

CRITICAL ANALYSIS OF SEXUAL OFFENCE AGAINST THE WOMEN

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ABSTRACT

This paper talks about the Sexual offence against women. Crime is not just an offence against a person, but it is shameful crime in society. This paper also talks about that Children are more vulnerable to crime in the present social context, and the State must protect the lives and freedoms of its citizens, particularly the disadvantaged and weaker sectors. Even so, the state's proven ineffectiveness in reducing abuse against children erodes trust in the rule of law. Sexual crimes" involving rape and unnatural offences constitute a completely different type of crime resulting from a perverse mind." This paper contains that It may lead to rape or homosexuality. Some who commit such crimes are mentally sadistic people who demonstrate that they have forcibly committed a propensity to rape. An effort was made to analyse constitutional provisions and objectively determine the conduct of the courts towards these crimes. Female children in India face all kinds of sexual harassment and the proportion of crimes against female children has reached an epidemic. It is also analysing the number of cases of child rape reported is reflective of a female child being sexually abused. Most sexual crimes committed against female girls, let alone charged, are not even recorded. If any person is taken to trial, the prosecution is impossible because cases are very hard to prove. During their lifetime, sexual harassment affects up to one-third of females. Sexual abuse is underreported, and someone known to the victim is responsible for more than one-half of the rapes. A prevalent worldwide issue is sexual harassment of women, with such abuse being committed by intimate partners of women as well as other forms of individuals (acquaintances, colleagues, family members other than partners, strangers). Sexual abuse not only poses physical health threats to women, but multiple forms of mental health issues have also been linked with it including opioid use disorders, post-traumatic stress disorder, and other anxiety disorders, depression, and suicidal ideation and attempts. Although most survivors of female sexual abuse experience adverse mental health sequelae shortly after the assault, the severity and extent of these symptoms differ significantly. Sexual harassment prevention is social and should concentrate on education in the area of public health. Programs for safety and care have been shown to minimize sexual assaults. Most of the Laws

entertaining the Cases of child abuse are also protected by the provisions of the legislation concerning sexual harassment against adult women. Several other forms of sexual harassment and violence that may harm children's bodies and minds are exempt from the legal concept of rape. Children, especially women, are the poorest among those who are oppressed and bear the brunt of the attack on the poor. Long-term mental and physical health issues may result in sexual harassment. This paper has some rules, regulations, and laws relating to a sexual offence. These rules, laws, and regulations especially contain the provisions and punishment of the sexual offence to the accused. In this paper, we found that some case analyses relating to a sexual offence. Finally, we have some suggestions and conclusions from this paper.

Keywords: -Sexual offence, Mental illness, Women, Rape, Society, Law, Sex

INTRODUCTION

The last few decades have seen an exponential increase in global standards and living standards. India's economy has also experienced tremendous growth. Even so, growth is not the same as development. This is a perennial point of contention... It is not always the case that growth and development are related. Economic growth can, in theory, contribute to social development, but this does not always happen. Crime against women is a global phenomenon. Despite all the development, women across the world are still victims of horrific crimes. Women's crime is a worldwide issue. Despite all of the progress, women continue to be victims of heinous crimes all over the world. Following the gang-rape case in Nirbhaya, violence against women became a major political problem in India. In a moving bus, a young girl was violently beaten and thrown to her death on the streets of Delhi. After that, the country had never seen such a clash of dimensions before.

Impact of the study

When people are properly invested in, social development happens. Low or minimum-wage workers are discriminated against in a developed society. There is no discrimination based on race or gender, and everyone feels protected and makes a healthy organizational culture.

Human rights are violated when violence is directed at women. This is the most significant impediment to empowering women. It is a crime that causes the woman physical and psychological damage. For any community, actual equality, growth, and security can be a major challenge. Cultural patterns focused on gender disparity, unequal social power systems, blind values and rituals, religious beliefs, customs, and media are primarily to blame for such

crimes. 'Women who are less educated and have seen their mothers being abused cultivate a mentality of recognising violence as male privilege and women's subordinate status,' according to a key finding in the WHO's 2017 study on "Violence against Women." Such violent acts have a long-term and often irreversible detrimental effect on a woman's sexual, emotional, sexual, and reproductive health, according to the law. If she does not recover from the trauma caused by the attack, her life will become a living nightmare. And, although it is capable of improvement, it is not the same as it was previously. There are many obstacles to India's growth, but one of the most significant is the evil cultural tradition that has contributed to violence against women. According to a June 2018 report by "The Thomson Reuters," India is the world's most dangerous country for women. Even in Afghanistan and Syria, for example.

The aim of this paper is to

1. Gain a better understanding of domestic violence against women.
2. To obtain a better understanding of the situations in which domestic violence against women occurs.
3. To investigate the impact of such violence on the victim's life.
4. Investigating the legal protections available in India to victims of such crimes.

Methodology

The thesis is focused on secondary data and is based on a review of prior research and reports on similar topics.

Scope

The study's focus is limited to domestic violence against Indian women.

The hypothesis

Due to a male-dominated society and community, the majority of Indian women are victims of domestic violence and sexual abuse.

Meaning of crime against women

Direct or indirect physical or mental cruelty to women is described as a crime¹. Crimes against women are crimes that are clearly "directed against women" and of which "women are victims." Sex offences for financial gains, such as adultery, brothel seduction, wrongful incarceration, trafficking, and dowry extortion murders, are only a few examples of crimes against women. Exemption from dishonesty, criminal breathing, extortion, rape, and murder are all crimes involving women's property².

Study review

While all crimes are social evils, crimes against women are particularly concerning and serious. It demonstrates the deterioration of a delicate social structure. It portrays a society that is not only uninterested in its weaker members, but also patriarchal, inhuman, and sadistic toward them. In India, it is currently on the rise. If it is not investigated, a society where women are constantly afraid and in danger will emerge.

Crime Head	Crime incidences			Crime rate			Percentage variation			
	2014	2015	2016	2014	2015	2016	2014-15	2015-16		
Total crimes against women	3,39,457	3,29,243	3,38,954	56.6	54.2	55.2	-3.0%	2.9%		
S no	Crime Head	Total cases Reported	Major State/UT during 2016							
1	Cruelty by husband or his relatives	1,10,378	West Bengal (19302)						Rajasthan (13,811)	Uttar Pradesh (11,156)

¹ Violence against women and children's issues and concerns by Awadhesh Kumar Singh and Jayant Choudhary, New Delhi, series publications, 2012. P.1 Ibid. p.2

² Violence against Women in India by Guruappa Naidu, New Delhi, Serials Publications, 2011, p. 23

2	Assault on women with intent to outrage her modesty	84746	Maharastra (11396)	Uttar Pradesh (11335)	Madhya Pradesh (8,717)
3	Kidnapping and Abduction	64,519	Uttar Pradesh (12994)	Maharashtra (6,170)	Bihar (5,496)
4	Rape	38,947	Madhya Pradesh (4,882)	Uttar Pradesh (4,816)	Maharashtra (4,189)

Crime in India 2016 statistics published by Director National Crime Records Bureau

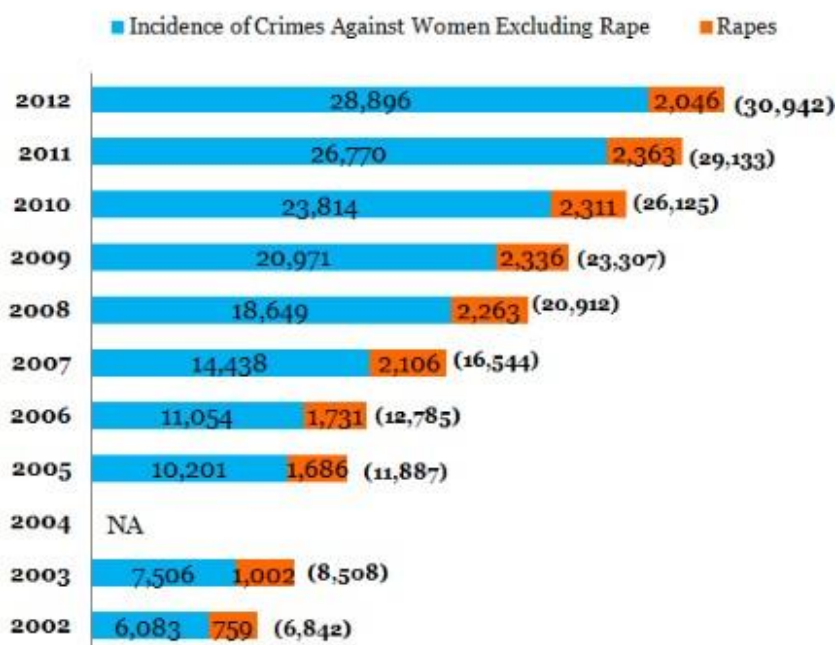
ACCORDING UNITED NATION CRIME AGAINST WOMEN IN 2002-2012

In the 1993 Declaration on the Elimination of Violence against Women, the United Nations described "violence against women." It encompasses any act of gender bias that has the potential to cause physical, sexual, or psychological harm or distress to women, as well as indications of such actions, coercion, or deprivation of liberty in public or private life. An often-inaccurate culture and obsolete patriarchal governance systems, and ineffective legal justice system, a poor rule of law, and male-centric political and social systems are among the challenges that Indian women face³. According to the 2011 census, there are 940 females for every 1000 males, which is a significant increase over the 2001 census, when the ratio was 933: 1000. However, India continues to have one of the world's lowest sex ratios, with an estimated 35 million women "missing." The north-western states of Punjab, Rajasthan, and Haryana, for example, have the highest number of women missing at birth. According to research, 12% of this variation is present at birth, rising to 25% during childhood. Domestic abuse, dowry murders, acid attacks, honour killings, rape, abduction, and brutality by husbands and in-laws account for the majority of violence against Indian women. Dowry - the tradition of giving the bridegroom's family cash and presents to the groom and his family

³ Violence against Women and Children-Issues and Concerns, By Awadhesh Kumar Singh and Jayanta Choudhury, New Delhi, Serials Publications, 2012, p.1

- is one of the main challenges. If such expectations were not met, the groom's family would often misbehave with the bride. The Government enacted a cruelty law under Section 498A of the Indian Penal Code, as well as the Protection of Women from Dowry Prohibition Act and the Domestic Violence Act, to protect women from this danger. Dowry killings, or the killing of women by grooms or in-laws due to an unforeseen high dowry presumption, accounted for 3.4 percent of all sex crimes in 2012, according to the National Crime Records Bureau (NCRB). In other words, 22 people were murdered every day in India last year because their family couldn't fulfil the dowry demand.

Crimes Against Women, 2002 - 2012

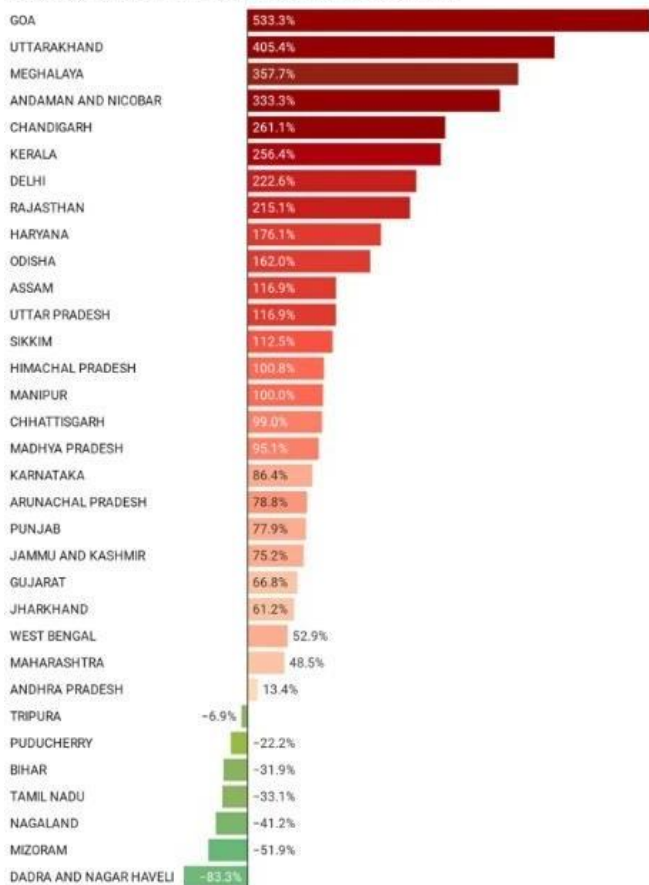


Figures in brackets are Total Crimes Against Women
Source: National Crime Records Bureau

STATE WISE RISE IN RAPE CASES OVER SEVEN YEARS AND CHANGE IN NUMBER OF RAPE CASES IN 2017 COMPARE TO 2001

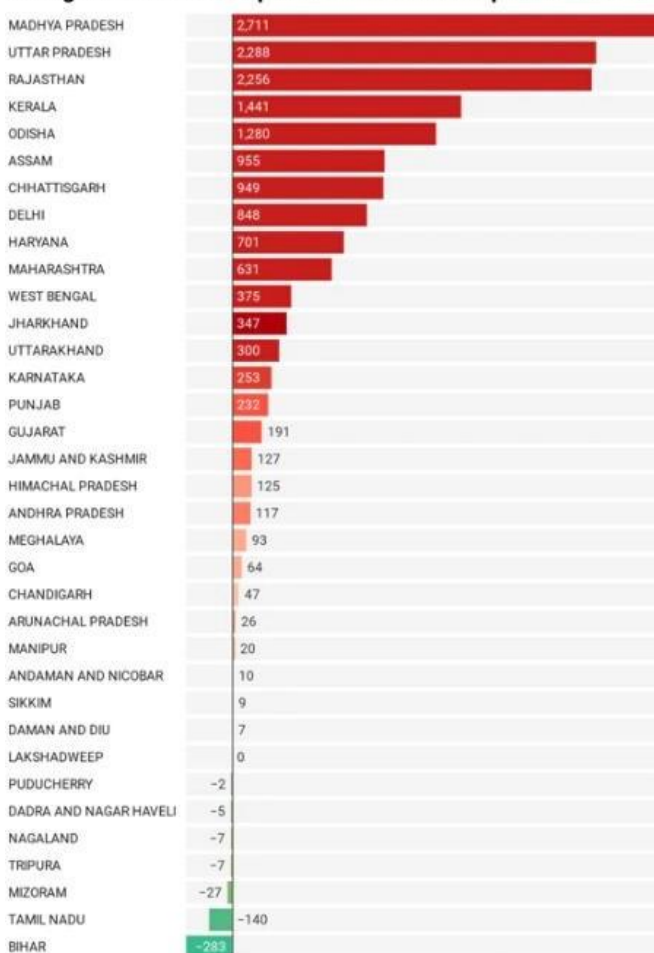
State-wise rise in rape cases over seventeen years

Percentage increase in the number of cases reported in 2001 & 2017*



*The latest available data from NCRB which was released in October 2019.

Change in number of rape cases in 2017 compared to 2001



PROVISIONS FOR WOMEN UNDER IN INDIAN CONSTITUTION

Gender equality is guaranteed in the Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles of the Indian Constitution. The Indian Constitution not only guarantees women's equality, but also empowers the government to take constructive discrimination steps in their favour, reducing the combined social, educational, and political harms they face. Fair treatment under the law and equality before the law are two examples of fundamental rights. The religion forbids discrimination against people on the basis of race, caste, sex, or place of birth, and guarantees equal job opportunities to all citizens. India has also ratified a number of international treaties and crimes against humanity that ensure that all citizens are treated equally. India has also ratified a number of international treaties and human rights instruments that ensure that all citizens are treated equally. Women are in control. Approval of the Convention against torture of All Forms of Discrimination Against Women in 1993 is one of them.

CONSTITUTIONAL PROVISIONS FOR WOMEN ARE AS UNDERⁱ

1. Women's equality before the law (Article 14)
2. The State is prohibited from discriminating against any person solely on the basis of religion, ethnicity, caste, sex, or place of birth (Article 15 (i))
3. Any special provisions in favour of women and children must be made by the state (Article 15 (3)).
4. In matters relating to jobs or appointment to any office under the State, all people have the same opportunity (Article 16)
5. The State must guide its policy toward ensuring that men and women have equitable access to adequate means of subsistence (Article 39(a)), as well as equal pay for equal work (Article 39(d)).
6. The state must make provisions for just and humane working conditions, as well as maternity leave (Article 42)
7. The state should prioritise the educational and economic needs of the poorer parts of the population, as well as protect them from social inequality and exploitation of all forms (Article 46)
8. The government's goal is to improve people's nutrition and living standards (Article 47)

SEXUAL OFFENCE RELATED TO WOMEN UNDER INDIAN PENAL CODE 1860

The section 375 to 377ⁱⁱ are deals with sexual offences in IPC. Section 375 saythat what is rape and provides punishment for the same. Rape is derived from the Latin term “rapio” meaning “to seize”. So, in the literal sense, it is meant to be a forceful seizure. It means “the ravishment of a woman again and again.

ESSENTIAL INGREDIENTS

1. There must be “sexual intercourse” between a man and a woman in the manner stated in section 375 from (a) to (d) and under specified circumstances.
2. It'll have to be "against her will."
3. “Without her permission or consent.”
4. “Consent gained by the threat of death or bodily harm.”
5. “Consent is granted under the mistaken belief that a man who knows he is not her husband is her husband.”
6. “Consent is granted when she is in a state of insanity or intoxication, or while she is unable to comprehend the essence and effects of her consent.”
7. “With or without permission or consent, when the woman is under the age of eighteen.”
8. “When she is unable to give permission verbally.”

Rape victim and accused relationship -2012

RAPE VICTIM AND ACCUSED RELATIONSHIP-2012	
NEIGHBOURS	207 (29.32%)
FRIENDS	200 (28.32%)
RELATIVES	59 (08.35%)
EMPLOYERS/CO-WORKERS	17 (02.41%)
OTHER KNOWN PERSONS	197 (27.90%)
UNKNOWN/STRANGERS	26 (3.68%)

Source : Delhi Police

CASE STUDIES: SEXUAL OFFENCES UNDER INDIAN PENAL CODE**Delhi Gang Rape Case: Nirbhaya**

In 2012, a 19-year-old girl was gang-raped by five people in a private bus while she was heading home late at night. She died as a result of multiple organ failure, extensive injuries to her private parts as well as the rest of her body, and the insertion of a rod into her private parts.

Mukesh & Anrs v. State (NCT of Delhi) & Ors⁴

The high court gave the sentence of death to the accused, and the Supreme Court re-examined the facts and circumstances. Using the victim's dying declarations, the court upheld the death penalty, saying that "where a crime is committed with extreme violence and the collective conscience of the country is shocked, courts must award death penalty⁵."

Final Judgement

In 2012, a 19-year-old girl was gang-raped by five people in a private bus while she was heading home late at night. She died as a result of multiple organ failure, extensive injuries to her private parts as well as the rest of her body, and the insertion of a rod into her private parts. A final Judgement came on 20 March 2020 and the Supreme Court held that four accused executed a death sentence. One accused had already died during the trial.

RAPE OF MINOR

The Indian penal code was amended to include sections 376AB, 376DA, and 376DB, which dealt with rape.

Unnao rape case

In the year 2017, a politician gang-raped and murdered a 17-year-old teen. The matter was taken up by the Supreme Court, and the accused was found guilty and sentenced to life in

⁴ Mukesh & Anrs v. State (NCT of Delhi) & Ors (2017) 6 SCC 1,

⁵ Mukesh & Anr v. State (NCT of Delhi) & Ors (2017) 6 SCC 1, para 511

prison and a fine of Rs. 25 lakhs⁶, However, after the verdict, the rape victim was murdered by five men⁷ who stabbed her and set her on fire.

Kathua rape case

A rape case involving an 8-year-old minor was recorded in Kathua, J&K, where she was abducted, abused, and murdered. The year is 2018. A body was discovered in such a state that she had been gang-raped and murdered. The "Protection of Children from Sexual Offenses Act (POCSO)" was amended, and harsh penalties were enforced."⁸. Three accused were found guilty of rape and sentenced to life in prison plus a one-lakh fine, while the other three were found guilty of destroying evidence and sentenced to five years in imprisonment⁹.

CAUSES OF SEXUAL OFFENCES

1. Mental Illness
2. Lack of sexual education
3. Watching adult video and content (Pornography)
4. Society (Early Childhood Environment)
5. Ill-literacy
6. Physical and Social Environment
7. Addition(alcohol)

SUGGESTIONS

1. There is a need to enhance women's images in culture, which have been shaped by mythology and social customs for decades. Women should be treated as people with the same rights as men.

⁶ Aamir Khan, 'MLA Kuldeep Sengar held guilty of Unnao minor's rape' *The Times of India* (02 January 2021) <https://timesofindia.indiatimes.com/india/unnao-rape-case-expelled-bjp-mla-kuldeep-sengar-convicted/articleshow/72750747.cms>

⁷ Kumar Kunal, 'Unnao rape victim, set on fire a year after being brutalised, dies' *The Hindu* (New Delhi, 02 January 2021) <https://www.indiatoday.in/india/story/unnao-rape-victim-set-on-fire-a-year-after-being-brutalised-dies-1626035-2019-12-07>

⁸ Criminal Law (Amendment) Act 2018 (Act No 22 of 2018)

⁹ Express Web Desk, 'Kathua rape case verdict HIGHLIGHTS: Three main accused sentenced to life imprisonment, a 5-year jail term for others' *The Indian EXPRESS* (New Delhi, 02 January 2021) <https://indianexpress.com/article/india/kathua-rape-murder-case-verdict-live-updates-5772581/>

2. There is legislation in every country to eliminate sexual offences against women; what they lack is proper enforcement. There are several reasons for their lack of compliance.
3. At regular intervals, substantive dialogue between the police, lawyers, judges, legislators, and members of women's organisations should take place.
4. Investigations into sexual offences such as rape, sexual harassment, eve, and other similar crimes should be launched as soon as possible after proof is obtained so that the facts can be ascertained and the suspect has little time to escape or fabricate evidence in his favour. Criminals who want to stop arresting offenders against whom there is actual evidence should face severe consequences.
5. Current laws should be amended as needed to make them more straightforward and understandable.
6. Due to the extremely large number of pending gender-related cases, it has been determined that some of the current regular courts should be assigned to prosecute all cases of crimes against women.
7. The media must be showing the correct and true fact of the case.
8. Training Programmes.
9. Community-Based Programmes.

CONCLUSION

Violence against women, in all of its manifestations, is a breach of human rights, in the majority of cases depriving women of their basic freedoms. This is a significant impediment to gender equality. A culture of silence conceals violence against women. Uneven power relations between men and women, which encourage violence and make it acceptable, cultural and social norms, economic dependency, poverty, and alcohol consumption, to name a few causes and factors, are all factors that contribute to violence against women. It is critical to end the silence and ensure that violence against women is predominantly a political, legal, economic, and cultural problem that affects both men and women. Although men make up the bulk of victims of violence against women, they also play a critical role in detecting and controlling it. Fathers, husbands, brothers, and sons, as well as men and young people, should be part of the solution and therefore active in eliminating violence against women. If men believe they have a stake in this, they should work to improve other men's

attitudes. The best outcomes are not achieved by women or men working alone to end gender-based abuse. It is their collaboration that has the most influence and scope.

ⁱ Constitution of India

ⁱⁱ Indian Penal Code 1861, ss 375-377