual harassment and kidnapping

## 1. Introduction

"Significant numbers of the world's population are routinely subject to torture, starvation, terrorism, humiliation, mutilation and even murder simply because they are female. Crimes such as these against any other group be recognized as a civil and political emergency" (Bunch and Carillo). United Nations defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such

acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". This encompasses, inter alia, "physical, sexual and psychological violence occurring in the family and in the community, including battering, sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and

violence perpetrated or condoned by the state” (www.un.org). Violence is used to control women and it takes many forms, from rape and murder to female genital mutilation. Women-specific violence has the function of keeping women where they are, that is, within the house in a powerless position. Women become instruments through which the social system reproduces itself and through which systemic inequality is maintained. This is achieved through women’s resource lessness and economic and emotional dependence.

In India, women are guaranteed the rights to equality, freedom, opportunity and protection by the Constitution and several legislations. Despite all this, they continue to be victims of various forms of violence because of the male dominated society, media representation of violence, the increasing crime in society as a result of poverty, illiteracy and ignorance, poor enforcement of legal provisions, increasing consumerism and traditional values. Over the past decades, crime against women has been on increase. Along with this, there has been a growing awareness about this and the registration of crimes has also increased and the awareness of legal provisions of women’s rights has also gone up. In India, three major Acts govern legal trials, which are:

- The Indian Penal Code (IPC)
- The Criminal Procedural Code (CrPC)
- The Indian Evidence Act (IEA)

Crimes, in which women alone are the victims, come under the category of ‘Violence against Women’ and special laws are made to tackle them.

#### Crimes Identified Under the Indian Penal Code

The following forms of violence against women are identified as crimes under the Indian Penal Code.

- Rape (Section 376 IPC)
- Kidnapping and Abduction for different purposes (Section 363-373 IPC)
- Homicide for Dowry, Dowry Deaths or their attempts (Section 302/304-B IPC)
- Torture, both mental and physical (Section 498-A IPC)
- Molestation (Section 354 IPC)
- Sexual Harassment (Section 509 IPC)
- Importation of Girls (up to 21 years of age)

(Section 366 B IPC)

## 2. Crimes Identified Under the Special Laws

There are specific offences identified which are committed under the garb of social practices and which are punishable under special social enactments to safeguard women and their interest. These offences like sati, dowry demand, indecent representations of women, female foeticide, domestic and other forms of violence have been the issues of agitation by social activists, and the government of India has responded by enacting new laws or amending existing ones providing for stringent punishments. Sati, the custom of burning widows on the funeral pyre of their husbands was banned through legislation in 1829. Roop Kanwar’s Sati case in 1987 raised this issue again. There was large protest by women’s organizations all over the country against Sati and its glorification. As a consequence in December 1987, Parliament passed Commission of Sati (Prevention) Act 1987. But this had some shortcomings like it accepted Sati as suicide. The Act does not notice that the women usually do not have a choice.

The Dowry (Prohibition) Act, 1961 made demanding and accepting dowry from the bride’s family a criminal offence. Later amendments to the Act made punishment for offenses more stringent and shifted the burden of proof (that there was no demand for dowry) to the person who is alleged to have taken or abetted the taking of dowry. Any advertisement that relates to the offering of any share of property in consideration of marriage has also been made punishable.

In case of advertisements and portrayal of the image of women in media, the Indecent Representation of Women (Prohibition) Act, 1986, prohibits the indecent representation of women through advertisements, books, pamphlets, etc. One of the worst crimes against women emanating from the misuse of the advances in science and technology in modern times has been the increasing use of technology to determine the sex of the foetus with a view to abort the foetus if it is female. This crime against the unborn girl child is sought to be tackled through banning sex selection under Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994. Foeticide is an offence under the Indian Penal Code and infanticide is tantamount to murder.

The practice of flesh trade or trafficking in women is another crime committed against women. In order to control this the Immoral Traffic (Prevention) Act, 1986 was enacted. This Act covers all those persons who are sexually exploited for commercial purposes.

### 3. Different Crimes Against Women

The problem of violence against women remains a pervasive issue in all societies. Unfortunately, this violence takes many forms and occurs across national, cultural, racial, and religious borders. Violence against women takes various forms. It includes: domestic violence, rape, trafficking in women and girls, forced prostitution, and violence in armed conflict, such as murder, systematic rape, sexual slavery and forced pregnancy. It also includes honour killings, dowry-related violence, female infanticide and prenatal sex selection in favour of male babies, female genital mutilation, and other harmful practices and traditions. Let us see some of the common crimes committed against women in the domestic arena as well as in society at large.

### 4. Domestic Violence

One of the most heinous crimes against women is the sexual, physical and psychological violence that they experience at home and in most cases is committed by someone the women know and are intimate with. In 48 population-based surveys around the world, between 10 to 90 percent of women reported being physically assaulted by an intimate partner at some point in their lives. In some countries one in four women report sexual violence by an intimate partner, and up to a third of girls report forced sexual initiation.

Sexual violence crosses race, class and religious divides. In the U.S. a woman is beaten in every 18 minutes. Domestic violence is the leading cause of injury among women of reproductive age. In Paris, 70 per cent of all crimes reported to the police involve women beaten by their husbands. The practice of 'honour killings' — where relatives kill a women for alleged adultery or sexual misconduct — are still common in many societies. In Bangladesh and India women are killed or burnt with acid for not bringing enough dowry into the husband's family when they marry.

Domestic violence is manifested in the form of wife battering in most of the cases. One of the important outcomes of the anti-rape and

anti-dowry campaigns in India was the realization that violence in many forms may exist for a long time before it is recognized. Wife battering is invisible because it is hidden in the many intimate, intricate and complex layers of the relationship between husband and wife with overtones of romanticism, sexuality and patriarchy. However, the apprehension of treading into a very personal, private territory is quickly dissipated when the nature and extent of this violence is investigated, although there is no hard data to go by in case of domestic violence as the police does not register what they consider to be a 'private matter'. The law does not recognize wife beating except under the general category of manhandling or assault.

Wife battering does not even have social cognizance. By and large neighbours do not interfere even when they hear screams for help. However, one of the main reasons for the invisibility of wife battering is the acceptance and attitude of women themselves to this violence. Most of the women feel they must have failed as good wives. In that they seek to explain their husband's violence or alcoholism or unemployment or sorrow or evil habits acquired from friends.

Only 45 countries have legislation protecting women against domestic violence and many of these laws are not regularly enforced. In India, to deal with cases of domestic violence, the Indian Penal Code has been amended to provide punishment against cruelty to wife by her husband or relatives (any willful conduct) which is likely to drive the women to commit suicide or to cause grave injury or damage to life, limb or health (whether mental or physical) of the women or harassment of a women with a view to coercing her or her relatives to meet any unlawful demand for property or valuable security, which has been made punishable with imprisonment up to three years and fine. Recently, a new legislation titled Domestic Violence (Prevention) Bill, which was drafted by the National Commission for Women had been introduced in Parliament to curb domestic violence against women. This could be possible after a great need was highlighted and felt for a law on domestic violence. The Domestic Violence Bill, which had been pending before the Lok Sabha for many years has finally been passed and the legislation Protection of Women from Domestic Violence Act came into force in 2005.

Protection of Women from Domestic Violence Act, 2005 President A.P.J. Abdul Kalam has given assent to the Protection of Women from the Domestic Violence Act, 2005, which seeks to provide protection to victims of violence within the family. The Act will be applicable to all States and Union Territories except Jammu and Kashmir. It aims at protecting women from verbal, emotional, economic and sexual abuses and offers free legal service to such victims. Under the new Act, any woman subjected to mental or physical injuries, physical abuse, criminal intimidation or force, sexual abuse (any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a woman), will be covered under domestic violence. Domestic violence, as per the Act, constitutes physical or mental harm, including sexual, verbal, emotional or economic abuse by a male member of the family or anyone living under the same roof. Harassment of the victim with a view to coercing her or any other person related to her to meet any unlawful demand for dowry or property is also covered under the new law.

The victim can approach a police officer, protection officer, service provider or magistrate for relief by way of a protection order; have right to free legal services under the Legal Services Authorities Act, 1987, and to file a complaint under Section 498A of the Indian Penal Code, wherever relevant. The aggrieved person is also entitled to shelter if need be in the shelter home and will also be provided medical facilities. The State Governments shall, by notification, appoint such number of protection officers, as far as possible women, in each district as may be necessary. It shall also notify the area or the areas within which a protection officer shall exercise the powers and perform duties conferred on him by or under this Act.

### **5. Dowry Related Crime in India**

The Dowry Prohibition Act, 1961, defines dowry as “any property or valuable security given or agreed to be given either directly or indirectly a) by any party to a marriage to the other party; or b) by the parents of either party to a marriage or by any other person to either party to the marriage or the other person, at or before or after the marriage”.

The Act says that any person who gives or takes or who abets the giving or taking of dowry shall be punished with a jail term which may extend

to six months or with fine or with both. It is also an offence to demand, directly or indirectly from the parents or guardians of a bride any dowry and shall be similarly punished. However, presents in the form of cash, ornaments, clothes and other articles are excluded by the Act from its purview. As already mentioned, this Act was later amended to shift the burden of proof.

Unfortunately, despite this Act and other efforts against dowry, dowry deaths and other dowry related crimes have continued to increase over the years. In 1995, though in the country dowry deaths recorded a marginal increase in rate (0.6), the situation was worse in many states. Delhi had a high rate of 1.5, U.P. of 1.3 and Haryana 1.3 in 1995. Some of the measures which can reduce this crime include increase in literacy, employment and awareness regarding legal provisions, stringent laws, their effective implementations, intense social movement and strengthening women's property rights.

### **6. Rape**

Rape is the most frequently occurring crime against women cutting across caste, class and religion. It is the most heinous crime that takes place in the society. Rapes are mostly committed by acquaintances, not strangers as is commonly believed. It is not a random but a premeditated act on the part of men. Neighbours pick out the most vulnerable woman who will not be able to complain or fight back, or men as a group may decide to demoralize another set of men of another caste or religion by dishonouring family izzat (honour) through the act of rape. Rapes that take place by family members are almost never reported. The extreme vulnerability of women, the sexual nature of the crime, societal attitudes regarding chastity, the indifference of the police and judicial procedures interact with each other to reverse the roles of the victim and violator.

### **7. Consent in Rape and Witness**

The Indian Penal Code considers rape as a severe crime, cognisable, non-bailable and liable for stringent punishment. Section 375 of the IPC considers that rape is committed when a man has sexual intercourse with a woman against her will or without her consent or with her consent obtained through coercion, deception, unsoundness of mind or intoxication. However, it is very difficult to prove that consent was not given by the victim, this being the main criterion

in proving rape cases. But now the rape law has been amended wherein the onus of proving herself innocent shall not lie with the victim but the rapist will have to prove this for himself. Before this latest amendment, the rape law was amended twice in 1980 and 1983 after a sustained campaign against this law took place after the Supreme Court judgement in Mathura Case.

Mathura was a 16 year old tribal girl who was raped by two policemen within a police station. The Session Court let off the policemen by arguing that Mathura was used to having sexual intercourse so she could not be raped. The High Court convicted the policemen and held that mere passive consent given under threat cannot be deemed to be consent. The Supreme Court set aside the High Court judgement on the basis that Mathura had not raised any alarm and there were no visible marks of injury on her body. The judgement led to a large-scale campaign by women's organizations for changes in the rape law. Another problematic issue with a rape case is that of witnesses, which is very difficult as rape is not usually committed in the presence of others. Society itself creates a lot of problem by making the victim feel guilty. Rape is related to dishonour and shame. The number of victims, their silence, an unsure strategy of action, common myths and a lack of sensitivity towards the issue of rape demands a rethinking and better implementation of law.

### **8. Prostitution and Trafficking in Women**

The practice of prostitution (now referred to as sex work) and trafficking in women is also one of the most agonizing crimes against women. Despite various legal and constitutional provisions for gender equality, crime against women goes on without any check.

The Suppression of Immoral Traffic in Women and Girls Act (SITA) 1956 was the first sustained legal effort to curb this practice. It was passed with the basic objective to punish brothel keepers, procurers and pimps and prevent prostitution in or outside the vicinity of public places. The Act is applicable to both men and women. The main purpose of the Act was to abolish or reduce commercialized vice, and traffic in women and girls. There were, however, certain loopholes in the Act as it put certain restrictions on the sex workers, which forced them to live in unhealthy and degrading environment. Section 7(1) of SITA operated

against the interest of sex workers while the partner could get away easily. This Act also led to a lot of police harassment.

The Act was amended in 1978 and again in 1986 and now is called 'The Immoral Traffic (Prevention) Act'. Its objective was to do away with the shortcomings of the previous Act. This Amended Act also did not declare prostitution illegal. Section 2 of this Act makes the definition of brothel to include any place used for the purpose of sexual exploitation or abuse. Life imprisonment is the maximum punishment ordained when the offence is committed against minors and children.

There were some efforts to make prostitution legalized in India. In 1997, an international conference of sex workers was organized in Kolkata where efforts were made in this direction. Declaring sex work as legalised can solve some of this problem but it can also lead to institutionalization of prostitution thus increasing the complexity of the problem.

### **9. The Proposed Amendment to the Immoral Trafficking (Prevention) Act**

An amendment to the Immoral Trafficking (Prevention) Act is under the consideration of the government of India. The Indian government is expected to table an Immoral Trafficking (Prevention) Amendment Bill in Parliament shortly. Contending that the ITPA in its present form has proven ineffective in curbing the menace of human trafficking the amendments are proposed to the Act with the aim of combating human trafficking. The proposed Bill seeks to delete Sections 8 and 20 of the existing law. Section 8 provides for punishment for those seducing or soliciting for the purpose of prostitution. Section 20 relates to removal of a commercial sex worker from any place. The changes are based on the presumption that since women involved in trafficking are often victims of trafficking, punishing them only victimizes them further.

The Bill seeks to change the definition of a child from 16 to 18 years and increase the quantum of punishment for those persons who own or manage a brothel. Other proposed changes to the Act will make visiting brothels a punishable act, as will seducing or soliciting sex. The amendments that empower the Centre and state governments to set up authorities to combat the problem also provide for in camera proceedings to protect the privacy and dignity of victims of

trafficking.

## 10. Sexual Harassment

Irrespective of the age, class or dress, women are harassed on the streets, while travelling in buses or trains, or at their workplace. Harassment can range from verbal lampooning and abuse with suggestive sexual overtones or physical manhandling, and fingering to 'accidental' jostling against women. This is probably one of the few crimes, which is committed in the broad daylight and is among the many crimes perpetrated on women which are completely ignored by the police and the public. Colleges are important site of sexual harassment with a lot of ragging and verbal teasing taking place on campuses. Terms like eve teasing and a general attitude of 'boys will be boys' makes sexual harassment out to be an innocent and frivolous activity. What this perverted pleasure actually means and does to women is seldom considered. In order to be out on the streets, women have to take precautions, be wary and constantly on guard. Sexual harassment is designed to create an environment of fear.

Just as women's sexual and physical autonomy and dignity is at stake on the street, so is it at work. Sexual harassment at workplace should be considered even more seriously because it often spells demoralization, loss of professional self-confidence and even unemployment. All women are potential targets but young, unmarried ones seem to be especially victimised. Women are made the targets of unnecessary physical contact, deliberate verbal abuse or, in no uncertain words, asked for sexual favours.

The situations in which sexual harassment takes place might differ but the effect it has on women is quite similar. Women who are harassed begin to doubt their definition as workers and human beings, are overwhelmed by feelings of frustration and powerlessness and turn defensive, fearful and, work-wise, inefficient. Sexual harassment has often been called 'psychological rape'.

There are three sections of the IPC, 509, 294 and 554, which deal with sexual harassment but most of the times the cases are not reported so the legal provisions cannot be utilized. For dealing the cases of sexual harassment at workplace there is no protective legislation passed till date (though it is under the consideration of the central government); only guidelines are there given by the Supreme Court

in the judgement of the case Vishaka v/s the State of Rajasthan (August, 1997) prohibiting sexual harassment at workplace.

## 11. Female Foeticide

It is not uncommon in India to kill newborn females by feeding them opium, poisonous berry extract, dipping them in milk or simply suffocating them. The new technology has added another dimension and a sense of legitimacy to the age-old practice of female infanticide. Female babies are now being eliminated even before they are born. An ultrasound test is performed by the doctors and once the sex of the foetus is known, the female foetus is killed by abortions. 'Better Rs 500 now than Rs 5 lakh later' says an advertisement for the amniocentesis test. This test has been banned in Government hospitals but private clinics and mobile vans continue to perform this test. Although there is a legislation against this test entitled 'Pre-natal Diagnostic Techniques (PNDT) Act, 1994', there are problems in detecting such cases and clinics and no complaints are lodged against the offenders. The Act has loopholes like it does not state the specific disorders and conditions under which the test would be permitted.

## 12. Concluding Remarks

From above study, it can be said that in spite of several laws to protect the rights and interest of women, the rate of crime and victimization against women is mushrooming day by day. It shows that only laws are not responsible to regulate the magnification of crimes rather suppression of evil eyes on them and inculcation of social ethics, morals and values, respect and honor in every human being is the need of time. Besides, there is a need of more strict and stringent laws along with its speedy and effective implementation so that any person intending to commit such crimes couldn't raise his courage to act. Violence against women is a violation of human rights, the very nature of which deprives women of their ability to enjoy fundamental freedoms. In India, where the culprits are largely known to the victim, the social and economic "costs" of reporting such crimes are high. General economic dependency and fear of social boycott prevent them to report violence. Therefore, the actual incidence of violence against women in India is probably much higher than the data suggests. Thus, there is need to break the silence and ensure that

violence against women is not just a woman's issue but primarily a political, social, economic and cultural issue that concerns men as well. While men represent the majority of perpetrators of violence against women, they may play an effective role in preventing and combating it. It is only not women or men working alone to end gender-based violence that yields best results but it is the partnership between them that has the greatest impact and reach.

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