

THE PERIL OF VIOLENCE AGAINST WOMEN

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ABSTRACT

One of the factors that has been a bane in the development of a country like India, is the increasing amount of crimes and violence committed against women. This viciousness ranges from extremely gentle prodding to assault and murder, and happens at home, in the lanes, at work spots, correctional facilities, jails, in short all over the place. The past statistics have revealed that the amount of violence that have been taking place is far more than the actual amount that has been reported and even more that those for which the culprits have been punished. With this paper, we aim to present the various kinds of atrocities that are committed against women and how these atrocities can be dealt with. The main paper focuses on the theme of violence against women where we state the kinds of violence women face in their daily lives. There is an earnest requirement for more examinations on this brutality with the goal that the brain science of the violators is better comprehended. With this paper, we aim to establish the rights of women provided to them by law. Such instances of violence against women need to be completely investigated leaving no lacuna for doubt. Women form a fundamental part of the society and hence, any society where one half of the society is a victim of such violence against it, it is mandatory to have laws and have changes in laws which function for the benefit of that half of the society. Thus, with this paper, we aim to provide the suggestion ns for adequate changes and their implementation.

Key Words: *Women, Violence, Rape, Assault, Sexual Offences, Safety, Crimes.*

Introduction

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"Sexual violence against women and girls is rooted in centuries of male domination. Let us not forget that the gender inequalities that fuel rape culture are essentially a question of power imbalances." — UN Secretary-General AntónioGuterres.

The definition of violence against women by the United Nations can be stated as “any act of gender based violence that results in or I likely to result in, physical, sexual, or mental harm suffering to women including threats of such acts coercion or arbitrary deprivation of liberty whether occurring in public or in private life.”²

Violence Against Women and Girls (VAWG) is one of the most far reaching, relentless and decimating human rights infringement in our present reality remains generally unreported because of the exemption, quiet, disgrace and ignominy encompassing it.

In widespread terms, it shows itself in physical, sexual and mental structures, enveloping:

- a) Intimate Partner Violence- battering, mental maltreatment, conjugal assault, femicide,
- b) Carnal Brutality and Badgering- assault, constrained sexual acts, undesirable lewd gestures, youngster sexual maltreatment, constrained marriage, thoroughfare provocation, stalking, digital provocation,
- c) Human Trafficking- bondage, slavery sexual misuse,
- d) Female Genital Mutilation,
- e) Child Marriage.

Violence against women is experienced by ladies of all ages and social classes, all races, religions and nationalities, over the world. It is overwhelmingly executed by men. It is the most inescapable infringement of human rights on the planet today. Its structures are unobtrusive and impudent, explicit and its effect on improvement is

²*Violence Against Women*, (Feb. 24, 2020, 16:35 PM), available at <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

significant. It is so profoundly inserted in societies around the globe that it is practically imperceptible.³

The term violence is derived from the Latin word *vis*, which means “force” and alludes to the thoughts of limitation and utilizing physical predominance on the other individual. Violence is a mutant, as it is impacted by altogether different occasions, spots, conditions and real factors. There is endured and censured savagery, as viciousness has existed on Earth if humankind, expecting unique, progressively intricate and simultaneously increasingly divided and verbalized structures.⁴

The United Nations Declaration on Violence against Women provides a basis for defining gender-based violence. As per Article 1 of the Declaration, violence against women is to be understood as: "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life"⁵

The definition is amplified in Article 2 of the Declaration, which identifies three areas in which violence commonly takes place:

1. Physical, sexual and psychological violence that occurs in the family, counting battering; sexual maltreatment of female kids in the family unit; endowment related savagery; conjugal assault; female genital mutilation and other conventional practices destructive to ladies; non-spousal viciousness; and brutality identified with abuse;
2. Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution;

³BhartiyaStree Shakti, *Tackling Violence Against Women: A Study of State Intervention Measures (A comparative study of impact of new Laws, Crime rate and reporting rate, Change in awareness level)*, (Feb. 24, 2020, 17:35PM), file:///C:/Users/kanis/Downloads/Final%20Draft%20report%20BSS_0.pdf.

⁴*Ibid.*

⁵Declaration on the Elimination of Violence against Women, Proclaimed by General Assembly resolution 48/104 of 20 December 1993pg no:2, (1993).

3. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement of women.⁶

Understanding violence against Women

The violence against women can happen at any point of time at any place and against anyone. Therefore, it is important to understand that this is a grave matter that is often disregarded and snubbed at the mercy of the society. One needs to understand that there is not just one kind of violence but many different kinds of violence as well. There are generally different kinds of categories in which the violence against women is divided into, mainly:

Violence within the premises of the house that is, within one's home: Domestic violence is one of the most quotidian forms of violence against women. Here, the woman is usually subjected to emotional trauma or physical abuse inside the family. Though, an act, namely, "The Protection of Women from Domestic Violence Act, 2005" has been made specifically for the women, who are a victim to domestic abuse, this is a situation, that does not seem to cease. Psychological abuse may not necessarily be accompanied by physically abuse but the latter is evidently accompanied by the former. The trauma caused has a lasting impact upon the victim in cases, especially where the accused is a person who is familiarized to the victim. The different kinds of violence against women includes:-

- a. Marital rape: Though it is a concept not recognized by law in India, it is a very common and increasingly devastating offence within the homes against the women who are married. The main cause of marital rape is to fulfil the sexual requirement of the spouse, which if not complied to can lead to the physical abuse and harassment against the lady of the house, who refuses to comply with the advances of the man.

⁶*Ibid.*

- b. Dowry related matters: Though there are acts and various provision under the law for the prevention of dowry in India, such as the Dowry Prohibition Act, 1961, which lays down the procedures against the accord and grasp of any sort of gratification from the woman who enters into a marriage, this is a situation that is still prevalent in many parts of India. Reports have suggested that there has also been a great increase in the number of cases after the commencement of this act and also after the introduction of various provisions under the Indian Penal Code, such as the Section 304 B which talks about the death of a woman through non-compliance of the constant demands of dowry by her husband and the relatives of her husband⁷, or in the cases which fall under Section 498A of the Indian Penal Code which talks about the cruelty against a woman in case of matters related to money or property.⁸ Yet, the reports have stated that, there has been a major increment in the quantity of settlement related cases in the most recent decade, above all on account of Dowry Prohibition Act cases (300% expansion), and afterward in 498A cases (135% increment), however just a 30% expansion in the quantity of share demise cases. These rates are significantly higher than the pace of increment of every single cognizable case by and large, which was 21%. Endowment related cases represented almost 50% of the expansion in wrongdoings against ladies somewhere in the range of 2003 and 2013. Therefore, in the whole decade, there has been a significant increase in the numbers of the cases and therefore, an alarming increase has led to think about the matter more deeply.⁹
- c. Brutality Against Women inside the General Community: Physical, sexual and mental brutality happening inside the general network incorporate battery, assault, sexual attack, inappropriate behavior and terrorizing in school or work, constrained medicines and injurious drug, the misuse and commercialization of ladies' bodies which is identified with expanded destitution that is essentially an aftereffect of unbridled financial radicalism. These sorts of savagery happening inside the general network additionally

⁷See The Indian Penal Code, 1860, Section 304B.

⁸See The Indian Penal Code, 1860, Section 498A.

⁹Rukmini S, *Dowry: What the Data Says and What it Doesn't*, The Hindu, July 07, 2014, 18:36 I.S.T.

incorporate contraception forced on ladies by requirements or power, constrained disinfection or premature births, specific premature birth of female embryos and female child murder (World March of Women, 2000).¹⁰

- d. Brutality Against Women Perpetrated by the State: Physical, sexual and mental savagery are time and again executed or endured by states that needs custom or convention over the regard of principal opportunity. In certain nations, the ascent of strict fundamentalism is very upsetting about ladies' entitlement to their monetary independence what's more, their opportunity of decision. The social prohibition of ladies is extraordinary to the point that it establishes a new type of politically-sanctioned racial segregation. Ladies are viewed as below average creatures, of lesser worth, denied of their central rights. Brutality against ladies is likewise practiced as a weapon of war in circumstances of outfitted clash. It has numerous structures including murder, assault, sexual bondage, prisoner taking and constrained pregnancy (World March of Women, 2000).¹¹
- e. Rape: One of the most heinous and yet the most common form of violence against women is rape. This offence has been defined under Section 375 of the Indian Penal Code along with its punishment, which is given under Section 376 of the same Code. It is the most prevalent form of violence against women leading to the highest number of cases under this Section. This offence leads to an immense amount of trauma and agitation in the minds of the victims and more often than not, the offender is usually a person who is not unknown to the victim. This can happen at home, at workplace, on the streets, and other places, therefore, when a person is being ravished by person who is known to her, it is often stated to be "acquaintance rape" or "date rape". As rape is not just an act of sex but an act of sex accompanied by violence, it is important to understand that this act of sexual violence against women may lead to a variety of physical and psychological reactions from the agitated victims. Through the eyes of a rapist; in the statement made by him, "Why do I want to rape women? Because I am basically, as a male, a predator and all women

¹⁰*Id* at 2.

¹¹*Ibid.*

look to men like prey. I fantasize about the expression on a woman's face when I 'capture' her and she realizes she cannot escape. It's like I won, I own her.”¹²

This shows the downgrading mentality of the rapist who has raped the victim and yet, shows no remorse for the same. It is undoubtedly one of the most heinous crimes against women of the world. It can be known that rape is the only crime that has no logical explanation behind it. No offences against women have a logical explanation behind it. These are deliberate acts of violence, and rape, being the most serious amongst them. One can commit a murder, and seek the defense under the exceptions such as the exception of grave and sudden provocation, one can commit theft and explain that he had to do it under very unusual circumstances such as being poor and not being able to by stuff and take care of his family, however, one cannot claim that he had accidentally committed rape. Rape cannot be committed accidentally. It requires the “devil’s mind” itself while committing an act of such heinous offence.

However, even though the numbers of rape cases are very high, the probability of such cases getting into the limelight is very low as it is such a common occurrence that not even a great number of cases are reported to the police station fearing the shame and the stigma surrounding the rape against women. It is generally the members of the family who refuse to file the case in order to not get defamed in their “so-called” society. Out of so many cases of rape, only a few come into the limelight and stir the criminal justice system so much that certain amendments have been made under the law for the protection of women, with the increase in punishment from the previously 7 years of minimum imprisonment to 10 years of imprisonment by law. One of such cases can be- *Mukesh and Another v. State (NCT of Delhi) and Others*¹³, famously known as the “Nirbhayagangrape case” which caused a lot of commotion amongst the youth of India which had ultimately forced the

¹²Gov of India, Ministry of Women and Child Development, 2015, Press Information Bureau. [Online] December 18, 2015. [Cited: February 25, 2020.] <http://pib.nic.in/newsite/mbErel.aspx?relid=133564>.

¹³*Mukesh and Another v. State (NCT of Delhi) and others*, (2017) 3 S.C.C. 719.

legislation to make stringent laws for the protection of women in India. At that point of time, it was evidently required to make such changes or amendments under the laws of India due the laxity in them and the ambiguity which was provided for the benefit of the accused especially when he was a juvenile having committed such a heinous offence. Not only does rape violate the sense of integrity of the woman, it also scars her soul for the rest of her life which controls the decisions she makes henceforth in her life. A rapist has never viewed a woman to be of a rational human being, but merely an object he wishes to conquer and have possession over to satisfy his sexual gratification. Thus, being categorized as one of the most heinous offences, rape has a major impact on the well-being of the victim.

- f. **Sexual Harassment:** Sexual harassment can be defined under Section 354A of the Indian Penal Code and along with other similar offences such as outraging the modesty of a woman, as defined under Section 354, Criminal force used against a woman to disrobe her under Section 354B, Voyeurism under Section 354C, stalking under Section 354D and other such offences. Sexual harassment includes showing of lewd gestures which the woman may find inappropriate and thus, scare her. It is type of sexual exploitation and if such behavior is encouraged at school, or workplace or any other place that the woman generally visits, it creates a very hostile environment that might affect the woman in many negative ways and harm her psychologically. Even things which are considered to be “harmless jokes” or “trivial matters” such as sexual jokes amongst the peers or the posting of pornographic photographs or making unwelcome sexual advances or innuendos at the female coworkers, lead to the formation of the rape culture of a country. This leads to the increasing amount of normalization of such cultures that tend to degrade the morality of a woman to the extent that she finds such remarks made against her to be “normal” or of a “common occurrence” stating that these remarks are “nothing” compared to the ones that come in limelight where something wrong happens against a woman in a more dangerous level. Every woman claims that she has at least once, in her lifetime been ‘catcalled’ or ‘shamed’, yet these things are considered to be so trivial that women actually tend to ignore such remarks

against them. “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” has stated down certain laws for the protection of women at their places of work, yet how many of these laws are actually followed, and how many of these cases are actually filed merely under the pretext of losing job of due the fear of being threatened to be treated hostile by the members of the family or the society in which they live having a regressive mentality?

- g. Commercial Exploitation of Women for Sexual Gratification: In some developing nations of the world, most young ladies are made to prostitute under the pretense of sex travel industry. Sex travel industry as per UNICEF Archive happens, when rich men travel during the special seasons from the propelled nations of the world to places like Brazil, the Dominican Republic, and Thailand and so on to have sexual dealings with offspring of somewhere in the range of 13 and 15 years. Around 2000, the CNN concentrated on sex the travel industry in one Asian nation where vacationers went and found a workable pace little youngster served them naked just to fulfill the sexual desire of the rich visitors. This demonstration is an infringement of the legitimate privileges of kids and it is a genuine viciousness against ladies. This is such a common occurrence that even the parents and the guardians of such children are ready sell their children for the purpose of earning instant money for fulfilling their present requirements. Such kinds of human trafficking of young girls like the ones taken away from their parents leads to physical and mental trauma and just that, it also leads to the exposure of serious health risks such as diseases caused due to unhygienic surroundings, sexually transmitted diseases, addiction to different kinds of drug and alcohol and unwanted pregnancies.
- h. Genital Mutilation of Females: Female genital mutilation or their cutting of genital areas is a orthodox and traditional practice which involves the alteration and the cutting of the parts of a female’s genitalia for the reasons of rite of passage or different kinds of socio-cultural reasons which are mostly unknown to the first world nations. Female genital mutilation (FGC) exists in sub-Saharan and Northeastern Africa also, Central African Republic. In

particular, nine nations were featured where FGC is saturated with their custom. These incorporate Senegal, Mali, Burkina Faso, Egypt, Sudan, Eritrea, Yemen and Uganda. The training is viewed as a hindrance to a young lady's sexual satisfaction. The training changes from halfway or complete expulsion of outside genitalia to the narrowing of vaginal opening. As per shell and Henlud (2000), conventional experts who have no clinical preparing restoratively undeveloped perform most female genital cutting. The unfortunate casualties are known to experts who have no clinical experience extraordinary agonies, dying, difficult monthly cycle, diseases or injury. The work on, as indicated by specialists, can likewise be related with the spread of HIV, the infection that causes AIDS through cuts and scraped spots in scar tissue, during intercourse and labor. It is likewise connected with absence of climax or sexual satisfaction and sadness (Populace Reference Bureau, 2001).¹⁴ Women who tend to undergo such surgeries tend to have health consequences and even suffer from shock, immense pain, cysts which have a long term effect on the body, urinary retention and tetanus.

Causes of such violence against Women

The main causes of such violence against the women may be due to the regressive thinking of the society and increased amount of ignorance against the sexual advances against the women by the men. Traditional attitude of the women against such sexual advances also, help in the perpetuation of the violence against women. The main reasons of promoting the stereotypical roles of women where women are subjected to be more submissive and tame than men as promoted by the cinema or commercials or any other means of entertainment which the people take notice to, are the main reasons of causing such misogynist approach towards the women in the world. Financial insecurity may also lead to gender based violence, where, the man, if he cannot earn more than the woman financially, tends to subject her to be inferior to him through physical advances where he asserts his dominance. The gender disparity which begins at a very tender age by the parents or the guardians leads to the

¹⁴ India, Government of. 2013. Press Information Bureau. [Online] February 21, 2013. [Cited: February 20, 2020.] <http://pib.nic.in/newsite/PrintRelease.aspx?relid=92351>.

formation of the thought process of the society at large and such society at large will treat the girls and the boys in such a manner as they are brought up and in such a manner their upbringing has been made. A very common notion that the way a woman dresses or acts is a reason for the sexual advances made against her which she finds to be unwelcome. However, this notion is incorrect and that merely by the fact that a woman dresses whether termed “provocative” or not, is not a reason for her to welcome such sexual advances towards her. Such misconceptions are deeply rooted in the society and such misconceptions are the reasons why men tend to behave as though they have a right over a woman’s body.

Effect of such violence against Women

Such violence against women tends to have a long-lasting effect on the women, which not only affects her physically but also psychologically. She may have trust issues, and her actions, after the alleged incident would vary. She tends to see the world as a cruel place that couldn’t help her and thus, traumatized her. A woman who lives in a hostile environment may tend to accept the hostility affecting her well-being. A woman who works in a hostile environment may not speak up due to fear of losing her means of livelihood and any fear of going against a person who is in a position of power. A woman who faces domestic violence tends to accept the fact that her relationship lasts this way, and that every married woman is supposed to “bear” these in order to prevent her marriage going under shambles and face backlash from the society. She may be forced to become pregnant with her partner or forced to abort the child she wanted to have. Thus, it is a very traumatizing experience for every woman going through such violence, and one cannot imagine the pain they endure. It also affects children who have witnessed this in their homes where such child tends to grow anxious or even depressed.

Constitutional Provisions for protection of Women in India

Article 42- Directs the State to make provision for ensuring just and humane conditions of work and maternity relief.

Article 14- It confers on men and women equal rights and opportunities in political, economic and social sphere.

Article 16- It provides for equality of opportunities matters relating to employment or appointment to any office under the state.

Article 39(a)(d)- It mentions policy security of state equality for both men and women the right to a means of livelihood and equal pay for equal work for both men and women

Article 15- It prohibits, discrimination against any citizen on grounds of religion, race, caste, sex etc.

What can one do to prevent the violence against Women

- a) Education is the key. One must educate themselves in order to help the victimized persons in the society.
- b) The first to prevent hostile treatment is to believe the survivors. It is necessary to believe the survivors and help them so that they could be open about it and not just shun them.
- c) Speaking out against all sorts of violence
- d) Advocating for more programs against such violence and raising voices.
- e) Working towards eradicating oppression of all kinds.
- f) Urging the victim to speak out and offer help
- g) Try to change the mindset of people, one step at a time.
- h) Keeping a safe environment for the women
- i) Building a community of trust
- j) Proposal of stricter laws
- k) Proper implementation of the already existing laws in the society.

Such measures are only a few in numbers; however, one can always add on more measures and act on more ways for the prevention of violence against women.

Conclusion

The violence against women is a crime that has well been rooted into the society. Breaking this cycle of abuse will take an immense amount of time, as it is not a trivial task. However, every step count, and every step taken to ensure the safety of women, leads to less of abuse educating all the classes of society, will lead to change in their

perceptions and eradicate their misconceptions. It is not a trivial task to remove such deep-rooted cultural norms, customs and traditions in the society that promotes such discrimination and violence, but it is minor leap of faith that counts and every such leap of faith leads to a better place for women to survive. This results in justice not only in one particular class or Section of the society but also every Sections of the society, irrespective of the gender, caste, creed, religion, etc. Thus, every small step taken to ensure this will lead to a better place to survive and not a hostile environment.