



## **Criminalities and Repressions Against Womenkind in India: A Legal Study and Assessment.**

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### **ABSTRACT**

Crimes against women has been a long problem since the time of war and peace. The violence against women constitutes a violation of the rights and fundamental freedom of the women from the society. The women occupied a vibrant role and as such their subjugation and mistreatment were looked upon as demeaning towards the whole society. But the condition of women in contemporary India have become a matter of grave concern. They are harassed, tortured and maltreated in the society. The main crimes against them at present entangles such as demands for dowry, female feticides, eve teasing, abduction and most commonly rape. Regardless of escalating levels of education, gender cognizance and rigorous pro- women laws, change has been dawdling and crime against women is growing. The aim of this paper is to study about the crime happening against women in the Indian society. It attempts to discover the main causes of crime and to analyze the present crime trend against women in India. It is need of the hour to understand the underlying causes and trends in crime, so as to plan out to eradicate the plight which is persistent in the country. Gender-based violence including rape domestic violence, murder and sexual assault is a major crisis across the globe. Female focused violence also represents a hidden obstacle to economic and social development. This paper draws together existing data on the dimensions of violence against women and the consequences of abuse. It also tries to suggest strategies to combat violence and social attitudes that addresses men's violence and renegotiating the meaning of gender and the balance of power between women and men at all levels of society.

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**Keywords:** Women, Criminalities, Legal Measures, Repressions, Essential Rights, Gender Inequality, and Societal Nomics.

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### **1. INTRODUCTION.**

Crimes against women are growing worryingly at local, regional, national, and worldwide levels. Regardless of current crime shadowing machineries and access to information and networking, assuring the safety and security of women has become a stern challenge for all. The UN Declaration on the Exclusion of Crime against Women (1993) states that "crime against women is an expression of traditionally imbalanced power relations between men and women, which have led to command over and discrimination against women by men and to the anticipation of the full development of women". It goes on to state that "crime against women is one of the crucial social mechanisms by which women are forced into an outranked position associated with men". On one side, India is taking steps to bring all women into the mainstream of social and political life but on the other, its women subjected to inhuman treatment and the threat of violence thus marring the progress of both women and the country. It is an eminent fact that the occurrence of crimes against women is an obtrusive indicator of growth and India now faces a serious problem on this front. It is hence essential to analyze the nature, roots and forms of crime against women and discover solutions to the problem.

#### **1.1 Research Problem**

Crimes against women have become a pivotal issue which is still persistent in the today's society. Though there were numerous efforts to elevate that status of women, the conditions of women remain the same but for a few changes among some sections of women. Women suffer from various forms of discrimination, domination, humiliation etc. Exploitation of women is near universal. Women of all ages regardless of their socioeconomic background become sufferers, though the nature of crimes committed against them differ according to age and background.

#### **1.2 Existing Legal Situation**

The problem that prevails at large is the inefficiency of the laws and regulations that are there to prevent crimes against women. The increase of the crimes and emergence of new forms and patterns of crimes have adversely impacted women in every aspect for their progress in the society. Therefore, it is important to see that the crimes against women are totally wiped out so that they may lead a peaceful life thereafter. In, order to preserve the rights

and liberties of women, we should comprehend the types of crimes being committed against them and to find solutions to reduce such crimes in the converging times.

### ***1.3 Scope and Objective of the Study***

The scope of this study is to assess the crimes happening against women in the Indian society. It also attempts to discover the main causes of crime and to analyze the present crime trend against women in India. Whereas, the objectives of the study are firstly, to distinguish and analyze the current crime trend which is overarching against the women. Secondly, it tries to explore the main causes and factors pertaining to cumulative crime rate. Thirdly, to gain a deeper understanding on the law in the country pertaining to combat such crimes against women in the society. Lastly, to deliver some recommendations to overcome and subdue the burgeoning crimes against women.

### ***1.4 Methodology***

The research method used in this paper is doctrinal. This paper uses primary and secondary data to collect information and involves locating and interpreting relevant primary and secondary sources of law and synthesizing those sources to form a rule or rules of law. As part of this process, most of the information has been taken from international journals, research papers and various other relevant articles.

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## **2. STATUS OF WOMEN IN THE SOCIETY.**

Women is the magnificent creation of god, a multi-faceted personality with the power of benevolence, adjustability, integrity, and tolerance. A woman is a companion of man, gifted with equal mental faculty, a protector and provider, the embodiment of love and affection. The role given to women in a society is a measuring rod and true index of its civilization and cultural attainment. As Swami Vivekananda had said "That country and that nation that do not respect women have never become great, nor ever be in future". In earlier eras, the status of women in India was mediocre to men in the everyday life. Though, they had an advanced position in the scriptures. They are measured as the perfect home maker in the world. With their incomparable quality of serenity of their mind, they can effortlessly handle even the hardest condition. Indian women are entirely ardent to their families.

### ***2.1 Status of Women in the Primordial era: Ancient India.***

It is believed during the ancient India, women enjoyed equal position and moralities like their male's counterparts. In addition, they were properly educated in the early Vedic period. Women enjoyed an almost equal status with man in Rigveda period. The number of women who used to receive general education were fairly large. There was no seclusion of women, they used to move freely in society. In the social and religious gatherings, the women occupied a prominent position. Women had an absolute equality with men in the eyes of religion. Even in matters of property rights.

The position of women, on the whole was fairly satisfactory. The community as a whole, was showing proper concern and respect for women, allowing them considerable freedom in the different activities of social and political life. As a matter of fact, religious sanctions, social recognition, and family support were achievable in this period.

### ***2.2 Status of Women in the Medieval India.***

The status of women in India worsened during the medieval period with the arrival of the invaders mostly from the Islamic countries. Numerous wicked practices such as infanticide, sati and child marriage were practiced during this period. The concept of 'Purdah' was introduced to the society by the Muslim rulers of this period. Polygamy was also common during this period. Women were considered inferior to men in this period, not only physical but mentally too. They were debarred to take part in various activities other than farming and weaving. Lack of education and unable to take decision on political, social, and economic front in society.

### ***2.3 Status of Women in the Modern India.***

During the British rule, there was a little development in the women status. But post-independence, there were many women reformers in India who worked for the upliftment and betterment of their female counterparts by promulgating cultural and structural changes which reduced exploitation of women to a great extent and provided equality of opportunities to women in various fields and domains.

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## **3. CRIMINALITIES AGAINST WOMEN: THEORY AND CLASSIFICATIONS.**

On a semantic or psychological level, the term pertains to any injury inflicted directly or indirectly causing physical or mental infliction upon women. Crimes which are directed specially against women and in which only women are victims are characterized as crimes against women. It is equally important to clarify the concept of violence against women. Violence is also known as abuse and includes any sort of physical aggression or misbehavior. When violence is committed at home it becomes domestic violence and involves family members such as children, spouses, parents, or servants. Domestic violence may involve different means such as hitting, kicking, biting, shoving, restraining, throwing objects. Although women may be victims of any of

the general crimes such as murder, robbery, cheating etc., only the crimes which are directed specifically against women are characterized as crimes against women in the society.

Crimes can be defined as a violation of a law in which there is injury to the public or a member of the public and a term in jail or prison, and/ or fine as possible penalties. *Thorsten Sellin* - Swedish Sociologist (1970:6) has described crimes as 'violation of conduct norms of the normative groups.

Crime has also been defined in social or non-legal terms. The social definition of crime is that it is behavior or an activity that offends the social code of a particular community. *Caldwell* (1956:114) has explained crime as 'an act or failure to act that is considered to be so detrimental to the well-being of a society.

### **3.1 Classifications of Crimes against Women in India**

The bedrock of our penal system is the Indian Penal Code which is a combination of western scientific outlook and oriental sensitivity. The code covers a vast range of antisocial behaviors in relation to the state of society as it was enlisted more than a hundred years ago. There are seven crimes in particular that can be categorized as exercisable only on women, such as rape, kidnapping and abduction, dowry death, torture and cruelty, molestation, sexual harassment, and importation of women to outside countries.

#### **3.1.1 Rape**

Rape is the fastest growing crime in India compared to murder, robbery, and kidnapping. According to the report of National Crime Records Bureau (NCRB), in every 60 minutes, two women are raped in India. There are several kinds of rape. Firstly, Custodial rape- this kind of rape was made more punishable than rape committed by other person not having any custody of women. Secondly, Rape on a pregnant woman- rape on a pregnant woman is heinous kind of rape. Thirdly, Rape on a girl under twelve years- rape of a girl under twelve years is a heinous kind of rape and is against the whole society. it should not occur in the defeat of humanitarian. It is the duty of every member of society to stop such kind of abuse. Fourthly, Gang rape- is another heinous crime where a woman is raped by one or more in a group of persons acting in furtherance of their common intention. Fifth, Rape by husband- sexual intercourse by a man with his wife, is not rape, if the wife is above 15 years of age. Where the wife is below 15 years but above 12 years, and sexual intercourse is made by such husband amounts to rape.

#### **3.1.2 Kidnapping and Abduction of Women.**

According to the UN – the illicit and clandestine movements of persons across national borders, largely from developing countries and some countries with economically in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploited situation for profit of recruiters, traffickers and crime syndicates, as well as other legal activity related to trafficking such as forced domestic labour, false marriage clandestine employment and false adoption.

Kidnapping and abduction of women cases have reported an increase of 35.6% during the year as compared to 2012 in India. Uttar Pradesh with the highest reported cases in the entire country.

#### **3.1.3 Dowry Deaths.**

Dowry death remains the major reasons for discrimination and injustice towards women in India. When dowry demands are not met, it precipitates into serious consequence for the young bride. The Dowry Prohibition Act of 1961 marks the first attempt by the government of India to recognize dowry as a social evil and to curb its practice. However, it is ridiculous to see that even among highly educated sections, the articles of dowry are proudly exhibited in the marriage as a status symbol. Dowry abuse is increasing every year. Dowry is one of those social evils that no educated women will own up with pride, still persist a major challenge in the society. The highest number of reported cases are from the provinces of Uttar Pradesh and Bihar in India.

#### **3.1.4 Molestation of Women.**

Another form of violence against women is that of molestation, or what is commonly known as sexual abuse or sexual assault. It is the forcing of sexual behavior by a man over the women. Molestation is the sexual exploitation of a child or a woman by an adult or a male person for sexual gratification. Incidents of assault on women with the intent to outrage their modest is increased in the recent years. Madhya Pradesh followed by Maharashtra and Delhi has the highest reported cases in India.

#### **3.1.5 Sexual Harassment to Women.**

According to UN- Sexual harassment is any behavior of a sexual nature that is unwelcome, offensive, or embarrassing to the individuals exposed to the behavior or that created a hostile or intimidating work environment. Sexual harassment includes sexual assault, unsolicited requests for sexual favors, requests for sexual favors linked to implied threats or promise about career prospects, unwanted physical contact, visual displays of degrading sexual images, sexually suggestive conducts, or offensive remarks of a sexual nature. Sexual harassment may occur between persons of opposite sexes or of the

same sex. While typically it involves a pattern of behavior, it can take the form of a single incident; and it may be directed towards a group or towards a particular person. The states of Andhra Pradesh followed by Maharashtra and Delhi has the highest reported cases of sexual harassment in India.

### **3.2 Instances and Reported Crimes against Women in India**

Some of the instances where women have experienced crimes against them in India over the yesteryears are as:

#### **1. Nirbhaya Gang-Rape Case:**

On 16 December 2012, a 23-year-old medical student was brutally gang-raped and assaulted by six men in a moving bus in Delhi. The incident resulted in massive outrage among citizens followed by several protests across the country. Four of the accused were convicted. While one other accused was found hanging inside his prison cell, the juvenile accused is currently serving sentence.

#### **2. Shakthi Mills Case:**

A photojournalist in Mumbai was gang-raped by five men at Shakthi Mills Compound on August 22, 2013. She was accompanied by a male colleague. Two of the accused were juveniles who were convicted and have been sent to a reformation house. The other three were convicted.

#### **3. Badaun Sisters' Rape and Death:**

Two girls belonging to a Dalit caste, who were cousins aged 14 and 15, went missing and were found hanging in Badaun village in Uttar Pradesh. The victims were alleged raped. Five of the accused, including a police constable, were arrested by the police.

#### **4. Guwahati Molestation Incident:**

A teenage girl was stripped and molested by a gang in full public view in Guwahati in 2012. The incident occurred in front of a bar at Christian Basti on the Guwahati- Shillong Road. A video of the assault taken by a TV channel made a nationwide outcry. As a consequence, 16 men were identified as accused with the help of the channel broadcast.

#### **5. Uber Rape Case:**

27-year-old women was allegedly raped by the driver of the Uber cab she hired to go back to her home in Northwest Delhi's Inderlok. The women, who works in a finance company in Gurgaon, was returning home after having dinner with her friends. Following this, the Delhi government banned Uber taxis in the state but later revoked by the Delhi High Court.

#### **6. Park Street Gang Rape Case:**

37-year-old women was raped at gunpoint in a car by five young men who picked her up from Park Street in Kolkata. The police in its charge sheet named five men, of which three are behind bars. Two others, including the prime accused, are yet to be arrested as they skedaddled and their whereabouts are yet unspecified by the police.

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## **4. CONSTITUTIONAL SAFEGUARDS AND LEGAL PROTECTIONS GUARANTEED TO WOMEN.**

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the state to adopt measures against discrimination of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993.

### **4.1 Constitutional Provisions:**

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 women in the society. 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. Article 14, 15, 15(3), 16, 39 (a), 39 (b), 39 (c) and 42 of the Constitution are of specific importance in this regard to intercept disparity faced by women in the society.

### **4.2 Constitutional Privileges:**

1. Equality before law for women (Article 14).
2. The state not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i)).
3. The state to make any special provision in favor of women and children (Article 15 (3)).

4. Equality of opportunity for all citizens in matters relating to employment or appointments to any office under the state (Article 16).
5. The state to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39 (a)); and equal pay for equal work for both men and women (Article 39 (d)).
6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A).
7. The state to make provision for securing just and humane conditions of work and for maternity relief (Article 42).
8. The state to promote with special care the educational and economic interests of the weaker sections of the people and protects them from social injustice and all forms of exploitation (Article 46).
9. The state to raise the level of nutrition and the standard of living of its people (Article 47).
10. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51 (A)).
11. Not less than one-third (including the number of seats reserved for women belonging to the Schedule Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D (3)).
12. Not less than one-third of the total number of offices of chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4)).
13. Not less than one-third of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3)).
14. Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes, and women in such manner as the legislature of a state may by law provide (Article 243 T (4)).

#### ***4.3 Legal Provisions under Indian Penal Code, 1860.***

To uphold the Constitutional mandate, the state has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services specially to working women. Although women may be victims of any of the crimes such as murder, robbery, cheating etc., the crimes, which are directed specifically against women, are characterized as crime against women. These are broadly classified as:

- Rape (Section 376 IPC)
- Kidnapping and Abduction for different purposes (Section 363- 373)
- 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)

#### ***4.4 Specific Initiatives for Women in India.***

##### ***1. National Commission for Women.***

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

##### ***2. Reservation for Women in Local Self- Government.***

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one- third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

##### ***3. The National Plan of Action for the Girl Child (1991-2000).***

The plan of Action is to ensure survival, protection, and development of the girl child with the ultimate objective of building up a better future for the girl child.

##### ***4. National Policy for the Empowerment of Women, 2001.***

The Department of Women and Child Development in the Ministry of Human Resource Development has prepared a 'National Policy for the Empowerment of Women', in the year 2001. The goal of this policy is to bring about the advancement, development, and empowerment of women.

## 5. CONCLUSION.

The increase in incidences of crime against women have become a major concern in today's society. Women in cities are more independent than women in villages. The way a woman uses a city is equal to way in which men do. Despite provision of strong laws in the Indian Constitution, Crime against women in India are still on a very high rate. Over population combined with poverty and lack of education is one of the important factors for increased crime rate against women. Awareness should be created among people in order to reduce the crime rate in society. Cities which are of more opportunities should be designed in such a way, so that a woman in a city travelling late at night can feel even more safer. Steps should be taken for the proper implementation of protective laws. It has been seen that many poor and helpless women have to live with the responsible for the committing the atrocities to them. They gave no other option to go to another place for shelter. This situation arises due to defective enforcement of protective law. The procedural laws are weak and outdated. Generally, the accused either get bail or take the adjournment. This results in delay of the decision in a case. Conferences, seminars, and workshops should be frequently organized by the police, legislators, and the representatives of the women's organization so that they all mutually exchange their experience. Effective implementation of the laws should be frankly discussed, and their suggestion should put forward so that new law be passed an amendment could be made in existing laws to make them more effective. Efforts to eliminate atrocities against women have to be made at all levels.

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