

Intricacies Involved in Eradicating Crime against Women in India

Nitin Pathak

Researcher, Jiwaji University, Gwalior

Madhya Pradesh, India

ABSTRACT:

For the development of a country the equal participation of male and female in every sphere is must keeping these views in their mind our constitution makers tried to uplift this weaker section of the society through several constitutional provisions. Moreover, many feminist laws were also framed time to time by our legislature. But unfortunately the crime against women in India is loom pant. Our government is not successful in giving proper security to this vulnerable group. As we know that the growth and development of the country depends upon the growth of their subjects as unless and until their subjects are personally developed in all sphere. It won't be possible to uplift the country to the desired extent. It is always been said that man and women are two wheels of a cart and their equal speed is necessary for the smooth running of the cart.

Keywords: women protection, exploitation, discrimination.

I. INTRODUCTION

The In India women have been discriminated since the time immoral. They are the most vulnerable of the society till date and in a position to be exploited. In our India about fifty percent population are women, even then they have always been victimized of ill treatment, mental, physical and emotional torture and sometimes even they deprived of their basic fundamental right to life. They are still being exploited, beaten and even killed inside the four walls of their home. The reason behind is that they are always been considered economically, physically and emotionally weaker than their male counterpart.

It is quiet unfortunate that in India on the one hand Goddess like Lakshmi, Sarswati, Sita are worshiped and on the other hand crime against the women is a everyday tragedy to be read in every possible newspaper. They are struggling today for their basic rights, identity, dignity and self-respect.

Since Independence India has been striving to protect the women from discrimination. In order to improve the condition of women our constitution makers included several provisions. In the constitution of the India for strengthening them and tried to bring this weaker section on equal footing with that of man. Many other women oriented laws were also enacted from time to time. For uplifting this exploited group.

Yet often we hear the heart breaking stories of rape, molestation, eve-teasing, sexual harassment and domestic violence every day. Which compel us to think that whether these laws are in reality effective and helpful in reducing the CAW or is only a myth.

II. HISTORICAL BACKGROUND OF CRIME AGAINST WOMEN:

In the ancient time there was no organized system of crime as it is today. It was more or less in the form of sin and benevolent act of the individuals towards other. The women had to go through several phases and in every era. Their status was not static rather it was changing by the change in society. Each phase had witnessed different and peculiar kind of social evil against women.

Vedic period: Vedic period was very prominent from the point of view of dignity and self-respect of women. There was no crime against women during this period. Women never observed purdah and they enjoyed complete freedom and were treated as Ardhangini.

Post Vedic Period: The position of women fell in post Vedic period. Now the women were not considered equal to men and did not enjoy the same right and privilege as men. The evil of sati system also started in this period.

Medieval Period: In this period the position of women declined and they were considered as subordinate to men. Purdah Pratha, sati Pratha, child marriage, girl killing, polygamy etc. were the main social evils of this period. The Muslim ruler did nothing for the betterment of women because they considered women as chattel only.

British Period: At the time when the British came in India, crimes against women were rampant. The efforts of few social reformers like Raja Ram Mohan Rai, Iswar Chandra Vidyasagar, Lord William Bentinck, were helpful in falling such social evils but women couldn't be free from exploitation.

Post-Independence period: After independence tremendous changes came in the status of women. The constitution of India laid down equal fundamental right to men and women. They were also given special privilege in the form of Art. 15(3). Not only that several enactments were also made from time to time for strengthening the position women. But this is the half reality only. The theoretical rights of women were never been implemented practically and crimes against women never come to end.

III. LEGAL FRAMEWORK FOR WOMEN PROTECTION:

The criminal law gradually evolved from time to time according to the need of the society. After independence the constituent assembly started the drafting of Indian constitution. At the same time there were growing recognition of universally accepted basic rights of every individual irrespective of their cast, creed and sex. Our constitution maker also included such provisions in the constitution protecting the rights of the women in India too.

Constitutional provisions:

Some important Articles safeguarding the rights of the women are as follows:

- Art. 14
- Art. 15
- Art. 15(3)
- Art. 16
- Art. 21
- Art. 21 A

Apart from protecting these basic right of women, legislature always tries to uplift women group through stringent legislations. Some important criminal laws for women protection are as follows:

Indian Penal code, 1860:

The following provisions of Indian penal code helpful in reducing the suffering of women.

- Rape (Sec. 376 IPC)
- Kidnapping and Abduction (Section 359-373)
- Dowry Death (Sec. 304B)
- Molestation (Sec. 354)
- Disrobing (354B)
- Eve Teasing (Sec. 509)
- Cruelty by Husband or Relative of Husband (Sec. 498A): Under this section whoever, being the husband or the relative of the husband of a women, subject such women to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

The leading cases on the above mentioned section are as follows:

- K.Prema S. Rao and Anr v/s Yadla Srinivasa rao and Otrs
- Sushilkumar Sharma v/s Union of India and Ors
- State of West Bengal v/s Orilal Jaiswal and Another

Protection of Women from Domestic Violence Act, 2005:

Women exploitation at their own home is an aged story. In order curb domestic crime against women the Domestic violence Act was passed by government in 2005. Under the Act domestic violence typically is the

violence suffered by a woman by male members of her family or relatives. Within the ambit of this Act domestic violence does not include only physical but also other forms of violence such as emotional/verbal, sexual, and economic abuse. The Act not only provides protection to wife but extends its protection to women living in a household such as sisters, widows or mothers.

The Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013:

This Act has been enacted with the objective of providing protection to women against sexual harassment at the workplace and for the prevention and redressal of complaints of sexual harassment. Sexual harassment is considered as a violation of the fundamental right of a woman to equality as guaranteed under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity as per Article 21 of the Constitution. Under Sec 19 of this Act, Every employer is bound

- Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- Treat sexual harassment as misconduct under the service rules and initiate action for misconduct.
- Constitute an Internal Complaints Committee (“ICC”).
- Monitor the timely submission of reports by the ICC.

The Criminal Law (Amendment) Act, 2013:

Keeping in view of emergence of heinous crimes against women especially in metro cities compelled the legislature to amend the existing criminal laws. After the barbarous gang rape in Delhi in 2012, the seriousness for an immediate reform in rape law was realized and the existing Act was immediately amended. Under the amended Act following changes were made:

Limitations of criminal laws on women protection:

The study reveals that the number of PO is limited and most of the protection officer occupies other post also. Therefore they are unable to give their 100 percent to their job. Female victim generally hesitate when such PO are male and don't want to go in their shelter for remedy.

Now, as far as the Sexual Harassment of women at workplace Act is concerned, the main loopholes lie in the fact that it is the internal committee which impose the monetary fine to be paid by perpetrators on the basis of his income and financial status. Thus it provides scope for inequality and discrimination. The other shortcoming of the act is that the agricultural worker and Army personnel are outside the ambit of the Act which creates other hardship in punishing them.

Again, the Criminal Law Amendment Act, 2013 is also not free from limitations. The most evident loopholes in the Act are that offences like sexual harassment, voyeurism, stalking has been made gender specific which means that women cannot be held liable for such offences. Moreover, concept of marital rape is also not included in the Act.

Legal and judicial intricacies:-

There is hardly a day when we don't read about brutal rape case in the front page of our newspaper. Rape is one of the most heinous types of crime.

Although various Laws exists for protection of women still women's are unsafe due to some legal and judicial Intricacies. Maximum case of CAW either go undetected or unconvicted due to lack of dedication, devotion, cooperation and co-ordination of different departments involved in crime against the women investigation. Extra effort or interest on part of forensic pathologist can only solve these cases. In our vast country we do not eradicate crime against women because our medico legal service is either not improved or upgrade.

With above crime scenario, forensic medicine plays an important role in helping to prevent, early detection. Providing expert medico legal and scientific report at earliest which will result in quick trial and instant administration of justice to the victims but in reality it's not happened that is why victims cannot get justice within time. The Law enforcement agencies to some extent do not perform their duties up to the mark.

As the common saying goes, justice delayed is justice denied. The spirit behind any law is to deliver justice to the victim and delay in delivering that justice is like denying justice. Most of the investigating officers are not trained to deal with such cases and lack expertise, not equipped to collect evidence especially in sexual assault cases. Misplacing and destroying of evidence of rape results in delays in court proceedings and ultimately perpetrator's acquittal. Maximum case of CAW either go undetected or unconvict due to lack of dedication devotion, cooperation and co-ordination.

IV. SUGGESTIONS FOR ERADICATING INTRICACIES

The investigating objects must be properly trained and supervised and necessary scientific and logistical support should be made available to them.

- For improving quality of investigation the work load on an IO's should not exceed 10 cases per year.
- For fair & impartial investigation it is imperative that the investigating machinery is immune from political and other extra influences & ex-in consonance with the law of the land and the constitution.
- Needless the say supervision ensures proper direction co-ordination and control and this helps efficiency. It also reduces miss-use of powers wasted the officers.

- Close supervision of individual investigation is also essential to check the cancer of corruption. Complaint if made orally is secured at once carefully and acutely I plain and simple language by the senior most officer present in the police station or by solved on to his dictation with-out omitting an of important and relevant details.
- Investigation is conducted in an honest and transparent manner.
- Scientific ads to investigation are optimally utilized in investigations are that F.S.L. expert is taken to the spot in specified crimes for prevision and collection of Evidence.
- There is great need to develop and sharp-pen investigative skills of the officers through regular training program at the induction stage and periodical service training courses.
- As the complex cities and nature of crime is changing fast training facilities in immerging disciplines such as forensic accounting and information technology need to be developed and imparted to the IO's.
- The scope of misuse of discrimination by the police and ensure great transparency the investigation.
- Though induction of more judges may help in reducing the arrear it I the competence and proficiency of the judges that contribute to better quality of justice.
- Judges should need good knowledge of the substantive & procedural laws for this; it requires experience of man and matter intelligence as well as logical and analytical mind.
- Special attention should be paid in the matter of prescribing qualifications for recruitment of judges and all labels and to improve the methodology for selecting the most competent person with prove integrity character giving regards to the nature of functions which a judge dis required to discharge.
- No other consideration other than merit and character should be taken in to consideration in choosing the judge for the courts.
- There is a great need to improve the quality of training that is being imparted in different judicial academy.
- Judicial credibility is enhanced, when it is transparent and accountable.
- Undoubtly judiciary is independent in the sense that it is not answered anyone but it does not mean that give it license to function arbitrary.
- It is imperative that the judiciary itself takes the initiative to taste its hours in order and come forward with credible solutions without under mining the independence of the judiciary.

- The conduct of the judges can be checked or even corrected with the problem noticed at the earliest and efforts made to correct them.
- And another measure that can be taken to ensure accountability so far as property discharge of judicial function is concerned.
- The court must realize that it is their responsibility to take the initiative to eliminate delay, delay is not unbeatable and can be curtailed by adopting imaginative court management techniques. Unfortunately, little alternative has been paid to this.
- Judges must realize that the arbitrary exercise of discretion causes delay and harms innocent persons like the witnesses.

V. CONCLUSION

At this point in time, it has to be stated that we are responsible for the current situation in which a girl is not even safe in her home. Police, government, and media have to look into the matter in a much more serious way so that apart from benefitting themselves, such machinery must look into the matters of the common people so that people need not gather at streets for protests. Medical practitioners should handle victims more responsibly and should adopt a victim-friendly approach. It is the responsibility of the government and law-enforcing agencies to make sure that each and every citizen is safe in this country; media need to behave more responsibly and look after the cases involving infringement of the rights of the people rather than building controversies. There must be a change in the attitude of the society so that when a girl is alone, it must not be an opportunity for others but rather a responsibility of others to look after her safety. Changes are needed not only in the laws but also in the outlook of the people so that sexual assault victims will no longer be victimized. Government should make provision to provide effective mental and physiological help to the rape victim too.

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