



Domestic violence against women in India—A study on recent years

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Abstract

The crimes against women in India take several forms; the condition of Indian Women is quite contradictory in nature. The issue of violence against women grows increasingly urgent, statistics illustrating that violence against women is on the rise. Domestic violence against women is carried out in a domestic environment. To address the issue of domestic violence by providing for civil relieves with a view to ensure immediate and emergency relieves to women facing violence in intimate relationships. However the contemporary discourse on domestic violence can best be examined by looking at the range of studies that investigate the responses of institutions to domestic violence. the Supreme Court held in V.D. Bhanot vs. Savita Bhano t that it was with the view of protecting the rights of women under Articles 14, 15 and 21 of the Constitution that the Parliament enacted the PWD Act, 2005, in order to provide for some effective protection of rights guaranteed under the Constitution to women. Whenever controversy arises our government and judiciary come to help women by upholding the validity of special measures under Article 15(3) of the Indian constitution.

Keywords: domestic violence, constitution, Supreme Court, parliament national crime records bureau

Introduction

National Crime Records Bureau (NCRB) compiles and publishes data on crimes, including crime against women, in its publication “Crime in India”, which is available on the website of NCRB, viz. <https://ncrb.gov.in>. The said report is available upto the year 2020. As per data published by NCRB, total number of crime against women during 2020 is 371503, out of which the number of cases registered under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) during the year is 496 ^[1].

The crimes against women in India take several forms. Mostly, these crimes result in lifelong trauma or death. Dowry deaths are one such example of a crime committed against Indian women. According to the age-old Indian tradition, the bride’s family is supposed to reward the groom with a considerable sum of money; this is the concept of dowry.

Despite the COVID-19 lockdowns that came to characterise a difficult 2020, the nation's crime rate rose markedly from 2019 to 487.8 per lakh of population compared to 385.5 recorded in the previous year – an increase of 28 per cent, according to newly released data from the National Crime Records Bureau (NCRB) ^[2].

Though comparatively much lesser than other countries, the amount of violence committed against women in India is still high. The force committed against women, mostly by men, takes various forms – sexual assault, molestation, marital abuse, or naturally, household abuse. Whatever be the shape and extent, it is a punishable crime. However, owing to the country’s crooked and lagging judiciary system, often, such crimes go unaddressed. The rates of violence against women keep on increasing.

The condition of Indian Women is quite contradictory in nature. There are many amazing examples of successful women at different levels, but at the same time violence, discrimination, torture, and exploitation etc. make the life of others miserable. Women are no longer a child bearer and care taker of home only but come out of home to fight for their own identity. They are human being like their fellow men and enjoy same rights and duties with men. They have achieved a lot, but they have yet to achieve so many things.

Violence against women typically means the crimes committed against women of any age, caste, and creed. The crimes can be of any kind; usually, they include murders, abuse, molestation, rape, and infanticide. The number of crimes committed against women in India keeps rising every year. In 2012, the crimes against women in India accounted for 6.4%, which meant in an average within three minutes, a woman fell victim to violence.

The issue of violence against women grows increasingly urgent, statistics illustrating that violence against women is on the rise. Between the years of 2001 and 2011, the number of crimes against women has risen an alarming 59%, the number one crime being rape ^[3].

The matter of violence committed against women in India is massive and widespread. It requires more attention and adherence than what it already deserves. A decade back, the concern was discussed in elitist groups and beyond the ordinary people’s grasp. However, in recent years, the matter is being addressed more openly due to the advent of technology and widespread education. India is not safe at all for women. Delhi accounts for the highest number of cases of violence against women in India. Although policies and schemes are being carried out to mitigate the matter, the concern seems to grow and double itself with every passing year ^[4].

Types of Violence against Women

There are many types of crimes that come under the category of violence against women. Some of the most common forms of violence against women committed in India are listed below-

1. Sexual Assault
2. Domestic Violence
3. Honor Killing
4. Forced Prostitution

1. Sexual Assault

Sexual Assault on a woman refers to the situation where a person intentionally makes inappropriate physical contact with a woman without her consent or forces her into a sexual act. It is a sexual violence and includes crimes like – rape, drugs induced sexual assaults, child sexual abuse and groping.

2. Domestic Violence

Domestic violence against women is carried out in a domestic environment. Many cases of domestic violence in India's patriarchal society go unreported. It includes physical abuse of a woman, by her in laws, husband or relatives. Social evils like dowry system, gender inequality are primarily responsible for domestic violence against women.

3. Honor Killing

Honor killing refers to the murder of a family members who has supposedly brought shame to the family by going against the family's will on issues like arranged marriage, by choosing a partner from other caste or in some cases by committing adultery.

4. Forced Prostitution

Throughout India cases of young girls going missing are continuously reported. These girls are supposedly lured on the pretext of securing a job or earning money and send to other states and subsequently forced into prostitution^[5].

The sudden and unexpected lockdown that Prime Minister Narendra Modi announced in late March 2020 immediately prompted grave concerns around escalating rates of domestic violence. Restrictions on mobility and an inability for women to leave their homes and seek out safe havens led to anticipation that crimes against women would rise rather than fall, as indicated in the NCRB's latest data. And a closer look at data shared by the National Commission for Women (NCW) does indeed reveal a tale starkly different from the NCRB's findings. The NCW reported that between February 27 and May 31, 2020, cases of domestic violence exhibited a 2.5-fold increase with 1,477 domestic violence complaints lodged. Additionally, in the months of April and May, nearly 50 per cent of cases the NCW received were related to domestic violence. This represented a remarkable spike from the period between January and March 2020 when just 20.6 per cent of cases received were related to domestic violence^[6].

Legal protection for women

In response to various pressures from international agencies and growing demands by women organizations the government of India enacted the protection of women from Domestic Violence Act 2005 and framed The Protection of Women from Domestic Violence Rules 2006. This a law specifically meant to address the issue of domestic violence by providing for civil relieves with a view to ensure immediate and emergency relieves to women facing violence in intimate relationships.

This is "an Act to provide for more effective protection of the rights of women guaranteed under the constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto." How effective is this Act in protecting women from domestic violence? Such an evaluation has not been made so far. However the contemporary discourse on domestic violence can best be examined by looking at the range of studies that investigate the responses of institutions to domestic violence.

This information was given by the Minister of Women and Child Development, Smt. Smriti Zubin Irani, in a written reply in Lok Sabha on dated 11 FEB 2022, the following states are the top in domestic violence from 2018-2020

Table 1

Sl. No.	State/UT	2018	2019	2020
1	Madhya Pradesh	275	248	180
2	Kerala	175	194	165
3	Maharashtra	9	11	3
4	Himachal Pradesh	8	3	2

Causes of domestic violence

There is no one single factor to account for violence perpetrated against women. Increasingly, research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within

different cultural contexts. Many have pointed out that marriage at a younger age makes women vulnerable to domestic violence.

There are varied consequences of domestic violence depending on the victim, their age group, the intensity of the violence and frequency of the torment they are subjected to. Living under a constant fear, threat and humiliation are some of the feelings developed in the minds of the victims as a consequence of an atrocious violence.

The Supreme Court has interpreted the rights under the DVA, 2005 as the rights which may be available prior to the coming into force of the PWD Act on 26th October, 2006. After considering the constitutional safeguards under Article 21 of the Constitution, vis--vis, the provisions of Sections 31 and 33 of the PWD Act, 2005, and after examining the statement of objects and reasons for the enactment of the PWD Act, 2005, the Supreme Court held in *V.D. Bhanot vs. Savita Bhanot* (Special Leave petition(Crl.) No. 3916 of 2010, decided on 7.2.2012,) that it was with the view of protecting the rights of women under Articles 14, 15 and 21 of the Constitution that the Parliament enacted the PWD Act, 2005, in order to provide for some effective protection of rights guaranteed under the Constitution to women.

Number of crime heads under crimes against women have increased from 11 in previous editions to 14 (as stated above) in this edition of the report. In previous edition, figures of the Immoral Traffic (P) Act were considered as part of crimes against women. However, in this edition, data pertaining to crimes committed on women only under this Act have been construed as a part of crime against women. Data have been collected under the revised performance for 'Crime in India 2021.

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Forms of domestic violence

Violence against women can be physical, sexual, psychological, and threat of physical or sexual violence. Physical violence includes acts of physical aggression such as slapping, hitting, kicking and beating. The common sexual abuses women endure are forced intercourse, and other forms of sexual coercion. Psychological abuse includes acts like intimidation, constant belittling, humiliating, nagging and various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance. When abuse occurs repeatedly in the same relationship, it reduces into an act of "battering".

Domestic violence records

A. Protection of Women from Domestic Violence Act

Data were extracted from annual reports of National Crimes Record Bureau (NCRB) under four domestic violence crime-headings—cruelty by husband or his relatives, dowry death, abetment to suicide, and protection of women against domestic violence act. Rate for each crime is reported per 100,000 women aged 15–49 years, for India and its states from 2001 to 2018. Data on persons arrested and legal status of the cases were extracted. Results Rate of reported cases of cruelty by husband or relatives in India was 28.3 (95% CI 28.1–28.5) in 2018, an increase of 53% from 2001. State-level variations in this rate ranged from 0.5 (95% CI – 0.05 to 1.5) to 113.7 (95% CI 111.6–115.8) in 2018. Rate of reported dowry deaths and abetment to suicide was 2.0 (95% CI 2.0–2.0) and 1.4 (95% CI 1.4–1.4) in 2018 for India, respectively. Overall, a few states accounted for the temporal variation in these rates, with the reporting stagnant in most states over these years. The NCRB reporting system resulted in underreporting for certain crime-headings. The mean number of people arrested for these crimes had decreased over the period. Only 6.8% of the cases completed trials, with offenders convicted only in 15.5% cases in 2018 ^[6].

In spite of the existence of several protective instruments at the national and international level women continue to be victims of violence, exploitation, discrimination and torture. If we are not very much cautious about the problem and take a grave steps to control the situation, it will become extremely crucial. In the words of Justice P.N. Bhagwati, there should be revolution by law otherwise there will be revolution against law. It is no doubt true that any attempt to assess the status and problem of women in a society should start from the social framework. Social structure, cultural norms, and value systems are crucial determinants of women's role and their position in society. In respect of the status there is a gap between the theoretical possibilities and their actual realization. Indian women have to suffer repression from mother's womb to sepulcher.

Constitutional Provisions

The principle of gender equality is enshrined in the Constitution of India. In order to uphold and implement the Constitutional Mandate, the State has enacted various laws and taken measures intended to ensure equal rights, check social discrimination & various forms of violence and atrocities.

Various legislation enactments have been framed to protect, safeguard and promote the interest of women. During last few decades there has been a remarkable change in the thoughts of the people and that has also been reflected in our domestic legislation relating to women. As a result women have undertaken a new task beyond their traditional role and have actively participated in the economic and social development of the nation. In a

versatile country like India, no generalization could be appropriate to the nation's social, economic, cultural, religious and regional diversities. A familiar reality of Indian women's lives is that they are generally restrained within home and have been constrained to the role of a house-keeper. If we go through the historical background of status of women in India in different ages, we can see that despite India's reputation for respecting women, they have also been subjected to ill treatment.

Article 15 of the Constitution of India prohibits discrimination on certain grounds, which include sex. The most important provision of this Article is the provision that enables the State to make provision for women and children. Article 15 (3) stipulates that nothing in that article shall prevent the state from making any special provision for women and children. Article 16 of the Constitution of India which guarantees equal opportunity in the matter of public employment.

Wherever the government's policy to keep away convicts for crimes against women from certain benefits extended to other categories were challenged before the Supreme Court, that Court always upheld such policies. In *Sanaboina Satyanarayana Vs Government of Andhra Pradesh* ^[7], in which, the government's policy to keep away convicts for crimes against women from the benefits of remission of sentence was challenged, while upholding the policy, the Supreme Court of India, observed as follows: *The Constitution of India itself has chosen to countenance the claims of women for favourable treatment and acknowledge the fact that sex is a sound classification. The issue in question being one pertaining purely to the area of policy and political philosophy of the State, the Courts except in the rarest of rare cases, cannot be called upon to adjudicate on the desirability or wisdom of such decisions. It is no exaggeration to place on record that instances of violence against women and children particularly female, such as rape, dowry deaths, domestic violence, bride burning, molestation, brazen, ill treatment of horror, vulgarity and indecency are not only rampant but on phenomenal increase casting a shadow of shame on the society, the culture and governance in this country and it seems that cruelty to women and problems of battered wives have become ironically almost a worldwide phenomenon. Such a situation deserves a special treatment in the hands of the State. Consequently, the classification to keep away convicts for crimes against women from the benefits of remission under the order does not violate any reasonable principle or concept of law so as to call for its condemnation in exercise of the powers of judicial review. The classification therefore sounds just, reasonable, proper and necessitated in the larger interests of society and greater public interest and does not attract the vice of Article 14 of the Constitution.*

Judiciary on Domestic Violence

Judicial system will be made more responsive and gender sensitive to women's needs, especially in cases of domestic violence and personal assault. New laws will be enacted and existing laws reviewed to ensure that justice is quick and the punishment meted out to the culprits is commensurate with the severity of the offence. At the initiative of and with the full participation of all stakeholders including community and religious leaders, the Policy would aim to encourage changes in personal laws such as those related to marriage, divorce, maintenance and guardianship so as to eliminate discrimination against women. The evolution of property rights in a patriarchal system has contributed to the subordinate status of women. The Policy would aim to encourage changes in laws relating to ownership of property and inheritance by evolving consensus in order to make them gender just.

Women's equality in power sharing and active participation in decision making, including decision making in political process at all levels will be ensured for the achievement of the goals of empowerment. All measures will be taken to guarantee women equal access to and full participation in decision making bodies at every level, including the legislative, executive, judicial, corporate, statutory bodies, as also the advisory Commissions, Committees, Boards, and Trusts etc. Affirmative action such as reservations/quotas, including in higher legislative bodies, will be considered whenever necessary on a time bound basis. Women-friendly personnel policies will also be drawn up to encourage women to participate effectively in the developmental process.

The preamble of Indian Constitution ensures the principles of equality for all. The words, 'We the people of India' in the Preamble includes both 'men' and 'women'. But, in reality the picture is different. Controversy arises several times regarding the applicability of neutral norm. In most of the cases neutral norm applies to men only ^[8]. Whenever controversy arises our government and judiciary come to help women by upholding the validity of special measures under Article 15(3) of the Indian constitution. Supreme Court stated in *A.P. vs P.B. Vijoy Kumar* ^[9] that the power of state under Article 15(3) is wide enough to include the entire range of state activity. However, the legal protection has been further strengthened by the Supreme Court by its exemplary judgments in several cases.

Executive Control

The Ministry of Women and Child Development implements One Stop Centre (OSC) scheme across the country with effect from 1st April 2015 which is exclusively designed to provide integrated services such as medical assistance, police facilitation, legal counselling, psycho-social counselling and temporary shelter to women affected by violence under one roof. 733 OSCs have been approved by Government of India, out of which 704 OSCs are operational in the country, that have assisted more than 4.5 lakh women. Further, the Ministry also implements Universalisation of Women Helpline (WHL) Scheme, which provides 24-hour toll-free telecom service through short code 181 to women seeking support and information. As of now, WHL is functional in 34 States/ UTs.

The Ministry also implements the Swadhar Greh Scheme which provides assistance to women victims of unfortunate circumstances including women victims of domestic violence, family tension or discord, who are made to leave their homes without any means of subsistence and have no special protection from exploitation and/ or facing litigation on account of marital disputes, who are in need of institutional support for rehabilitation so that they could lead their life with dignity. The Scheme envisages providing shelter, food, clothing, health, counseling, awareness generation, behavioral trainings, legal aid and guidance etc to such women.

As per section 8 of the Protection of Women from Domestic Violence Act, 2005, the State Governments are authorized to appoint such number of Protection Officers in each district as it may consider necessary. As such, the data regarding the details of such Protection Officers under PWDVA are maintained by the respective State Governments^[9].

Conclusion

The law cannot solve a problem instantaneously, but unquestionably it can give justice to the aggrieved, but, how? Legislature can make law, but who will implement the law? Here, the judiciary has to play its role. The courts can interpret law in such a way so that it can meet the changing circumstances to give justice to the masses by applying the principle of equity, justice and good conscience. And to achieve that end, it can go beyond the mere legality. The judges have a two separate task to play. Firstly, it is the judiciary who analyses law for the sake of justice and implements them in proper place for the progress of society. Secondly, a judge must be compassionate while administering law otherwise the object of the legislations may be disturbed. Innovatory judgments of the Indian judiciary clearly reflect the fact that judges are the precursors of women movement against gender inequalities in society. The provisions of laws enacted by the legislature obtain their true significance in the hands of judiciary. While administering justice, it has to be aware of the Constitutional as well as the legislative intent, and must understand the status of Indian woman. It has adopted many devices like judicial review, judicial activism, social action litigation etc. to give justice to the weaker sections of society. All the weaponry of judiciary has been facilitating to make the constitutional scheme of protective discrimination in favour of women meaningful.

Under Nirbhaya Fund, one time assistance of Rs. 200 crore was provided to States/ UTs as a top-up grant under the Central Victim Compensation Fund to supplement their respective Victim Compensation Schemes. The number of women provided compensation under the Victim Compensation Scheme is maintained by the respective State Governments/ UT Administrations^[10].

The Judiciary is a shield to the women for the protection of their rights. It is the Court, which is constantly striving to stop all types of crime against women by explaining the provision of law to deal with different situation and by directing the Govt. to make new law to cover new and exceptional circumstances. There is no doubt that the Court is playing a significant role to prevent crime against women by considering such cases in a more practical manner. It is also trying to fill the gaps of procedural lacunae in the existing laws by its interpretation.

India needs to address the gaps in the administrative data to effectively respond to the SDG^[11] target five to eliminate all forms of violence against women. This longitudinal analysis of the reported cases of domestic violence of nearly 20 years across the Indian states has highlighted the under-reporting and almost stagnant data, which hinders formulating of well-informed public health intervention strategies to reduce domestic violence in India.

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