

## ANALYSIS OF CRIMINOLOGICAL ASPECTS IN WOMEN AS “VICTIMS” AND “OFFENDERS”

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### *Abstract*

*Crimes have been a part of society ever since its inception. Crimes occur in the society because of the mindset of the people. It explores the feminist perspective of Criminology. The society is riddled with crimes against women, sex crimes, patriarchal supremacy by men, human trafficking, violence and the list goes on. Recently, there has been an exponential increase in the crimes committed by women. The same can be attributed to the continued injustice that women have been subjected to. Criminology and the effects of the society that lead to women committing crimes have been introduced in the paper. The article also explores the idea, how laws in India are gender biased. The article covers the reasons behind an increase in the crimes by women and the laws that are absent in the similar respect.*

*Crimes committed by women and Crimes committed against women have been compared to decide which is more devastating for the society. The impact, causes and criminological and sociological aspects of women and criminal laws have been used to conclude the article.*

*Keywords: Criminal Laws, Criminology, Feminist perspective, Sociology, and Effects.*

### **Introduction**

Crimes are an inseparable part of the society. They are not only present in the society; they also affect the society in multiple ways. Definition of crime is different for different school of thoughts. One similarity among all of them, is that, crimes negatively affect the society. They should not be accepted under normal functioning of an idea society. According to Kenny, “crimes are wronging whose sanction is punitive, in no way remissible by any private person, but is remissible by the crown alone”.<sup>2</sup> So far, the most convincing and the most widely accepted definition of Crime is the one given by Blackstone. According to Blackstone, a crime

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<sup>2</sup> PAUL W. TAPPAN, CRIME, JUSTICE AND CORRECTION, p.80 (McGraw-Hill Book Company, 1960)

is an act committed or omitted, in violation of a public law either forbidding or commanding it.<sup>3</sup>

As crimes increase and find variation to disrupt the functioning of the society, a science is required to understand the discrepancy in crimes. “Criminology is an inter-disciplinary field of study, involving scholars and practitioners representing a wide range of behavioural and social sciences as well as numerous natural sciences.”<sup>4</sup> Criminology helps in deciphering the same.

### CRIMES AND CRIMINOLOGY

Criminology is a science that helps in understanding the sociology of crimes. It links society and psychology of the person who commits crimes. Criminology also has a legal and judicial backing. Criminology affects the society in multiple ways. The significance of the same can be seen in “In *Mc Cleskey v. Kemp*,<sup>5</sup> an individual who had been sentenced to death for a murder in Georgia demonstrated to the U.S. Supreme Court that a criminologist's study showed that the race of individuals in that state impacted whether the defendant was sentenced to life or to death”<sup>6</sup> Addressing various schools of thoughts regarding criminology, the article addresses the principles of the same.

*The Classical School*, was one of the oldest schools of school that advocated that criminology is related to the “free will” of a person. The *Neo-Classical School* recognized the differences among various individuals. The *Positive School* attributed criminality to four distinct types, namely, (1) Physical Criminal Type; (2) Mental Type; (3) Psychopaths Type, and (4) Socio-economic disadvantaged Type. The divisions of criminality were vague and prone to misuse. The *Sociological School of Criminology* seeks to locate causation of crime in social environment. They successfully established that other factors such as mobility, culture, religion, economy, political ideologies, density of population, employment situations etc. have a direct bearing on the incidence of crime in a given society. “Differential Association” was introduced in the Sociological School of Criminology. It was this school that understood the meaning of crimes in the real sense.

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<sup>3</sup> WILLIAM BLACKSTONE, BLACKSTONE'S COMMENTARIES, 4<sup>th</sup> Vol, p.5 (Oxford, 1768)

<sup>4</sup> Crime, Criminal, Criminology and Juvenile Delinquency, NPTEL – Humanities and Social Sciences – Indian Society, p. 3 (Sage Publications)

<sup>5</sup> *Mc Cleskey v. Kemp*, 481 U.S. 279 (1987).

<sup>6</sup> D. Adeesh, Concepts Of Crime And Criminology, The Indian Law Journal on Crime and Criminology, p. 5 (2012).

## **FEMINIST SCHOOL OF CRIMINOLOGY**

Women committing crimes in the society has always been considered an aberration. Scholars like Freda Adler and Rita Simon while enunciating the liberal feministic theory said, that the actions of women are subjected to the sociological conditioning they are subjected to. This is recognized as the “liberal feminist theory”. The radical aspect of feminist criminology takes a realistic turn. Acknowledging factors like patriarchy, sexuality and privilege, the theory worked towards taking action against the same. Women had to take actions, in form of crimes, to stand up for themselves, and to save themselves from the loop of being treated unequally and arbitrarily.

Feminist School of Criminology entails women as both the “offenders” and the “victims”. It enunciates on the fact, that living in a gender biased society, does not give the free pass to men to commit crimes. Women, though, sociologically aggravated, have equal will, capability and intention to commit crimes. Feminist Perspective of Criminology cannot exist in isolation. The perspective revolves around how women are affected by crimes and also how women are led into crimes. This remains an interesting area of discussion since it not only covers the criminal perspective, but involves the political, legal, economic and social advancements in the society. “Feminist criminology emphasizes the subordinate position of women in society.

### ***Impact and Criticism***

The first and the most important impact of the Feminist school of criminology, was the acknowledgement of the women in the criminal sector. Acknowledgement of the fact, that crimes can be committed by men and women was a milestone achieved by the propagation of thoughts by scholars. The second important influence of the same was, understanding the effect of sociological backgrounds and lifestyle on the minds and intent of women. “It has helped in changing the old and vague assumption of “common sense”, by challenging the historical concept of female benefiting from chivalry within the male-dominated society and thus having more lenient sentences.”<sup>7</sup> It was the feminist theory of criminology that attracted legal attention.

No school of thoughts exist without criticisms or loopholes in the system. Similarly, the Feminist School of Criminology comes with certain criticisms. The first one brings of “class conflict”. The idea that women are subjected to sociological disadvantages in the society, and that brings out the worst criminal intent in them, is faulty clause. Advocates of classical school

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<sup>7</sup> Id.

of criminology say, that “free will” clause has been violated. The second criticism faced by the school of thought, is the persistence on the fact that women who commit crimes come from an economically backward background. Poverty issues and women of the economically unstable backgrounds being harnessed to commit crimes is a theory denied and criticised by scholars of different schools of criminology. Though criticised to certain extent the theory and feminist school of criminology has contributed immensely to the subject of criminology and the criminal justice system around the world.

### **INDIAN SCENARIO**

Exploitation of women in India is not the phenomenon of present time; In fact, they have continuously been the victims of exploitations since ancient times. In Indian society, the women never had an equal status and opportunities as men.<sup>8</sup> Practices of Devdasi, Sati, Purdah, Dowry have been a part of the society since ancient times. It was difficult to uproot cultural bias against women and enact laws and legislations to bring them to an equal stance.

Once the barrier of culturally biased practices was solved to some extent. Women in India, became victims of sexual offences. Rape, Harassment, trafficking have become everyday news headline. In India almost all girls have to face the problem of Eve teasing which violates a woman’s modesty, dignity and self-respect. As per National Crime Record Bureau (NCRB) data, in 2018, the Delhi accounted for 1,215 cases of rape.<sup>9</sup> The sad part of all these crimes, is the fact, that the instead of holding the offender liable. The blame is shifted on the woman, saying, it must be the fault of women. The condition in India, is not at all satisfactory. Women are still considered as an object of sexual pleasure.

After being a mere object of pleasure in the hands of men. Women came out of their bubble. Beginning from the 20<sup>th</sup> century, women began to taking active participation in the world affairs. They started bridging the gap in all spheres. The criminal sphere was one such space where women began spreading their wings. To counter the increase in the crimes committed against women, the society has seen a considerable increase in the number of crimes committed by women. The further parts, aim to elaborate and explain both sides of the spectrum.

### **CRIMES COMMITTED BY WOMEN**

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<sup>8</sup> Sumit Jaiswal, Critical Analysis of Women Rights and Their Violations in India, CPJ Law Journal, p. 19 (EBC, 2013).

<sup>9</sup> Id.

Gender Gap has been elaborately discussed in economical, sociological and even literary market. However, the Crime Market has been left untouched by scholars and explores. Crimes have mainly been associated with men. The male gender has generally been considered as the “offenders” while the female gender has generally been attributed as the “victim”. This can be a plethora of reasons discussed below. The Feminist school of Criminology tries to burst this tranquillity among women. Scholars contend that women have equal tendency to commit crimes, it is the sociological changes that prevent them from being a part of the crime market. But, the traditional onset of women being victims is on its way to be proven wrong. Crimes committed by women have been on the rise ever since the 20<sup>th</sup> century.

### ***Causes***

Criminological aspects in women have been considerably different from that of men. The reasons and the psychological processes that women undergo, have not been emphasized upon, to understand their behaviour of committing crimes. It is imperative to understand what are the reasons that lead to women committing crimes. “The early literature on this subject, starting with Cesare Lombroso and Sigmund Freud, claimed that female criminals were anomalies, and that they showed biological and psychological traits that were very similar to those of male criminals.”<sup>10</sup> The recent studies however suggest otherwise. There is a staunch difference between the psychological and biological aspects of women. It is these aspects which prevent them or motivate them to commit crimes. The final decision rests upon a number of internalized questions and the societal background. The probability of being caught, the return or benefit earned from the criminal activity, risk aversion and the work availability in the legal crime market are the main questions that decide whether a woman should commit crimes or should not. The comparative reduction in degree of tolerance, gives women the opportunity to achieve their desired goal by hook or by crook. Female delinquents have found to be more aggressive. Lack of irritability adds to the proposition and the probability of women committing more crimes.

### ***Types of Crimes***

Crimes committed by women, have started being referred to as the “pink collar crimes”. The next important question that must be analysed is to understand what type of crimes are

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<sup>10</sup> Gary S. Becker, Crime and Punishment: An Economic Approach, Journal of Political Economy, Vol. 76, No. 2, p. 187.(The University of Chicago Press, 1968).

committed by women. It has been observed, that women have higher emotional quotient and react comparatively more sensitively to drastic situations. The biological maternal instinct that women are born with, prevents them from indulging in violent crimes. Data suggests, women have been involved in property crimes twice as much as they are involved in violent crimes. "Behavioural theory suggests that becoming a criminal requires conditioning, a form of learning that involves positive reinforcement: rob a bank, spend the money, rob another bank."<sup>11</sup>

While men prefer outright crimes like murder, assault and robbery, it is women that play in the strategic criminal world. Women hackers have been the new criminals of the virtual world. Slipping in fake signatures, forgery, fraud, contract dealing and an array of crimes that do not involve direct infliction of pain or bloodshed are committed by women. A man decides to partner with a woman to commit a crime only if the woman is more productive (measured in terms of ability to escape law enforcement) than he is."<sup>12</sup>

Violent crimes have begun seeing an increase in the involvement of ow women. The country even has an all-women terrorist outfit known as "Dukhtaran-e-Militant" (DEM) which participates in the disruptive activities in the State of Jammu Kashmir.<sup>13</sup> The 1993 Mumbai blasts are suspected to have prime women suspects.<sup>14</sup> There have been instances of women raping men at gunpoint in the country as well.<sup>15</sup> A study conducted in 2004, showed that women committing IPC crimes have nearly been shoulder to shoulder to men.

### ***Impact***

The sudden increase in the women participation in the crime market has been attributed as the "Liberation Hypothesis" with reference to the "Incentive Theory".<sup>16</sup> During the 1970's, the various movements directed at "Women's liberation" have increased in strength. But if this were a true expression of social equalization, we should have to assume that simultaneously the amount of undiscovered female crime would increase. Cultural analysis, however,

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<sup>11</sup> Female fugitives: why is 'pink-collar crime' on the rise?, Guardian Newspaper, Published on 6<sup>th</sup> Jan, 2020, <https://www.theguardian.com/us-news/2020/jan/06/female-fugitives-women-crime-rates-rise>, Accessed on 7<sup>th</sup> May, 2021

<sup>12</sup> Evelina Gavrilova, A Partner In Crime: Assortative Matching And Bias In The Crime Market, Journal of Economic Behaviour and Organization, Vol 159, p 593(2019).  
<https://www.sciencedirect.com/science/article/abs/pii/S0167268117303359?via%3Dihub>

<sup>13</sup> SP Singh, A Study Of Involvement Of Women In Violent Crimes, The Indian Police Journal, p. 104 (2014)

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Supra, n 20.

contradicts the validity of this assumption, because their new roles have not freed women from their traditional ones. Women participating in crimes, has been dismissal considered as a “break of cultural barrier”.<sup>17</sup> The break in cultural barrier is considered an imbalance in the society.

Increase of women participation and contribution in the crime market is not an element for the society to be proud of. This shows the increase in criminal tendencies of the society. A substantial increase, not only shows the tone of defiance but also becomes a mockery on the legal system. Keeping a gender-neutral approach, increase in female criminal tendencies is harmful for the society at large. It neither helps development nor acts on the principles of success.

The impact of increase in female criminal attitudes, has both positive and negative impact on the society. Thus, it would be difficult to attribute oneself to one side of the story without understanding the other.

### *Legislative and Judicial Perspective*

The Criminal Laws in India are based on the severity of the crime, not on the gender of the offender. A woman committing any crime under IPC would be equally tied and booked under offence under CrPC and IPC in a similar manner. There are no legislative provisions that creates a bias between men and women. However, the laws are positively biased against women, the legal and the judicial system favours women in underlying ways. There are numerous laws, that are formulated and enacted to protect the integrity of women. There are laws that protect women, but there are no laws that try women differently than men.

It is the judicial attitude, and the soft corner that the legal system has towards women. It is imperative to note, that so far, no woman has been subjected to Death Penalty in India. This can be attributed to the historical precedent set by scholars, that women are emotional and do not generally commit crimes.<sup>18</sup> This does not mean women can get through anything and everything. There have been charged for heinous offences.

Women have made their mark in the underworld. This made them prone to the open criticism by the judiciary. Reshma Memon and Shabana Memon<sup>19</sup>, the women were held liable for the Black Friday. Her acts and contributions in the terrorist activities and blasts in Mumbai, led to

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<sup>17</sup> Supra, n 15.

<sup>18</sup> Supra, n 22.

<sup>19</sup> SP Singh, Women Criminals: Impact of Literacy, Population and Sex Ratio, CBI Bulletin, National Crime Reports Beaurau, p. 19 (2005)

her being tried under A special Terrorist and Disruptive Activities (Prevention) Act - TADA<sup>20</sup> Ms Shobha Iyer was the country's most wanted criminal and is popularly known the Mysterious Gang Queen. Sisters Renuka Shinde and Seema Mohan Gavit became the first female duo death row convicts. They were booked under serial murder and kidnapping case. It was the case of *Anjanbai Ramesh Gavit v State of Maharashtra*.<sup>21</sup> They were convicted for a number of kidnapping and murder cases, under the Indian Penal Code. They were subjected to death penalty the Sessions Court. the honourable Supreme Court denied their mercy petition. "The bench said that the sisters had "not been committing crimes under compulsion but took it very casually and killed all these children, least bothering about their life or the agony of their parents." The interesting fact here is that, none of them have been hanged till date.

Fahimda Sayed is another one of the 13-woman death row convicts in India. She was charged and proved guilty for planting a bomb in the car in Mumbai in 2003. She was convicted along with her husband under the POTA.<sup>22</sup>This is for the first time that a couple is being convicted by a POTA court for their involvement in carrying out blasts. "They were sentenced to varying prison terms under the provisions of Explosives Substances Act, Explosives Act and Prevention of Damage to Public Property Act."<sup>23</sup>

This covers the judicial sensitivity towards women. Though the NCRB Reports suggest that there has been a considerable increase in the crimes committed by women. Their conviction rate remains low. The women prisons in the country are less crowded. The reformatory judicial system is preferred in case of women being involved.<sup>24</sup> Judicial stance has been considerate towards women. It can be seen in the cases of, *Satni Bai v. State of Madhya Pradesh (Now Chhattisgarh)*<sup>25</sup> and *Lichhamadevi v. State of Rajasthan*<sup>26</sup>. Both were grievous cases, but the apex court applied a gendered approach and reduced a death sentence to a life imprisonment. The gendered basis of punishment also happens to pronounce sever punishments to women if that is societally considered their responsibility. "Females convicted of child

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<sup>20</sup> Terrorist And Disruptive Activities (Prevention) Act, 1987, No. 28, 1987.

<sup>21</sup> *Anjanbai Ramesh Gavit v State of Maharashtra*, Criminal Appeal No. 476 Of 2012

<sup>22</sup> The Prevention Of Terrorism Act(Pota), 2002, No, 15, 2002.

<sup>23</sup> 2003 Mumbai Blasts: Convicts Sentenced to Death, Outlook India, Published on 6<sup>th</sup> Aug, 2009  
<https://www.outlookindia.com/newswire/story/2003-mumbai-blasts-convicts-sentenced-to-death/663957>,  
Accessed on 7<sup>th</sup> Jun, 2021

<sup>24</sup> *Supra*, n 29.

<sup>25</sup> *Satni Bai v. State of Madhya Pradesh (Now Chhattisgarh)*, S.L.P.(CrI.) No.5813 of 2007)

<sup>26</sup> *Lichhamadevi v. State of Rajasthan*, 1986 (1) WLN 106



abandonment received significantly longer sentences as compared to their male counterparts, because such females were viewed as ‘bad’ mothers.”<sup>27</sup>

In the words of Tina Freiburger, ‘fairness that is applied at a global level could potentially fail at achieving fairness at the individual level’.

### **CRIMES COMMITTED AGAINST WOMEN**

Women have been the marginated section in the society. Unlike classes and castes, it is the gender that considers women to weak and sub-ordinate to men. Their vulnerability has been turned into oppression since the beginning of society. It was this oppression and the presumption of weakness, that made women “victims” of crimes. Just like the economic, social, literary and historical markets, a considerable gap exists between men and women in the crime market. The crime market is still dominated, by men, committing a majority of crimes. Interestingly, a large part of these crimes is committed against women. The reasons behind this discrepancy and crimes against women has been elaborated below.

#### ***Causes***

Integral to feminism as both a social movement and an area of scholarship is the recognition that "women are discriminated against because of their gender."<sup>28</sup> Women have been stereotyped since ages as the sexual types. They have been portrayed as the emotional and the sensitive sex. It does not limit itself to gender biased rules at the household. But also, the portrayal of women as mere images of sexual pleasure. It is these internalized theories and publication that engender the spirit of women being acceptable with their vulnerability. Crimes being committed against women, has a huge sociological reason behind it. It is more work of the society that pushes women to the dark abysm of victims and not the fault of women. By displaying women in recumbent or canting positions, Goffman concludes, advertisements convey the message that women are "unprepared for social action"<sup>29</sup>

“Among the studies of sexist images and stereotypes, two early analyses of unspecified numbers of elementary school text- books showed that the stories and pictures in these books

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<sup>27</sup> Sahil Malhotra, Analysis of Female Offending in India, The Criminal Law Blog, NLUJ, Published on 5<sup>th</sup> Jun, 2019, <https://criminallawstudiesnluj.wordpress.com/2019/06/05/analysis-of-female-offending-in-india/>, Accessed on 7<sup>th</sup> Jun, 2021

<sup>28</sup> A. Richard, Women as "Victims" and as "Resisters": Depictions of the Oppression of Women in Criminology Inequality and Diversity: Age, Class, Gender, and Race/Ethnicity, Vol. 23, No. 2, p. 119 (American Sociological Association, 1995).

<sup>29</sup> Id.

usually portrayed boys as active and independent main characters, but girls as less capable, passive by-standers.”<sup>30</sup> The social conditioning and the sociological forces put women under immense pressure. The pressure to look into their professional world as well as fulfil their gender responsibility of the household duties. “In India, a woman is seen as preserver of social norms, traditions, customs, morality and family cohesiveness. In the present world a woman has taken up added responsibility of making a mark of her own to have an identity along with nurturing her family.”<sup>31</sup> The system of crimes against women has been theoretically complicated.

### *Types of Crimes*

Women have been subjected to all types of crimes. Ranging from violent crimes to the ones that are motivated sexually. Women have been presented with opportunities to prove their worth and all it has ended up in women being exploited at every stance. Sexually motivated deaths, harassment, assault, rape and women trafficking are the crimes that top the list. There are crimes that not only physically harm women, but also, put a blemish on their existence. Female Genital Mutilation and Female Infanticide are two heinous crimes against women. The statistics have been devastating. The introduction of the digital world, just adds to the list of crimes against women. Cyber stalking and cyber bullying have been targeted against women in the virtual world. Women are not even safe within the four walls of their house. Dowry deaths and Domestic Violence have been on an upward slope. “A total of 3,27,394 cases of crime against women (both under various sections of IPC and SLL) were reported in the country during the year 2015 as compared to 3,37,922 in the year 2014, thus showing a decline of 3.1% during the year 2015.”<sup>32</sup> The fact of treating women as an object is again established by the statistics given by NCRB.

### *Impact*

By depicting women mostly as victims who cannot resist oppression, criminology textbook authors risk reproducing traditional gender roles that emphasize women's subordination, submissiveness, and passivity. Even in the 21<sup>st</sup> century, women are subjected to more violence than men. Even after a number of legislations and judicial precedents being set to protect

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<sup>30</sup> Id.

<sup>31</sup> P. M. K. Mili, Neethu Susan Cherian, Female Criminality in India: Prevalence, Causes and Preventive Measures, *India-International Journal of Criminal Justice Sciences* Vol 10 Issue, p. 68 (2015).

<sup>32</sup> Crime Against Women, *Crime In India-2015*, National Crime Record Bureau, p 83  
[https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Chapter%205-15.11.16\\_2015.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Chapter%205-15.11.16_2015.pdf)

women and to hold their lives in integrity, not much improvement has been noticed. Crimes against women are a barrier in the progress. If women are not even safe to survive in the society, they won't be able to contribute in the development of the society. Technological advancement and increase in literacy were supposed to benefit women. However, the same is not evident.

Women continue to be oppressed. India has fallen by 28 places in the Gender Gap Report 2021. India currently stands at the 140<sup>th</sup> place.<sup>33</sup> The statistics are a proof that women are nowhere equal to the status of men. They need not only legislative and judicial provisions to safeguard their well-being but also, change in the sociological behaviour of the society. Proper support and change in mindset of the people is the immediate recourse to curb the growing surge of crimes against women

### ***Legislative Safeguards and Judicial Perspectives***

The principle of gender equality is enshrined in the Constitution of India. Various new legislations have been brought and amendments have been made in existing laws with a view to handle these crimes effectively. Legislative Safeguards for women have been categorized under two main headings.

First, is the punishment of crimes committed against women under the Indian Penal Code, 1860. Rape under § 376 IPC, Attempt to commit Rape under §376 and §511 IPC, Kidnapping & Abduction of Women Sections 363, 364, 364A, 365, 366 to 369 IPC are some major provisions under IPC to protect the modesty of women. Protecting women inside their houses and forceful marriages, have been done under various provisions of IPC. Dowry Deaths under §304B, Assault on Woman with Intent to Outrage Her Modesty under §354 Sexual Harassment under § 354A are other major provisions of protection.

The second category of legislative provisions that protect women in case of any violation of their modesty or well-being has been covered under special laws. Special Acts enacted for protection and safety of women. These gender specific laws in which criminal cases recorded by police throughout the country are –

***The Dowry Prohibition Act, 1961*** – The Dowry prohibition Act prevents women from being used as a commodity. Dowry is prohibited in India. The torture for the same. Families forcing women and torture them for the same, have been enunciated in the Act. Protection from the evil of Dowry is a responsibility, that the State has taken upon itself. It was after the enactment

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<sup>33</sup> World Economic Forum, Gender Gap Report, 2021

of this law, that various provisions to safeguard the lives of women were introduced in the Indian Penal Code in 1986. In the case of *Sanjay Kumar Jain v. State of Delhi*<sup>34</sup>, the court emphasized on the deteriorating situation in the country. It directed the government and the concerned authorities to make sure the Dowry Prohibition Act is implemented in a stringent manner. Taking Dowry has been made punishable under sections of the Dowry Prohibition act. In *Pratibha Rani v. Suraj Kumar*,<sup>35</sup> the court explicitly mentioned that taking away the articles from the bride would amount to criminal breach of trust punishable under §405 of penal code.

***Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*** – One of the most recent additions in the special laws to protect women. Workplaces are considered safe spaces for women, spaces where they evolve and gain professionally. As seen through the years, it is these places that have ended up becoming dungeons of exploitation. Thus, the State came up with a law to protect women from being scared, apprehensive, and sceptical of their work places. Sexual Harassment is a violation of Fundamental Right to Equality as enshrined under Article 14 and 15 of the Constitution. It also violates the Right to live with dignity as enshrined in Article 21 of the Constitution. The Vishakha Guidelines strengthen the interpretation of the Act and make its utilisation and implementation better. In *Apparel Export Promotion Council v. A.K Chopra*<sup>36</sup>, the court held a superior liable for Sexual Harassment without even touching the women. The Vishakha guidelines have increased. The same was utilized in *Saudi Arabian Airlines, Mumbai v. Shehnaz Mudbhalkal*<sup>37</sup>.

***The Protection of Women from Domestic Violence Act, 2005***- Even after the enactment of the Dowry Prohibition Act, women were subjected to harsh environment at home. Women in households were considered an object of sexual pleasure. Violence Act meant 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. The sections of damages and maintenance have been of huge help in the *Indra Sarma v. V.K.V Sarma*,<sup>38</sup> case. “The Madras High Court in *Vandhana v. T. Srikanth*,<sup>39</sup> in one of the early cases since the enactment of the DV Act, observed that the Act

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<sup>34</sup> *Sanjay Kumar Jain v. State of Delhi*, (2011) 11 SCC 733

<sup>35</sup> *Pratibha Rani v. Suraj Kumar*, (1985) 2 SCC 370

<sup>36</sup> *Apparel Export Promotion Council v. A.K Chopra*, 68 (1997) DLT 303

<sup>37</sup> *Saudi Arabian Airlines, Mumbai v. Shehnaz Mudbhalkal*, 1999 (1) BomCR 643

<sup>38</sup> *Indra Sarma v. V.K.V Sarma* (2013) 15 SCC 755

<sup>39</sup> *Vandhana v. T. Srikanth*, 2007 SCC Online Mad 553

was formulated to implement Recommendation No. 12 of United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), 1989 and which was ratified by India in June, 1993.”<sup>40</sup>

Thus isn't an exhaustive list of laws that have been enacted by the State specially to protect women. There are other provisions and special laws that have been enacted and are continuously working to make the society a better and safe space for women. *The Indecent Representation of Women (Prohibition) Act, 1986 and The Immoral Traffic (Prevention) Act, 1956* are two such laws. Each of the provisions mentioned help in securing an equitable environment for women.

Legislative and Judicial Provisions have been enacted to favour women. These protections have been put in place, since women are categorized as the weaker sections. The vulnerabilities they had to face since so many years, are being tried to be condoned.

### **COMPARISON AND ANALYSIS**

Crimes committed by women are on the rise. Women subjected to criminal behaviour have not subsided substantially. “It is unfortunate but an established fact that the arena of crime, which more or less, has the monopoly of males, of late is no more a forbidden zone for the female gender.”<sup>41</sup> The author has described both the sides of the spectrum. The explanation of female criminology and women being both the “offenders” and the “victims” brings out two main analyses. “It is claimed that Indian women have been given the equal rights as their male counterparts and there is no discrimination on the basis of sex, but the actual condition of the Indian women cannot be said satisfactory. There exists a huge gap between de facto and de jure condition due to the present structure of Indian society and practices prevalent in it.”<sup>42</sup>

First, the substantial increase in both crimes committed by women and the crimes committed against women acts as a hinderance in the development of the society. The crime market being expanded is neither good for the society nor good for the individuals. Crimes and criminals increasing questions the legal system of the society. It makes a mockery of the legislations and the judicial system of the country.

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<sup>40</sup> Shubhodip Chakraborty, Law on Domestic Violence (Protection of Women from Doestic violence Act, 2005), SCC Blog, Published on Jan, 2021, <https://www.sconline.com/blog/post/2020/07/27/law-on-domestic-violence-protection-of-women-from-domestic-violence-act-2005/>, Accessed on 7<sup>th</sup> June, 2021.

<sup>41</sup> Supra, n 29.

<sup>42</sup> Supra, n 16.

Second, even after the advancement of the society, there is no betterment in the status and the position of women. Crimes against women are substantially high. A number of cases still remain unheard. Though female criminality is on the rise, there is no safety net that reduces or prevents women being susceptible to crimes. None of the sides of the spectrum adds to benefits of the society. An increase in female criminological behaviour also affects the living conditions for women. As women conviction in India increases, so does the crowding at prisons. A substantial increase in the number of women prisoners, leads to lower living standards and inhumane treatment towards the same.

An analysis of Crimes against women and Crimes by Women shows that both are on a subsequent rise. And none them adds positively to the society. Women continue to be vulnerable in the society. They have started entering the crime market as well. This does not help in the development of the society. The position will detonate if the present condition continues for long. The country and the society need stringent laws not only to reduce crimes against women, but also work towards reducing female criminological structure. The society needs to be revamped.

### **CHALLENGES**

Even after discussing the perspective of women as both the “offenders” and the “victims”, there are multiple challenges that persist in making the process equal on both sides of the panel. To come to a consensus about the feministic perspective of criminology, it is imperative to reach at a uniformity about female criminology at a global level.

Future challenges of uniformity, cause disruptions in the entire process of female criminology. They act as a hinderance in achieving the main goal of the criminal legal system. It is important for the countries to understand, that the aim of having an inclusive criminal justice system cannot be achieved unless all countries come together. “According to Chesney Lind, In order to understand women’s pathway to crime, a very fruitful approach could be to develop the thoughts on a women’s structural and social roles in society and the ideas on a women’s lifestyle.”<sup>43</sup>

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<sup>43</sup> Akarsh Tripathi, Female criminology: A Critical Analysis, IP Leaders Blog, Published on 18<sup>th</sup> Feb, 2021, <https://blog.ipleaders.in/female-criminology-critical-analysis/>, Accessed on 7<sup>th</sup> June, 2021.

Women are still vulnerable to crimes in the society. International Safeguards have been provided by the United Nations to look into violation of rights against women. These rights are universal which include Right to life, Right to equality, Right to live with human dignity, Right to freedom of speech and expression, Right against discrimination, and Right to safe environment. These all-human rights are recognised by the world community in 1948 under the Universal Declaration of Human Rights to which India is a signatory. India is also a signatory to the International Covenant on Economic, Social and Cultural rights, 1966 and U. N. Convention on the Elimination of all Forms of Discrimination against Women, 1979. These all-U. N. Conventions promote philosophy of Human Rights and support the idea of equality among all human without any discrimination. International Safeguards are a plausible solution to come to terms with uniformity in laws.

## **CONCLUSION**

Crime and Criminology is an implicit part of the society. With time, the methods might have changed but the theories that support criminological behaviour have merely evolved. Involvement of women in the Crime Market, provide new dimension to the sociological and legal aspect of crime.

Breaking barriers and shattering glass ceilings, women commit crimes. This is definitely not beneficial for the society at large. But helps to reduce the gender gap between men and women, even in the unethical and illegal platform. It brings to light the capabilities of women and also enunciates on the fact, that women have been suppressed and oppressed from a long time. Introduction of women to the criminal sector, is a repercussion of years of suppression and subjection to subordination. Analysing the causes and the impact of increase in crimes committed by women, suggest liberation and equality at all fronts.

Analysing the other side of the coin, even after much liberation and legalization, there is no substantial reduction in the crimes committed against women. The offenders have found new ways to exploit women and treat them as the weaker sex. The society plays an important role here. Unless the mindset of the people is changed, and the society embraces the fact, that women are as capable as men, there won't be any change in the crimes committed against women.

Female Criminology helps to understand both sides of the argument. It builds a rational decision, points our loopholes and reaches to a conclusion of uniformity and sociological

advancement for the betterment of the society. Success of theory of feminist criminology can help individuals explore a bigger and wider world of “humanistic criminology”<sup>44</sup>.

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<sup>44</sup> Supra, n 20.