

# Strict Laws or Better Implementation

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## ABSTRACT:

Discrimination against women and girl is pervasive and long- running phenomenon, whether at home or street, violence against women happen in our day to day life. Crimes against women such as rapes, dowry deaths and honour killing are increasing at an alarming rate. Sexual violence against women is one of the most common crimes in India. Even though there are various laws and women welfare organizations to prevent discrimination and violence against women, there is no reduction in the amount of crimes. In India only few victims come forward to initiate legal proceedings against the offenders. There are still many untold stories of sexual violence against women in our country. Victims are reluctant to seek justice because the existing judicial system proves to be unreachable to them. Every day in India, women and girls who have experienced sexual violence and assault are confronted with intimidation, threats, and coercion that not only restrain them from reporting the cases but also abstain from following up the initiated legal proceedings. The objective of this article is to give an overview of what Indian constitution needs to reduce offence against women and to create better society which guarantees the safety of women. Strict laws or better implementation which is needed the most.

**KEYWORDS:** Discrimination, violence, women, crime, victim, Indian Constitution..

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## I. INTRODUCTION

The The Thomas Reuters Foundation released a study that ranked India as the most dangerous place because of its high incidences of sexual violence, lack of access to justice in rape cases, child marriage, female feticide and human trafficking. Experts interviewed for the poll said India had topped the list because its government has done little to protect women since the controversial rape and murder of a young student in 2012 prompted widespread outrage and changes in the country's rape laws<sup>1</sup>. Violence against women occurs throughout the life cycle from birth, childhood, adolescence, adulthood to senescence. Most of the data are believed to be unreliable as many cases go unreported. Cases of violence against women are steadily increasing in the country. According to the National Crime Record Bureau, in India there is one dowry death in the country every 78 hours, one act of sexual harassment every 59 min, one rape every 34 min, one act of torture every 12 min and almost one in every three married women experienced domestic violence<sup>2</sup>. These crimes act as barriers to their empowerment and establishing equality in terms of gender. This puts a constant constraint on individual and societal development and has very heavy economic cost. According to the World Bank report of 2018, violence against women is estimated to cost countries up to 3.7% of their GDP. This amount is more than double of what most governments

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<sup>1</sup> Annie Gowen, India ranked world's most dangerous place for women, reigniting debate about women's safety, The Washington Post, ( June 27, 2018 at 7:16 Am ETD), <https://www.washingtonpost.com/news/worldviews/wp/2018/06/27/india-ranked-worlds-most-dangerous-place-for-women-reigniting-debate-about-womens-safety/?outputType=amp>.

<sup>2</sup> Indira Sharma, Violence against women: Where are the solutions?, Indian journal of Psychiatry, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4462781/>.

spend on education<sup>3</sup>.

## II. GENDER BASED VIOLENCE

Gender based violence and violence against women are terms that are often used interchangeably as it has been widely acknowledged that most gender based violence is inflicted on women and girls by men. Gender based violence is a phenomenon deeply rooted in gender inequality, and continues to be one of the most, notable human rights violations within all societies<sup>4</sup>. India has introduced numerous international human rights instruments, including the international covenant on Civil and Political Rights, Economic, Social and Cultural Rights, the Convention on the elimination of All Forms of Discrimination against women, the international convention on the elimination of All Forms Of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Rights of persons with Disabilities. At the national level, laws and policies have been put in place to prevent and respond to violence against women<sup>5</sup>.

## III. POSCO ACT

In 14<sup>th</sup> November, 2012, a new law was enacted, the Protection of Children from Sexual offences (POSCO) Act, which brought in major changes in the law related to sexual violence, as far as children below 18 years are concerned. In 2019 a new Bill was introduced by Rajya Sabha by the minister of Women and child Development. This Bill seeks to enhance punishment for sexual offences against children, with provision of death penalty. To curb child pornography, the Bill provides that those who use a child for pornographic purposes should be punished with imprisonment up to five years and fine<sup>6</sup>.

### Child pornography

- The Bill defines child pornography as any visual depiction of sexually explicit conduct involving a child including photograph, video, digital or computer generated image indistinguishable from an actual child.
- According to the amendment bill, those committing penetrative sexual assaults on a child below 16 years of age would be punished with imprisonment up to 20 years, which might extend to life imprisonment as well as fine.

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<sup>3</sup> Sanobar Fatma, NCRB Data reveals that crime against women in India are on the rise, youthkiawaaz.com, <https://www.youthkiawaaz.com/2019/10/ncrb-data-reveals-that-crimes-against-women-in-india-are-on-the-rise/>.

<sup>4</sup> What is gender based violence, EIGE, <https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence>.

<sup>5</sup> Neha Chauhan, How Gender Based Violence in India continue to Rise, youth story.com, (sep 17, 2019), <https://yourstory.com/socialstory/2019/09/gender-violence-india>.

<sup>6</sup> POSCO(Amendment) Bill approved with death penalty provision, News Services Division, All India Radio(Aug 01, 2019, 9:01PM) <https://newsonair.nic.in/Main-News-Details.aspx?id+369465>.

- In case of aggravated penetrative sexual assault, the bill increases the minimum punishment from ten years to 20 years, and the maximum punishment to death penalty<sup>7</sup>.

#### **Punishment for offences for using child for pornographic purposes <sup>8</sup>**

<b>Offence</b>	<b>POSCO ACT, 2012</b>	<b>2019 BILL</b>
Use of child for pornographic purposes	Maximum 5 years	Minimum 5 years
Use of child for pornographic purposes resulting in penetrative sexual assault	Minimum 10 years Maximum life imprisonment	Minimum 10 years(in case of child below 16 years) Maximum life imprisonment
Use of child pornographic purposes resulting in aggravated penetrative sexual assault	Life imprisonment	Minimum 20 years maximum life imprisonment or death
Use of child pornographic purposes resulting in sexual assault	Minimum 6 years Maximum eight years	Minimum 3 years Maximum 5 years
Use of child for pornographic purposes resulting in aggravated sexual assault	Minimum 8 years Maximum 10 years	Minimum five years Maximum seven years

**Table 1.0**

## **IV. MOST COMMON VIOLENCE AGAINST WOMEN**

### **Acid attack**

- Acid attack also known as acid throwing is a form of violent assault which is defined as the act of throwing acid intentionally on the body of another to disfigure, maim, torture or kill. Acid attack is a cruel violent and immoral form of crime in society. Most victims in acid attack are women only.

<sup>7</sup> Id.

<sup>8</sup> The protection of children from sexual offences (Amendment) Bill, 2019, Ministry of women and child development, PRS( Jul 18, 2019), <https://prsindia.org/billtrack/protection-children-sexual-offences-amendment-bill-2019-0>.

- The victim faces a lifelong discrimination against society. It also affects their social, economic and psychological life.
- According to National Crime Records Bureau, 222 cases of acid attack were reported in 2015. Until 2013, the Indian Penal Code did not recognize acid attack as a separate offence.
- By virtue of Criminal law (Amendment Act) 2013 Section 326A and 326B were inserted in the Indian Penal Code providing punishment for acid attack and attempted acid attack.
- The offence is registered under section 320, 322, 325, 326 and 307 of Indian penal code. The SC passed an order to put ban on selling of acid in shops in the case of Laxmi v UOI. In this case for the first time compensation was given to the acid attack victim<sup>9</sup>.

## **RAPE**

- A 'rape' charge under the section 375 Indian Penal code has two parts:
- Non-consensual penetration of any orifice in a woman by a man, or
- Non-consensual touching of any orifice with the mouth. This is not restricted to having sex. Forcing a woman to do this herself, or with someone else, is also rape<sup>10</sup>.

## **The Criminal law (Amendment) Ordinance, 2013**

- A new section, 376A has been added which states that if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than 20 years, but which may extend to imprisonment for life<sup>11</sup>.

## **V. CONCLUSION**

- While crimes against women are increasing day by day, One side of people are demanding strict laws and the other side demanding better implementation. Every act of violence against women had been great shock to the country. Government is trying their best to bring new amendments in their existing law and started to work on it to ensure safety of women and children in our country.

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<sup>9</sup> Rozilnahussain 123, the most grievous assault acid attack is common in India why, legal service India, <https://www.legalserviceindia.com/legal/article-196-the-most-grievous-assault-acid-attack-is-common-in-india-why.html>.

<sup>10</sup> Legal provision related to rape, vikaspedia, <https://vikaspedia.in/social-welfare/social-awareness/legal-awareness/legal-provisions-related-to-rape>.

<sup>11</sup> Section 8, Criminal Law (Amendment) Ordinance, 2013.

- The Indian Penal Code, 1860 being a colonial law, did not contemplate stalking as an offence at all. The only protection to women was provided under Section 354 for sexual harassment and section 509 IPC for using words or gestures to insult the modesty of women<sup>12</sup>.
- But due to increase in crime our government has taken various new measures and now stalking is also counted as an offence.
- In India, stalking-physical or electronic via phone calls, text messages, or emails- is a criminal offence. It is punishable with one to three years in jail<sup>13</sup>.
- There is a lack of speedy Justice in India which portrays the lack of implementation at existing laws.
- Rather than bringing up new strict laws, effective, efficient and speedy implementation of the existing laws would suffice to deal with the issue of increasing rate of crimes.

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<sup>12</sup> Malavika Rajkumar and Rohit Ghosh, Metoo: How the law protects you against stalking, Bar and Bench(Oct 28, 2018, 1:00 PM IST, <https://www.barandbench.com/columns/me-too-law-protects-you-stalking>).

<sup>13</sup> Meryl Gracia, Are you being stalked? Here's How you can file a complaint without visiting the police station, thebetter india.com, <https://www.thebetterindia.com/45671/stalking-india-women-complaint-online>.