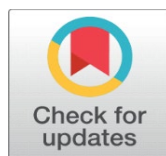
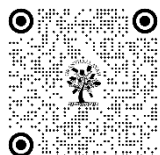


# CRIMES AGAINST WOMEN IN INDIA: AN ANALYTICAL STUDY

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## ABSTRACT

'There is no chance of the welfare of the world unless the condition of women is improved. It is not possible for a bird to fly on one wing'

-Swami Vivekananda

The National Crime Record Bureau (NCRB), indicates that in many parts of India, levels of violence against women are very high. In Indian society Crime against women is not new; women have been victims of torture and exploitation. Crime against women is a global problem occurring in every culture and society. Therefore, there is a need to pay utmost attention to crimes against women. These include rape, cruelty by husband or his relatives, kidnapping, dowry deaths, mental and physical torture, molestation, sexual harassment, acid attacks and trafficking etc. These are crimes which can be committed specifically on women only. The purpose of this paper is to analyze the laws made to prevent crimes against women e.g. The Bharatiya Nyaya Sanhita, 2023, The Indian Penal Code, 1860, The Immoral Traffic (Prevention) Act, 1956, The Dowry Prohibition Act, 1964 etc. and tries to undertake a structured study of the various crimes committed against women.

**Keywords:** Women, Trafficking, Rape, Dowry

## 1. INTRODUCTION

'All nations have attained greatness by paying proper respect to women. That country and that nation which do not respect women have never become great, nor will ever be in future'

-Swami Vivekananda

Crimes against women have been steadily on the rise. The National Crime Records Bureau indicates Crime Against Women a total of 4,45,256 cases of crime against women were reported in 2022, marking a 4% increase from 2021. A total of 4,28,278 cases of crime against women were registered during 2021, showing an increase of 15.3% over 2020 (3,71,503 cases). Majority of cases under crime against women under IPC were registered under 'Cruelty by Husband or His Relatives' (20.8%), kidnapping & Abduction of women (17.6%) and Rape (7.4%).<sup>1</sup> It must be borne in mind that these figures largely relate to crimes that occur in the public sphere.

<sup>1</sup> National Crime Records Bureau Ministry of Home Affairs, Crime in India 2021, Statistics Volume-I

Crime against women constitutes a pervasive violation of her fundamental rights as guaranteed in the Constitution of India and a major impediment to achieving gender equality. Only crimes which are directed specifically against women are characterized as ‘crimes against women’<sup>2</sup>. Crimes against women are classified under two categories: (1) Crimes under the Indian Penal Code 1860: (i) rape (ii) kidnapping and abduction (iii) dowry deaths (iv) torture- physical and mental (including wife battering) (v) molestation (vi) sexual harassment and (vii) importation of girls, etc. (2) Crimes under Special and Local Laws (SLL): (i) immoral traffic (1956 and 1978 Act) (ii) dowry prohibition (1961 Act) (iii) committing Sati (1987 Act) and (iv) The indecent representation of women (Prohibition) Act, 1986 etc.<sup>3</sup>

Article 1 defines “discrimination against women” as physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.<sup>4</sup>

## 2. DEFINITION OF WOMEN

According to Section 2(35) “women” means a female human being of any age.<sup>5</sup>

According to Section 10 ‘Man’, ‘Woman’, the word ‘man’ denotes a male human being of any age; the word ‘woman’ denotes a female human being of any age.<sup>6</sup>

### Crime against Women under the Indian Penal Code and the Bhartiya Nyaya Sanhita:

| The Indian Penal Code, 1860 |            |                                                                       | The Bharatiya Nyaya Sanhita, 2023 |                                                                              |
|-----------------------------|------------|-----------------------------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------|
| Sl. No.                     | Section    | Heading                                                               | Section                           | Heading                                                                      |
| 1                           | 375        | Rape                                                                  | 63                                | Rape                                                                         |
| 2                           | 376(1)/(2) | Punishment for Rape                                                   | 64                                | Punishment for Rape                                                          |
| 3                           | 376D       | Gang Rape                                                             | 70(1)                             | Gang Rape                                                                    |
| 4                           | 304B       | Dowry Death                                                           | 80                                | Dowry Death                                                                  |
| 5                           | 354        | Assault or criminal force to woman with intent to outrage her modesty | 74                                | Assault or use of criminal force to woman with intent to outrage her modesty |
| 6                           | 354A       | Sexual harassment and punishment for sexual harassment                | 75                                | Sexual harassment                                                            |
| 7                           | 498A       | Husband or relative of husband of a woman subjecting her to cruelty   | 85                                | Husband or relative of husband of a woman subjecting her to cruelty          |
| 8                           | 509        | Word, gesture or act intended to insult the modesty of a woman        | 79                                | Word, gesture or act intended to insult the modesty of a woman               |
| 9                           | 354C       | Voyeurism                                                             | 77                                | Voyeurism                                                                    |

## 3. FEMALE FOETICIDE

According to the Indian Census of 2001, the sex ratio of the Indian population was 933 females to 1000 men. In 2011, the sex ratio number of females per 1000 males at all India level was 943.<sup>7</sup> In India, even 21<sup>st</sup> century a female child is considered as a burden on the family. Immediately after the birth of a female child many parents killed it. Due to the strong preference for male children in some sectors of Indian society and the equally strong perception of female children as financial burdens, families choose to abort female fetuses at alarming rates.

<sup>2</sup> Prof. N.V. Paranjape, *Criminology & Penology (including Victimology)* 212 (Central Law Publications, Eighteenth Edition 2019)

<sup>3</sup> Ram Ahuja, *Criminology* 216 (Rawat Publications, New Delhi, Reprinted 2022)

<sup>4</sup> Convention on Elimination of all forms of Discrimination against Women (CEDAW)

<sup>5</sup> The Bharatiya Nyaya Sanhita, 2023

<sup>6</sup> The Indian Penal Code, 1860.

<sup>7</sup> <https://mospi.gov.in>files Ministry of Statistics and Programme...>

**Ajit Savant Majagavi v. The State of Karnataka**<sup>8</sup>, The Court pondered that how unfortunate it is that in the contemporary age where people reflect themselves as civilized and modern, crimes against women are committed from the time while she is still a foetus. If she takes birth alive, she starts to live her life as a daughter and then goes on to become a mother and a wife. She nurtures her child, loves it immensely and gives all she has to make her child happy. To be cruel towards such a creature is unthinkable.

In **Centre for Enquiry into Health and Allied Themes (CEHAT) & Ors v. Union of India**,<sup>9</sup> the petitioner NGOs approached the apex court under Article 32 urging implementation of the PNDT Act, 1994. The Supreme Court directed the Central and state governments to undertake public awareness campaigns pertaining to the illegality of prenatal determination of sex and female foeticide. The Court also ordered the Central Supervisory Board to register medical centres and laboratories and ensure their compliance with the Act.

#### 4. SEXUAL OFFENCES

The Supreme Court noted in **Sakshi v. Union of India**, that the legislature should amend the laws, in order to reflect modern notions of crime and to safeguard society from the wide range of sexual offences that go unchecked by law presently.<sup>10</sup>

Thereafter, the Law Commission in consultation with women's organizations such as Sakshi, Interventions for Support, Healing and Awareness (IFSHA), the All-India Democratic Women's Association (AIDWA), and the National Commission for Women (NCW) suggested a complete refurbishment of the law relating to rape and sexual assault. This was brought forth in the 172<sup>nd</sup> Report of the Law Commission on Review of Rape Laws, suggesting requisite amendments to the IPC, CrPC as well as the Indian Evidence Act.<sup>11</sup>

#### 5. RAPE

In the case of **Bodhisattwa**<sup>12</sup>, the Supreme Court of India accepted the contention that of rape violates the basic human rights enshrined in the Indian Constitution, namely right to life and personal liberty.

**Sekh Jakir v. State of Bihar**<sup>13</sup>, In the case of rape, the women raped cannot be called a co-accused; the corroboration of the evidence of the woman raped can be done by direct evidence on circumstantial evidence or by both.

In the case of **State of Maharashtra v. Chandraprakash Kewalchand Jain**<sup>14</sup>, the court awarded five years rigorous imprisonment. This case is involved the rape of a young woman by a policeman who had deliberately plotted the crime by implicating the girl's husband in a false case.

#### 6. MARITAL RAPE

The term 'marital rape' may be defined as 'unwanted intercourse by a man on his wife obtained by force, threat of force or physical violence or when she is unable to give consent for it'<sup>15</sup>. Marital rape is a betrayal of trust. The affected woman feels betrayed and humiliated. The Indian Penal Code recognizes the following forms of sex offences which can be committed against women: (1) Intercourse by husband with his wife who is under eighteen years of age without her consent (sec. 375 D), (2) Intercourse by a man with his wife during separation (Sec. 376- B)

<sup>8</sup> Criminal Appeal No. 368 of 1991

<sup>9</sup> AIR 2003 SC 3309

<sup>10</sup> (2004) 5 SCC 518

<sup>11</sup> SHRDC, South Asia Human Rights Documentation Centre, *Human Rights and Humanitarian Law* 345 (Oxford University Press, New Delhi, First published 2008)

<sup>12</sup> Bodhisattwa v. Shubhra Chakraborty, AIR 1996 SC 922.

<sup>13</sup> 1983 Cr.L.J. 1285 S.C.

<sup>14</sup> AIR 1990 SC 660.

<sup>15</sup> Prof. N.V. Paranjape, *Criminology & Penology (including victimology)* 255 (Central Law Publication, Prayagraj, Eighteenth Edition 2019)

**Suchita Srivastava v. Chandigarh Administration**<sup>16</sup>

The personal liberty includes right of women to make reproductive choices. She can refuse to participate in sexual act.

**7. TRAFFICKING**

The majority of trafficking that takes place both within India and across international borders occurs for commercial sex work and more than 60 percent of those trafficked into sex work is adolescent girls in the 12–16-year age group.<sup>17</sup> This reflects the increasing trend of trafficking younger girls for purposes of commercial sex and prostitution. One of the biggest reasons behind this development is the myth that having sex with a virgin can cure Acquired Immuno-Deficiency Virus (AIDS) and other sexually transmitted diseases.

The Suppression of Immoral Traffic in Women and Girls Act 1956, now Immoral Traffic (Prevention) Act (ITPA), was enacted in pursuance of India's international commitment on ratifying the Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of others signed at New York on 9<sup>th</sup> May, 1950.<sup>18</sup>

**8. DOMESTIC VIOLENCE**

The Protection of Women against Domestic Violence Bill, 2005, received presidential assent in September 2005 and came into force in October 2006. The Act includes in its definition of domestic violence physical, verbal, emotional, sexual and economic abuse as well as the threat of abuse. It thus covers aspects of domestic violence over and above those related to dowry demands and harassment. Some have found the terms of the Act too broad in this respect, in that such abuses as 'insults and name calling', which remain undefined, are open to subjectivity and sensitivity.<sup>19</sup>

The Supreme Court has tried to define mental cruelty, in the case of **Pravin Mehta v. Inderjeet Mehta**<sup>20</sup>, The court held mental cruelty as 'the state of mind'. The explanation (a) as available under section 498A provides that "mental cruelty is willful conduct that derives a woman to commit suicide or commit a bodily injury to her." Mental cruelty can be further classified like mental sufferance, violation of mental health, anxiety attack, attempt to suicide, mental torture which leads to miscarriage.

**9. DOWRY DEATH**

The definition of dowry as stated in section 2, Dowry means any property or valuable security given or agreed to be given either directly or indirectly- (a) by one party to marriage to another party to the marriage or (b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person, at or before or any time after the marriage of the said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.<sup>21</sup> The Dowry Prohibition Act, 1961, made the demanding and giving of dowry punishable under law. Nevertheless, the practice has continued. In numerous cases, parents have been unable to appease dowry demands and the result has been violence and cruelty meted out to married women, many times leading to tragic deaths.

**Vikas v. State of Rajasthan**<sup>22</sup>, In this case, the Supreme Court has said that dowry is a social evil. This evil cannot be removed by law alone. Society should take initiative to remove this evil. Demand and delivery of dowry can be effectively stopped by the society.

<sup>16</sup> AIR 2010 SC 235

<sup>17</sup> SHRDC, South Asia Human Rights Documentation Centre, *Human Rights and Humanitarian Law* 347 (Oxford University Press, New Delhi, First published 2008)

<sup>18</sup> Charu Walikhanna, *Law on Violence against Women* 289 (Serials Publications, New Delhi, Edition 2009)

<sup>19</sup> SHRDC, South Asia Human Rights Documentation Centre, *Human Rights and Humanitarian Law* 348-349 (Oxford University Press, New Delhi, First published 2008)

<sup>20</sup> (2002) 5 SCC 706.

<sup>21</sup> The Dowry Prohibition Act, 1961, Section 2.

<sup>22</sup> AIR 2002 SC 2830.

## 10. ACID ATTACKS

Acid Attacks is one of the damaging forms of crime against women. It gives women an irreparable damage, bodily, mentally pain for life long and which cannot be compensated. The Criminal Law (Amendment) Act, 2013 incorporated Section 326A and 326B with intent to make specific provision for punishment in the case of acid attack.

**Parivartan Kendra v. Union of India**<sup>23</sup>, In this case Supreme Court banned over the counter sale of acid. The Court observed that acid attack robs a victim the right to enjoy the basic amenities of life and hence the compensation provided should be proportional to both physical and mental injuries suffered. The Court even ordered the state governments to bear full responsibility for the care and treatment of the acid attack victims.

## 11. CONCLUSION

Crime against women is one of the most widespread violations of human rights. From birth, violence against women has assumed enormous dimensions in India. Female foeticide, infanticide, rape, dowry harassment, domestic violence, trafficking and marital rape are rampant. In order to protect violence against women, 'Crime against women cell' has been established in India.

The inferiority of physical strength and the pressure of social tradition, the Constitution provide special protection for prevention of women exploitation. It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.<sup>24</sup> However, in actual practice, this does not seem to work particularly on the domestic scene, in remote villages. Every woman has the right to live dignified life without any fear in this society.

## CONFLICT OF INTERESTS

None.

## ACKNOWLEDGMENTS

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<sup>24</sup> The Constitution of India, 1950, Article 51 A (e)

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