

LAW, POLICY, AND SOCIAL CONSCIOUSNESS: EVALUATING THE INDIAN CONTEXT OF CRIMES AGAINST WOMEN

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ABSTRACT

Over the past few years there has been a global discourse on gender based violence (GBV), including a variety of international and domestic policies, programmes, and initiatives set to combat the issue, understanding the gravity of the same. There is a history of female oppression and sexism behind a social mindset of gender based violence, with governmental policies changing to suit the norms of various years. However, innovative and effective ways of dealing with crimes against women have emerged, including technology-driven solutions, corporate policies, CSR initiatives, and non-profit organizations that equip women with tools to prevent crimes against them, and also attempt to make environments and neighborhoods safer at the local level. This paper will review the history, and developments with respect to crimes against women in the Indian context, and provide brief policy recommendations for future changes that can help empower women and provide them a safe environment where they may empower themselves.

Keywords: Gender based violence, Crime, Women, Law, Policy, Social Consciousness

INTRODUCTION

Sexual and gender-based violence has grown to be an immense concern in India. The Thomas Reuters Foundation ranked India on top of the list for gender-based violence in the world (Thomas Reuters Foundation, 2019). Dalit, Muslim, and Adivasi women in particular are prone to sexual violence throughout India, and as vulnerable groups are provided little to not special focus or support for their safety. The gravity of this issue has attracted more attention in the past few years, where there has been a global discourse on gender based violence (GBV), including a variety of international and domestic policies, programmes, and initiatives set to combat the issue, understanding the gravity of the same. There is a history of female oppression and sexism behind a social mindset of gender based violence, with governmental policies changing to suit the norms of various years.

Recently, following the Nirbhaya rape case in Delhi which attracted national attention due to its heinous nature, there have been specific government policies to combat women's safety in various public spaces. The legal definition of rape has evolved, policies have arisen both at the state and national levels, and numerous NGOs have performed sustained efforts to reduce and ultimately end gendered violence in India, with partial success.

However, innovative and effective ways of dealing with crimes against women have emerged, including technology-driven solutions, corporate policies, CSR initiatives, and non-profit organizations that equip women with tools to prevent crimes against them, and also attempt to make environments and neighborhoods safer at the local level. This paper will review the origins, history, and developments with respect to crimes against women in the Indian context, and provide brief policy recommendations for future changes that can help empower women and provide them a safe environment where they may empower themselves.

BACKGROUND

India is ranked one of the lowest with regards to gender-based violence, particularly violence against women, with a Gender Inequality Index rating of 0.524 in 2017 (United Nations). This results in it being in the bottom 20% ranking among the countries of the world where women are least safe. Further statistics exist to prove this point, where in 2015 there was a 44% increase in crimes against women from the previous year, with over 300,000 incidents, according to the National Crime Records Bureau. Further, surveying public opinion with respect to marital rape, domestic violence, and intimate partner violence, it was shown that 65% of men in India believe that violence is something women must tolerate in order to maintain family tradition, cohesion, and order (Crimes Against Women, 2013). Another statistic from the International Men and Gender Equality Survey (IMAGES) in 2011 revealed that 27% of all men in India had committed sexual violence in the past, at some point.

The biggest problem with respect to such data is the severe underestimation and incredibly large error margin, due to exact case occurrences being improperly recorded or not at all, criminal cases being rarely filed, and most incidences going unreported. The causes for this range from social taboo, stigma and the threat of alienation if found out, to internalized shame, guilt, and fear. There is further in many instances a stress on maintaining the reputation of one's family, to uphold their 'honor', where this results in police officers freely accepting bribes from accused individuals in exchange for the lack of filing of a First Information Report (FIR). In other cases, there have been incidents of honor killings, both in urban poor and rural contexts.

Another important problem with the data from the NCRB is the reliability due to information being unavailable regarding the exact methodology of surveying. Their 2012 statistics regarding

crime rate, rape rate, homicide rates due to dowry and domestic cruelty paled in front of statistics of the United States or even global averages -- while the NCRB reported a crime rate of 46 per 100,000, a 2 out of 100,000 rape rate, 0.7 per 100,000 for dowry homicide rate, and domestic cruelty by husbands as 5.9 per 100,000, the rates for domestic violence in the United States is 590 per 100,000 and homicide's global rate is 6.2 per 100,000, as per the United Nations (Crimes Against Women, 2013).

The patriarchal and heteronormative foundations of gender-based violence have been amply evaluated by various studies (Burnet, J. E., 2015; Freedman, E.B., 2007; Chowdhury, E.H., 2014). Even without considering the large and dominant culture of violence against transgender and gender non-conforming individuals in India, the sexual and gender-based violence against women has seen only a slight reduction even after the rise of multiple waves of feminist movements, including important events such as the MeToo movement, what is titled 'The List' which is a collection of names of accused sexual harassers in Indian academia, and other heinous crimes against women whose reportage has shaken the government and country into quick action. In India, crimes against women are commonplace in public places -- with reported accounts of numerous incidents in the metro trains, buses, taxi cabs, airplanes, parks, movie theatres, and public roads (Whitfield, 2018). Women's safety as an issue has led to the establishment of various initiatives to provide them with a safe space to escape the possibility of violence against them, including women's only spaces in the aforementioned areas. Yet, while there has been various methods of limiting women's freedoms by measures that seek to police their expression of gender identity or sexuality, there has been relatively minimal approaches seeking to curb the crimes committed predominantly by men, empowered by a sexist culture that continues to believe in a stereotypically caring, nurturing, meek woman figure whose ultimate purpose is motherhood, whose ultimate identity is derived in a series of semiotic "secondness" to men, only as their sisters, their mothers, and their wives (Epstein-Corbin, 2014).

DISCUSSION

A variety of campaigns, schemes, laws and legal provisions exist for the mitigation and prevention of gender-based violence and domestic violence, as well as to provide redressal and support services in a victim friendly manner for women who are survivors of sexual harassment, violence, and assault. These include the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 (which extends to all professional workplaces as well as universities with a specific UGC Act in 2016 passed for the prevention and redressal of sexual harassment in colleges), the Protection of Women from Domestic Violence Act, 2005, and sections 354 A, 354 B, 354 C, and 354 D of the Indian Penal Code, which deal with a variety of types of crimes against women include stalking, voyeurism, and verbal abuse. Other laws

have arisen to change the definition of rape from peno-vaginal penetration to any non-consensual sexual act. Other laws have been solidified through cases in High Courts and Supreme Courts that have offered more women-friendly interpretations of laws and which have mandated strict implementation, including the laws preventing non consensual spread of images or videos that harm the dignity or modesty of women.

A primary flaw in the Indian mindset which has been shown to lead to an increase in gender-based violence is the treatment of sex as taboo, to not be discussed or taught especially to young people in a comprehensive fashion that includes reproductive health, safe sex, menstrual health, hygiene, and the fair treatment of all genders in an egalitarian fashion (Das, 2014). This lack of sex and gender education is a clear and tangible issue that can be changed through sensitization drives that train teachers and experts to provide such workshops at schools, NGOs, workplaces and other context across India. Hence, while legal provisions and such may act as deterrents to criminal activities, the in-effect become insufficient and non survivor-friendly measures post being affected by gendered violence. There is need for systemic and forceful change of community ethics and values with the treatment of women and minority genders as autonomous individuals with equal rights and liberties of men.

Other provisions have arisen including helplines, tools, mobile applications and the integration of SOS features in the apps of dominant taxi services, trains, metros, bars, and other public places. Many other tools have arisen with a trend increasing of self-defense curriculums being promoted for women in schools and colleges. However, India is lacking in its initiatives to create the structural change that is required, since in many situations the very schemes, campaigns and policies made to safeguard women are not created with the inputs, consensus or involvement of women themselves. Discrimination and violence against women, to truly be remedied, reduced and prevented, not only require a paternalistic environment of “protective” men, and a masculine framework of countering violence with violence, but require the active involvement of women and a magnification of their voices. A holistic approach is required that also is cognizant of countering socialized and culturally ingrained traits of violence as a method of resolving dispute, toxic masculinity as expressions of “strength”, and the glorification of male-centered perspectives, including a spread of rape culture in popular media and texts.

POLICY RECOMMENDATION

Following the Nirbhaya rape incident, the Central Government began the Nirbhaya Fund in 2013 for women’s safety initiatives in India, where the fund has grown over four years to Rs. 3,100 crores. As a part of this fund, there have been Rs. 2,209 crores that were dedicated to 22 proposals for women’s safety and security from Central and State Governments that have been approved

and recommended by the Committee, which include proposals for ‘one-stop centres’ that facilitate a variety of survivor-friendly services including psychological support, legal aid, and medical services for those affected by gender-based violence. These are intended to be integrated with existing universal helplines in India such as ‘181’ -- as of now, 151 such centres have been made operational. However, several issues exist.

The “Universalization of Women Helpline” is supposed to provide 24x7 access and response for women affected by such violence, and is also supposed to provide information about government schemes that work to mitigate and prevent gender-based violence as well as help victims, throughout the country. Yet, a simple internet search of these centres reveals that there is a crucial issue of access to them, with not a single phone number or address listed for these centres in Delhi-NCR. Hence, policies in the future must have a singular focus - sustained implementation. The lack of feasibility studies that are comprehensive and the volatility of governments and government departments to execute a plan in the long-term leads to excessive expenditure that is wastefully done, with incomplete results.

Further, as previously mentioned, there is need to integrate more female voices in policies relating to gender-based violence. Alongside this, sensitization programmes need to be focussed on desocializing men, to unlearn patriarchal and heteronormative standards of masculinity and femininity, and hence to undo a toxic mindset that perpetuates rape culture and the sexual objectification of women through pop-culture representations, music, visual media, books, and news. Inclusive and participatory models of policy-making are needed for future efforts to result in sustained societal change, let alone effective policy.

CONCLUSION

It is thus noted that a comprehensive policy that is inclusive of women in the fight against gender-based violence must be one that combines a legal perspective with a complex and grounded understanding of social realities in the Indian rural and urban poor contexts. Including marginalized communities in India requires an intersectional approach, where gender-based violence must be tackled with a cognizance of gendered perspectives as well as of caste, class, religion, and other social identifications that could add on to the difficulties faced in redressal after experiencing these crimes as well as with the primary discrimination that could be a cause of the crime in the first place. Only with participatory policy-making and more importantly, sustained implementation can one hope to end the crimes against women, and the pandemic of gender-based violence both in India as well as other countries around the world. The paper has hence discussed the historical development of laws, policies, and social considerations of different types of gender-based violence in India, along with schemes and government initiatives

to reduce the risk faced by women in public places. The lack of implementation of certain schemes has also been discussed with policy recommendations made for better future execution. The study hopes for future government agencies, NGOs and activists to improve the situation of gender-based violence, in upcoming times.

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