

A COMPREHENSIVE ASSESSMENT OF GENDER-BASED CRIME IN THE CONTEMPORARY INDIAN CONTEXT

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ABSTRACT: *Despite India's status as the largest democracy in the world, numerous social evils and crimes continue to undermine the dignity of Indian women. While the role of women in society has seen significant growth in terms of social and economic empowerment compared to traditional norms, government reports indicate that crime rates in India are rising rather than declining. Although legal measures have been enacted to protect women, awareness of these protections needs to be widespread through programs and rallies. The present study identifies and examines the current state of gender-based crime and offers recommendations to address the societal challenges faced by women.*

Keywords: Indian woman, democratic, society, legalization, gender-based crime

1. INTRODUCTION

Gender-based crime in India is seen everywhere in our country. From child marriage to female infanticide, girls and women are exploited and always treated as a vulnerable being. The 21st century in India marks an era of development and we can see that many women are succeeding in every field like sports, arts, political sphere, and other workforces. Though women are achieving in every aspect of their lives, the crime against women still prevails in our society¹. Many women in the rural areas are struggling of malnutrition as in most of the households' women are the last one to eat their food after providing for their family. It can see that many sexual assaults cases have been filed by women in position. There is no safety for women even

¹ <https://timesofindia.indiatimes.com/readersblog/lawpedia/status-of-women-in-india-51422/>

in their households. They have been tortured physically and mentally by their partners, parents and their in-laws. India being the largest constitution in the world, has many articles which specifically speaks about the protection and welfare of women. The fundamental rights and the directive principle of state policy which is enshrined in the constitution of India ensure that women are protected from discrimination and it also ensures that women have equal pay as that of the male workers.

The fundamental rights outlined in Part III of the Indian Constitution safeguard women's protection. Article 14 guarantees equality before the law and equal protection under the law². This article asserts that all individuals are equal in the eyes of the law and shall not be subjected to governmental arbitrariness. Similarly, Article 15 of the Constitution forbids discrimination based on religion, race, caste, sex, or place of birth³. Article 15 is regarded as a key fundamental right in India, as it prohibits discrimination and ensures equal treatment of women alongside men, to promote gender justice in society. Article 16 of the Constitution guarantees non-discrimination in the workplace and mandates equal opportunities for all in employment-related matters. In the landmark case of *Air India v. Nargesh Meerza*, the Supreme Court invalidated Air India's discriminatory regulations, deeming them unconstitutional for violating Articles 14, 15, and 16. The Court held that these regulations were arbitrary and discriminatory against women.

The Directive Principles of State Policy, outlined in Part IV of the Constitution, mandate that the state provide free legal aid to women, as stipulated in Article 39A of the Constitution. This ensures equal access to justice for all, regardless of financial ability. The main of this article is that no person shall be denied their opportunity for legal representation due to their financial reasons⁴. Furthermore Article 42 of the constitution directs the state to provide just and humane condition in the workplace and for maternity relief⁵. These constitutional provisions help in the upliftment of women and girls in our society but these provisions alone cannot help women to achieve whatever they intend to achieve. The following chapters in this article discusses about the scenario of crime rate in India and also various legislations brought forth by the government to protect women from discrimination and to prevent them by social evils.

² Article 14 of the constitution of India

³ Article 15 of the constitution of India

⁴ Article 39A of the constitution

⁵ Article 42 of the constitution

1.1 literature review of the study

Simister, J., and Mehta, P.S. (2010) sought to investigate domestic violence between spouses and the prevailing attitudes toward such violence. The study analyzed data from multiple surveys, including the "Work Attitudes and Spending" surveys (1992 to 2007), the "World Values Survey" (1990, 1995, 2001, and 2006), and the "Demographic and Health Surveys" (1992-1993, 1998-2000, and 2005). The research also suggests that as India moves toward becoming a more modern society, instances of domestic violence may decline over time.

Kaur, P. (2011) examined violence against women and girls, emphasizing their increased vulnerability to various forms of abuse, including physical and economic violations. The study utilized data from sources such as World Bank reports and research on crimes against women, as well as studies on HIV and AIDS. It highlights that gender-based violence not only violates human rights but also hinders productivity and economic development.

Amaral, S., Bhalotra, S., and Prakash, N. (2021) aimed to evaluate the effect of Women's Police Stations (WPS) on the reporting of gender-based violence. Analyzing administrative crime data, the study found that 29% of women reported incidents of domestic violence to the police, concluding that the establishment of WPS has enhanced women's sense of safety.

Sachdeva, S. (2019) conducted a study to estimate and project the incidence of cognizable crimes against women in New Delhi from 2016 to 2020. Through statistical analysis, synthesis, and modeling, the study revealed an upward trend in crimes against women, with rates increasing from 204.6 to 308.8 per 100,000 women over this period. The findings indicate that women's safety may become an even more pressing concern shortly.

Amaral, S., Bandyopadhyay, S., and Sensarma, R. (2015) examined the relationship between female labor participation and violence against women. The study found that the implementation of the National Rural Employment Guarantee Scheme (NREGS) led to increased female labor force participation, but paradoxically, this was accompanied by a rise in gender-based violence, including kidnappings, sexual harassment, and domestic violence, although dowry-related deaths showed a decline.

Kethineni, S., Srinivasan, M., & Kakar, S. (2016) investigated the impact of Mahila Samakhya, an advocacy group for women's equality, and Nari Adalats, informal women's courts, on addressing violence against women in India. Employing qualitative methods, including field observations and in-depth interviews, the study revealed that these institutions are instrumental in promoting women's rights and addressing domestic violence cases.

Chakraborty, S., Kumar, S., & Subramaniam, M. (2017) discussed gender-based violence in urban settings, particularly in Bangalore, based on 87 informal interviews. The study emphasized the need for more comprehensive approaches to supporting domestic violence survivors. It proposes that a coalition of agencies should work together to create preventive services, ensure accountability, allocate resources for interventions, and assess their effectiveness.

Inoue, S. (2020) conducted a review of legislative reforms enacted since 2013 and evaluated their impact on women throughout India. The study analyzed the implementation of initiatives such as the Criminal Law Amendment Acts of 2013 and 2018 and proposed future actions, including the enactment of a victim protection law and the criminalization of marital rape.

Singh, M., Kumar, V., Rupani, R., Kumari, S., Yadav, P. K., Singh, R., & Verma, A. K. (2018) investigated the characteristics of acid attack victims, the underlying motives of such attacks, and the impact of restorative treatment on their quality of life. This retrospective observational study, which reviewed 52 acid attack victims admitted to the plastic surgery department between July 2012 and June 2017, underscored the critical issue of acid attacks, particularly among women under 30. The study advocated for social upliftment strategies to address and challenge traditional cultural practices in North India.

Chantler, K., Gangoli, G., & Thiara, R.K. (2019) analyzed the socio-economic status of Muslims, focusing on communalism in India and radicalization in the UK. The study found that state, community, and individual responses continue to perpetuate gender-based violence in both countries, thereby limiting the public spaces available for Muslim women to access support for such violence.

Himabindu, B. L., Arora, R., & Prashanth, N. S. (2014) investigated gender violence in India by evaluating the social status of women. Through the use of secondary data and a critical review of issues such as sex-selective abortions, crimes against women, and the depiction of

women in cinema, the study concluded that health workers, researchers, and public health professionals are pivotal in promoting gender equality in India.

Das, S., & Mazumder, R. (2017) examined the correlation between crimes against women and economic growth in India from 1988 to 2016. The study revealed that elevated rates of crimes against women have a detrimental effect on the nation's economy. It concluded that social change is critical for empowering women and fostering economic growth.

Gangoli, G. (2020) examined gender-based violence and abuse in response to the Lancet Commission on the legal determinants of health, adopting a gendered perspective. The study emphasized how certain women have effectively utilized legal reforms, suggesting that the law can symbolically and positively contribute to justice. Based on the analysis of the above review, it is clear that a recent comprehensive study focusing on gender-based crime in India has not been conducted. Despite the critical importance of gender-based crime in the context of gender equality and the ongoing movement towards women's empowerment in the country, there remains a notable gap in in-depth research on this issue. Undertaking a thorough and insightful study in this area could yield valuable insights and contribute significantly to the understanding of gender-based crime in India in the recent scenario.

2. STUDY OBJECTIVE

- ❖ To inspect the crime against women in the recent scenario of India
- ❖ To explore the legal provision to protect against crime against women in India
- ❖ To bring legal recommendations to control crime against women in India

3. METHODS OF THE STUDY

The current research aims to assess gender-based crime in India by comparing crime data from 2019-2021 with that from 2015-2016. The assessment draws on secondary sources, including the *Crime in India* report, the National Crime Records Bureau, and the Ministry of Home Affairs (2021). Descriptive research methods were employed to analyze changes in the crime rate within the recent context. Notably, the grounded theory approach was extensively used to generate new ideas and concepts from various reviews. Additionally, numerous online sources were consulted to enhance clarity.

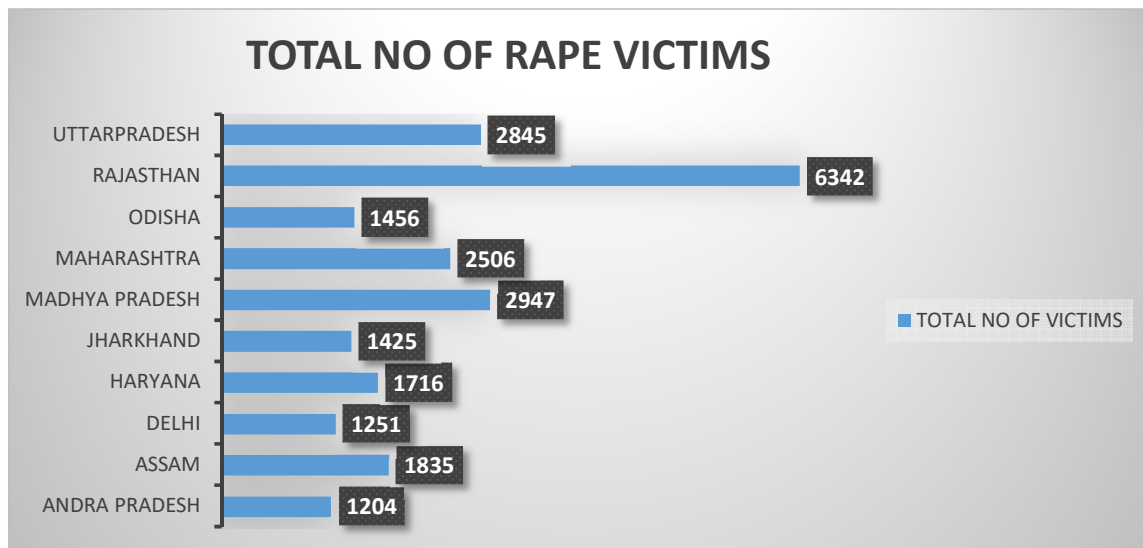
4. ANALYSIS AND INTERPRETATION OF THE CRIME AGAINST WOMEN IN THE RECENT SCENARIO

India has many legislations specifically drafted to uplift women and provide them with necessities. Though we have many laws and legislations, there is a gradual growth in the crime rate against women. The National Crime Reports Bureau or the NCRB is the concerned government body responsible for publishing crime rates in India. The NCRB report in recent years shows that crime against women in India increasing rather than decreasing. Some of the reports of NCRB are as follows:

4.1 RAPE – A SERIOUS CRIME AGAINST WOMEN:

From ancient times till now, there has been a gradual increase in crime against women. From the famous Mathura case to the Nirbhaya case, our country has witnessed many instances of rape all around the nation which is very shameful for society. We as a society failed to give protection to the innocent victims and this clearly states that our country needs not only stringent laws but also better awareness. The total number of rape victims state wise according to the NCRB report of 2021 shows that Rajasthan has the highest rape victims which is upto total number of 6342(27%) and Andra Pradesh has least number of 1204 victims among the top 10 states with the highest victims. The below chart shows the top 10 states to have larger number of rape victims as per the report published by the NCRB in 2021.

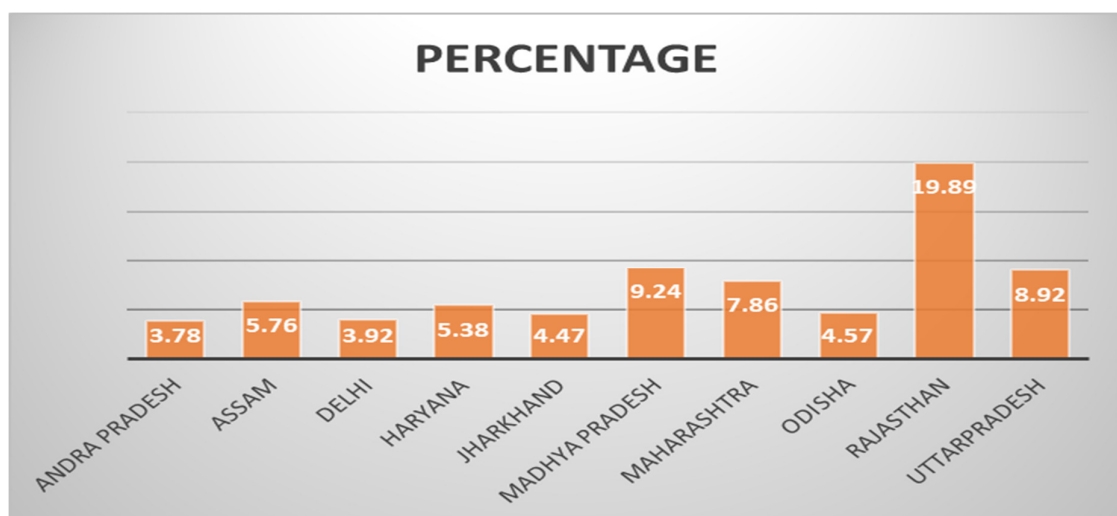
TABLE 1: TOTAL NUMBER OF RAPE VICTIMS FROM SELECTED STATE



Source: Crime in India, national crime records bureau, ministry of home affairs (2021)

The above chart is the pictorial representation of the report provided by the NCRB regarding the total number of rape victims according to the state wise in India. The above table clearly shows that Rajasthan is in the first place with a total number of rape victims of approximately 6,342 and following Rajasthan, Uttar Pradesh is the second highest state to have a greater number of rape victims i.e., 2,845 victims as per the 2021 NCRB report. Among these top 10 states which has higher number of rape victims, Andhra Pradesh seems to lower number (1204) of victims compared to the other nine states. Odisha and Jharkhand have 1,456 and 1,425 number of victims and it is considered to be the state to have victims of medium range.

TABLE 2: PERCENTAGE OF RAPE VICTIMS BY SELECTED STATE



Source: Crime in India, national crime records bureau, ministry of home affairs (2021)

The above chart is the Percentage of rape victims by state wise (top 10 states with the highest percentage) by NCRB. The above table shows that Rajasthan has the highest percentage with a range of 19.8% and Andhra Pradesh with the lowest range of 3.78%. This table contains the percentage range of total number of rape victims which has been showed in the previous table (table 1). Delhi (3.92%), Jharkhand (4.47%), Odisha (4.57%) and Andhra Pradesh (3.78%) have rape victims which is less than 5% compared to the other states such as Assam (5.76%), Haryana (5.38%), Madhya Pradesh (9.24%), Maharashtra (7.86%) and Uttar Pradesh (8.92%) which has the percentage higher than 5%.

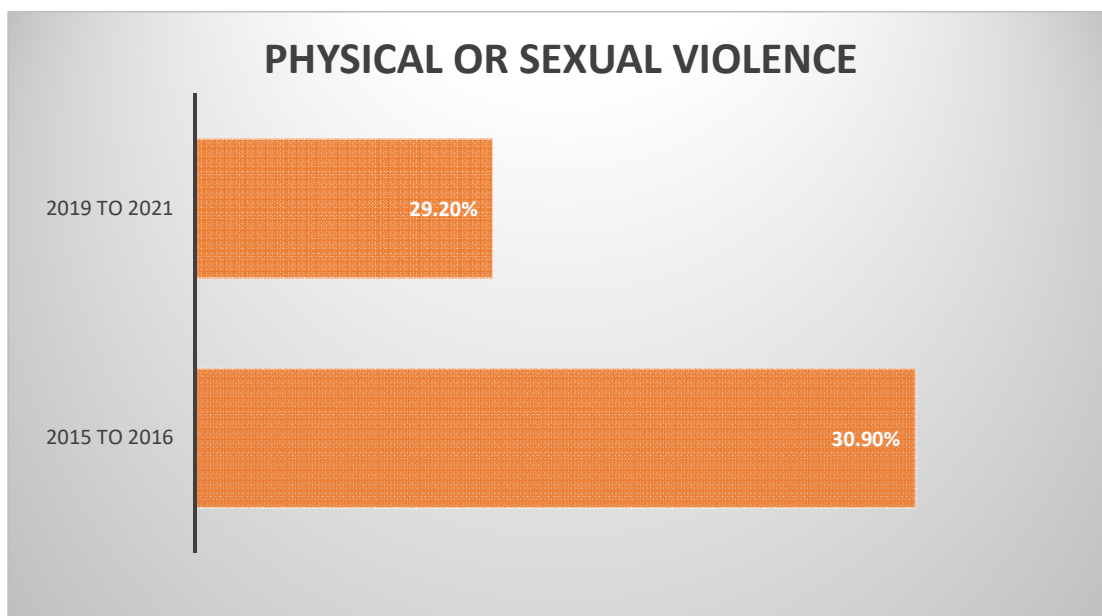
⁶ Source: crime in India, national crime records bureau, ministry of home affairs (2021)

4.2 VIOLENCE AGAINST MARRIED WOMEN

Violences are happening to women irrespective of whatever background they come from. The violences experienced by women who are married often goes unnoticed. The NCRB report of 2015 to 2016 and 2019 to 2021 shows about the offences committed by the husbands which includes physical or sexual offence and emotional physical or sexual offence. The report by NCRB is as follows:

TABLE 3: PHYSICAL VIOLENCE AGAINST MARRIED WOMEN

This table shows that physical violence against married women have been reduced gradually in 2019 – 2021 in comparison with 2015- 2016.



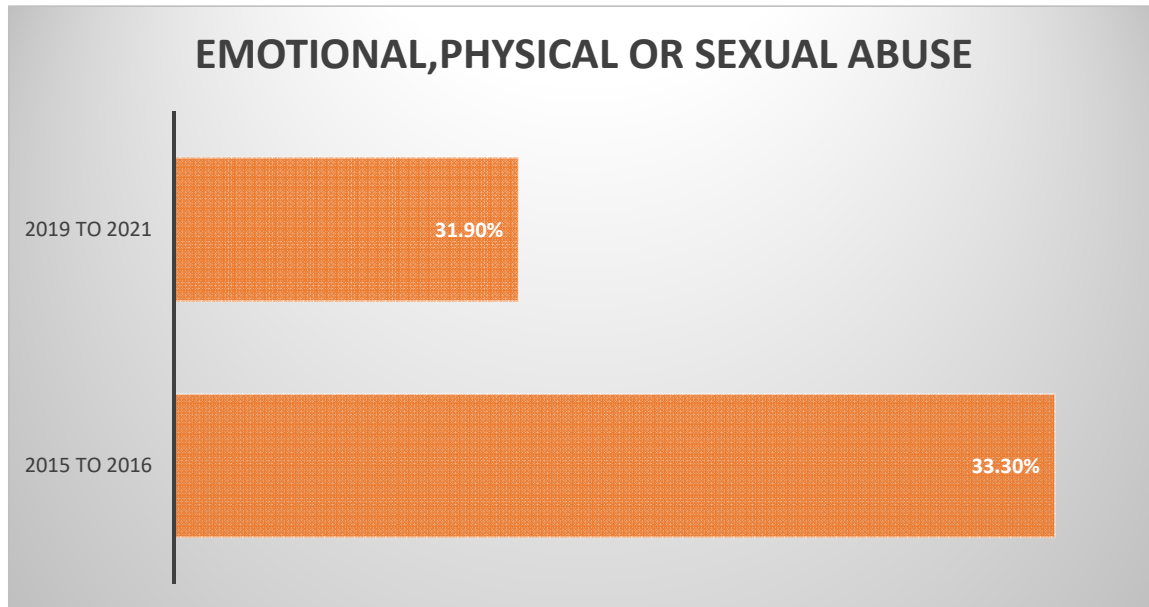
Source: Crime in India, national crime records bureau, ministry of home affairs (2021)

The above chart is the pictorial representation of the percentage of crimes committed by husbands to their wives who come under the age group of 18 to 49. This chart denotes the physical or sexual violence committed by the husband all over India. The abuse by the husband to their wife is increasing day by day. The NCRB report from the year 2015 to 2016 which is presented in the above table shows that the abuse by husbands to their wife who is aged between 18 to 49 years was so high that it almost covered 30.9% overall India. This situation is very dangerous for the development of India. The report between the years 2019 to 2021 depicts that there has been 29.20% of women have been abused by their husbands. Compared to the 2015 report, the report between 2019 and 2021 seems to have reduced to at least 1% but this is

also depicting that for the past 7 years more than 30% of women have been abused by their husbands by physically or sexually.

TABLE 4: EMOTIONAL, PHYSICAL OR SEXUAL ABUSE

This table shows that emotional, physical or sexual abuse have been more in the year of 2015 to 2016 and it has gradually decreased in the year of 2019 to 2021.



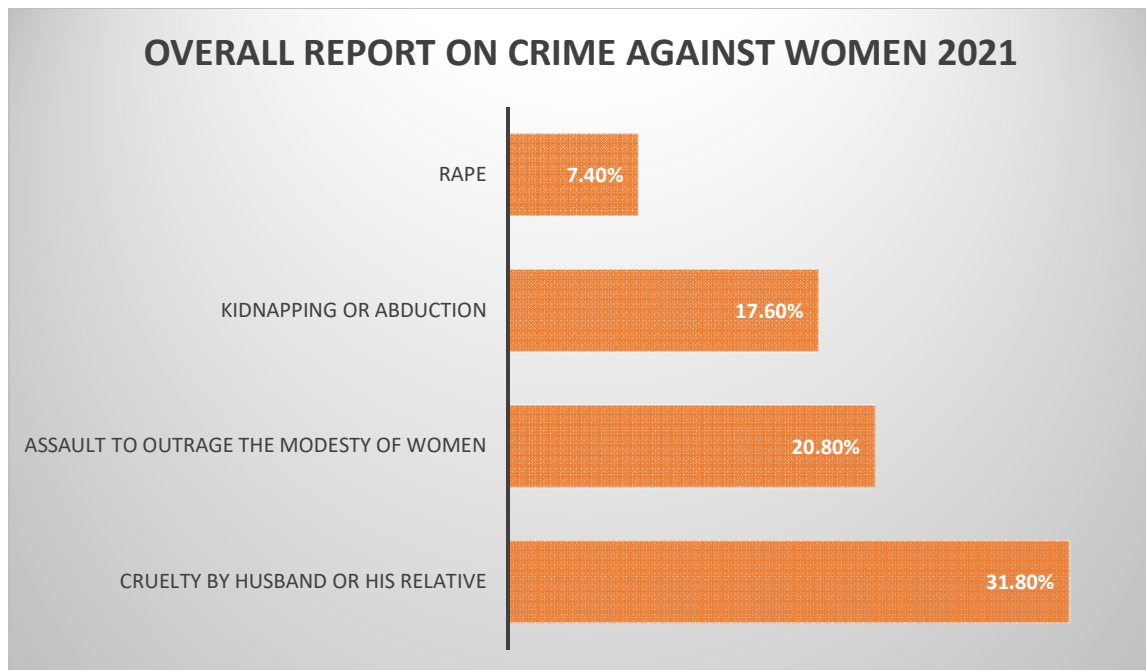
Source: Crime in India, national crime records bureau, ministry of home affairs (2021)

The above chart is the pictorial representation of the percentage of crimes committed by husbands to their wives who come under the age group of 18 to 49. This chart illustrates the incidence of emotional, physical, or sexual violence perpetrated by husbands across India. The above table says about the Emotional, Physical, or sexual abuse of husbands to their wife all over India and it is understood that the emotional abuse for the wife within her household is very high. The percentage of women who have abused emotionally, physically, or sexually between the period of 2015 to 2016 is 33.30% and between the period of 2019 to 2021 it is 31.90. there is not much of a change between these two time periods.

4.3 OVERALL REPORT:

The NCRB reported that the crime against women in India have increased to 64.5% in 2021. In 2020, the crime rate was 56.5%. The crime which topped the report of 2021 is the cruelty by husband or his relative, so, it shows that married women are suffering a lot in their marital home. The pictorial depiction of report is as follows:

TABLE 5: FORMS OF CRIME AGAINST WOMEN IN INDIA.



Source: Crime in India, national crime records bureau, ministry of home affairs (2021)

The above chart depicts the types of crime which is happening against women in India. The different form of crime rate as reported by the NCRB report of 2021 was Cruelty by the husband or his relative to his wife which is 31.80%, Assault to outrage the modesty of women which is approximately 20.8%, kidnapping or abducting girls and women is 17.60% and rape constitutes 7.40% of overall crime against women. So, the current scenario of crime against women has increased and it shows the lack of implementation of government laws and the lack of awareness in the society. The current scenario depicts that women all around the nation are still struggling to overcome the violence.

4.4 LEGAL PROVISIONS TO PROTECT WOMEN AGAINST CRIME IN INDIA

The significant legislation regarding the protection of women and girl children in India is as follows:

1. Protection of Women from Domestic Violence Act, 2005.

Domestic violence is the violence that happens within the four walls of the victims and mostly this violence goes unnoticed. Domestic violence is experienced by women across India, this is because the men in many households think that they can do whatever they want to their wives and this thought is due to the toxic masculinity that is prevalent in the society. Most of the women are not aware of the legal remedies available for them. The Protection of Women from Domestic Violence Act, of 2005, was enacted to safeguard women and prohibit domestic violence within society. The primary objectives of the Act are to offer protection to victims and to penalize offenders who commit such offenses. This act is one of the most important acts to protect the dignity of women. According to this act, victims can also file cases against the female members of the family with the male member as the sole offender. In *Bhartiben Bipinbai Tamboli v. State of Gujarat*, the court laid down that the violence against women particularly domestic violence should not be considered lightly and the Domestic Violence Act should safeguard women from such violence.⁷

II. Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013

This act is an outcome of *Vishaka v. State of Rajasthan*⁸ case. In this case the court pointed out that there is a lack of provision to safeguard women from sexual violence in their workplace. The court established several guidelines to prevent sexual harassment of women in the workplace. This act defines the term sexual harassment more clearly. Sexual harassment refers to unwelcome behaviour, either direct or indirect, including physical contact or demands for sexual favours. Showing pornographic content without their willingness also comes under the purview of sexual harassment. This act is applicable to all women from workplaces whether

⁷ Bhartiben Bipinbhai Tamboli V/S State of Gujarat and Others.

Special Criminal Application (Domestic Violence) No. 5672 of 2016 and Special Criminal Application No. 9799 of 2016

⁸ (1997) 6 SCC 241

public or private, the act also mandates the employers to take steps to ensure that the women employees are free from harassment and it is the duty of the workplace to set up Internal Complaints Committee (ICC) to receive complaints from the workers.

III. The Dowry Prohibition Act, 1961

The concept of dowry has been prevalent in India since ancient times. Many cultures and traditions in India support dowry and many think that dowry is very essential for a marriage. Dowry is seen as one of the social evils happening in the country against women. Dowry demands can lead to violence and in the worst scenario death of the victim. To prohibit the give and take of dowry, the Dowry Prohibition Act of 1961 has been passed. This act prohibits the offence of giving and demanding dowry and under this act an agreement made for the sole purpose of receiving or giving dowry is void. It also provides penalties and punishments for those who demand or give dowry.⁹

IV. The Immoral Traffic (Prevention) Act (ITPA), 1986

The Immoral Traffic (prevention) Act of 1986 is an amendment to the 1956 Act. This act is established to correct all the lacking in the previous act and to make very strong provisions. This act provides punishment for keeping brothels or allowing to run brothels on the premises of a building for prostitution purposes. This act also mandates the establishment of special courts for speedy trials of the cases filed under the act. This act also gives power to police officers to arrest any person without a warrant if they are engaged in any activity that is criminal activity under the act. The rehabilitation is also given to the offenders under the act.

V. The Indecent Representation of Women (Prohibition) Act, 1986

In some movies, advertisements, videos in social media and other sources depict women in an indecent way to increase their viewers. This indecent representation is now a crime in India under the Indecent Represent of Women (Prohibition) act, 1986. This act prohibits the advertisements, publication, display or distribution of any kind of materials that explicitly represent women indecently. Imprisonment is also given to those who commit the offense under the act. Imprisonments can be given up to 2 years and 5 years under the act.

⁹ Section 2 of the dowry prohibition act of 1961

6. Pre-Conception and Pre-Natal Diagnostics Techniques Act, 1994

It is most commonly called as PC & PNDT Act. This act prohibits the technique of sex selection after conception. This act was formulated by the Indian government as there was a gradual increase in the female foeticide rates in India due to the identification of the sex of the child in the mother's womb. This act says that ultrasound and amnio-centric techniques should be used only to identify any genetic abnormalities, metabolic disorders, and other disorders or abnormalities in the unborn child. These techniques should not be used to identify the gender of the child after conception. This act mandates the central and state governments to govern these techniques used in hospitals and clinics. Imprisonment and fines are imposed on those who use these techniques to identify the gender of the baby.

7. The Prohibition of Child Marriage Act, 2006

From time immemorial till now we are witnessing child marriage around our nation. Mostly these marriages take place due to poverty and less awareness of the parents. The Prohibition of Child Marriage Act of 2006 makes the concept of child marriage a grave crime against the girl child. Child marriage can physically and mentally affect the growth of the child. In the worst case scenario, early pregnancy due to child marriages has caused the death of the girl child. This act defines a girl under 18 years as a child and a boy under 21 years as a child. This act aims to provide a society that is safe and secure for the girl children by providing rigorous punishment to the offenders. This act makes the child marriage voidable at the decision of the contracting parties.

4.5 RECOMMENDATION OF THE STUDY

1. Legal framework should be strengthened:

The laws in India should be made stricter and the loopholes must be identified in the laws governing the crime against women. Many legislations should be established to identify the crimes happening in the current technological era. With the increase of technologies crime rate is also increasing against women. So, the legislature should take steps to prevent those crimes.

2. Awareness and Empowerment programs:

Most of the women in rural areas and in backward communities are not aware of the basic law that will help them to come out of their misery. So government and NGOs should take steps to arrange awareness and empowerment programs to women and educate them regarding their

rights. Many feminist speakers and fighters of gender justice should come forward and give speeches in front of women in rural areas and they should help them to go a step further in their lives.

3. Awareness through school Education:

Nowadays children are learning advanced education in schools so along with that they should learn basic laws and fundamental rights which can help them to lead a dignified life. This method of educating children will help them in the future and they will in turn educate their mothers and grandmothers regarding the same.

4. Emotional support of the Family member:

Changes should happen in our household, then only we can change society. Family members play a vital role in supporting the young females who come out of the four walls and succeed in life. If a woman experiences any kind of violence in society her family members should stand with her and support her in reporting the crime rather than telling her not to continue her education or her passion. If there is no emotional support from the family, many women will not report the crime fearing that they are disgracing their family's name.

5. More Support Services:

More support services like helpline numbers, shelters for the affected women, and special forces to protect women should be set up and should be made available to all the women in need. Publications of these services are necessary to let the women know that there are many services available to them.

5. DISCUSSION AND CONCLUSION

The social evils against Women in India take many forms such as child marriage, female infanticide, foeticide, etc. These evils are stuck in our society and are destroying the quality of life of women. The crime against women requires immediate action and attention. The crime against women is deeply rooted in our society and laws and legislation cannot alone destroy all the crimes. This gradual increase in crime rates against women is because this society is based on a gender-biased perspective. The NCRB which is the responsible governmental body for reporting crime in India in its 2021 report has published various reports on crime against women. The states of Rajasthan, Maharashtra, Uttar Pradesh, and Madhya Pradesh have the highest reported crime rates for rape. Therefore, both the state and central governments must take

proactive measures to address this issue. Awareness programs should be implemented, particularly in rural areas, to educate the public on societal values and promote a deeper understanding of the issue within the context of India. Women especially married women should understand the fact that abuse in their marital home is a crime and they should not hesitate to report it to the concerned authorities. The cruelty of a husband to his wife is the highest range of crime (as per the NCRB report) happening in India and this can be avoided if the woman knows about her rights. Though we are constantly proving to the world that men and women are equal, the majority of the population directly or indirectly agrees that men are the most dominant gender. The legislations of our country should address every issue and the punishment for those who commit the offense should be made more stringent and all the loopholes in the legislation which is brought for the protection of women should be identified and corrected. Crime against women should be discussed properly because if we let this continue then we will be addressing a nation that lacks the basic humanity to treat everyone the same way. But we can decrease it gradually with more strict laws and awareness programs.

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