

Women Safety: A Global Out Cry

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Abstract: The evident of our being in this world, is the result of the presence of women, as she is the only, who is blessed by the divine to give birth. Though, she requires the male partner in the process but even then she is the only one, which makes our presence successful. That's why she is called the "mother" of mankind. Her value and dignity is preserved at the highest pedestal. Therefore this world owes to the women. But under a social setting daily a number of offences take place under different – different circumstances against her. Some of the most prominent ones are sexual assault (without intercourse), forcible rape, sexual abuse of mentally or physically disabled people, sexual abuse of children including statutory rape (sexual intercourse with or without consent with minors) adultery, sodomy, fornication, forced marriage and co-habitation including the marriage of children, violent acts against the sexual integrity of women including female genital mutilation and obligatory inspection for virginity and forced prostitution and trafficking of people for the purpose of sexual exploitation. While the history praises the men for its contribution to the development, the condition of the women all over the world is still miserable.

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I. THE CRIME STATISTICS

The Crime Survey for England and Wales (CSEW) on intimate violence showed that the proportion of adults aged 16 to 59 who had been victims of sexual assaults in the last year (including attempted offences) had not significantly changed between the latest survey year (2.0%, equivalent to 645,000 victims) and the previous survey year (1.7%). There was an increase of 21% in sexual offences recorded by the police in the latest year compared with the previous year (106,378 offences); this includes a 22% increase in rape and a 20% increase in other sexual offences.¹ The Sri Lanka Police website gives the following crime Statistics for the year 2016 upon Whole Island under which a total number of 3862 Crime against women are recorded which includes Abduction, Kidnapping, Rape of women over 16yr of Age, Statutory Rape, Unnatural & grave sexual abuse, Sexual exploitation of children's, Trafficking.² The National Crime Records Bureau (India) figures on crimes against women in 2015 stated that 35,000 incidents of rape had occurred in the past three years. Whereas Statistics of National Crime Records Bureau (NCRB) for the year 2013 shows, 93 women are being raped in India every day. According to NCRB data, there was a gradual increase in the number of rapes reported in India - from 24,923 in 2012 to 33,707 in 2013 and a total of 1, 32,939 cases of sexual offences were reported during 2014, out of which assault on women with intent to outrage her modesty accounted for 61.9% of total such incidents (82,235 cases) amounting to one rape every 22 minutes and 93 rapes in each

day.³ While most of these cases don't find place in the pages or websites of media organizations, the ones that do get reported sometimes do not get covered properly.

While the customary offences are on their way as against the women today in the digital era internet has also played a vital role in sex crimes or crime against women. For example Cyber stalking - threatening behavior or unwanted sexual advances using the Internet or other high - tech communication - is a well placed. Mobile phone, surveillance, and computer technologies provided new ways to abuse or intimidate. Photos or video taken during a sexual assault are widely shared through MMS and other modes, offenders uses chat rooms and instant messaging to seek their hunts, whether adults or youth. All these things made an innocent a victim and creates further trauma to them.

In *Visakha vs. State of Rajasthan*,⁴ The Apex court of India has recognized that women have a right to the sanctity of her body and such a right is a part of human rights. In almost all present contemporary societies in the world the status of women is not different, it is discriminatory and prejudicial.

It is a known fact that recorded rape cases are only the tip of the iceberg as not only many cases of rape are not reported, but also many of those cases in our country are not registered. Even if they are reported, the unscrupulous officers in the police stations do not register the cases. Even if the case is registered and an investigation starts, the female victims mostly feel shy and embarrassed to answer delicate questions posed by male investigating officers; as a result, the truth is

¹ National Statistical Institute, "Crime in England and Wales: Year Ending March 2016", (England and Wales) Available at: <https://www.ons.gov.uk/> (Last Retrieved on: 20.9.2017)

² Sri Lankan Police, Grave Crime Abstract for the Year 2016 for Whole Island. Available at:

<http://www.police.lk/index.php/crime-trends> (Last Retrieved on : 20.9.2017)

³ NCRB, *Crime in India: Figures at glance*, III (MHA, 2014, New Delhi) & NCRB, *Crime in India: Statistics*, 163 -164 (MHA, 2015, New Delhi)

⁴ (1997) 6 SCC 241

not revealed. In India, although, many rape cases are charge sheeted, a large number of these cases ultimately end in acquittal. Also the Crime Survey for England and Wales, 2016 that the data provided by the Police against the recording of crime is no fully reliable and cannot currently provide a reliable indication of trends in sexual offences. The increases in reporting are believed to have resulted from both an improvement in the recording of sexual offences by the police and an increased willingness of victims to come forward and report these crimes to the police.

II. FACTORS BEHIND SEXUAL OFFENCES AGAINST WOMEN

Though, It is an admitted fact that women not only in India but all over the world have suffered in various aspects of life and physical health, mental well - being, bodily integrity and safety, social relations, political empowerment, education and knowledge, domestic work and non-market care, paid work and other projects, shelter and environment, mobility, leisure activities, time autonomy, respect, religion, self - esteem /self-autonomy. And all this left us with a question mark that why it is so? When she is a companion of man, gifted with equal mental capacities by the divine; She is the only one, blessed by the divine to makes our presence successful. According to my analysis and understanding there are two major reasons which are responsible for the rise of crime against women and both override each other.

1. Psychological Factor: Societal cultures are the reflection of followed customs and customs are formed by own individual perception, by the leader of the society or community. Thus, there is a trend, custom or we can say culture all over the world which recognize supremacy of man over a women. Not only this - this thought has been rooted systematically in the brain of women in their early age, the age when she enjoys same mental and physical capacity as that of a boy. Earlier there was no technology like T.V and Radio. Thus the work of brainwash is done by the parents and relatives. In modern era it is done with the help of technology and cinema played a big role in the line. Once, Mahatma Gandhi wrote that one can learn much faster, if the things became visual even a dumb can understand the meaning and concept through visualization. The other fact is that no one is born with a book in his hand or with perfection. Every one whether it is a boy, a girl or a third genders all born equal. No one knows good or bad, right or wrong at the birth. Slowly when one starts growing up, he starts encountering the things happening around him. First of all around his own family and then around the outer world; this put him in to process of mental development. I don't find a single book or an academic syllabus in my carrier during by schooling and thereafter in college. Which teaches how to discriminate, how to insult a person, how to tease other, how to rape or outrage the modesty of a women. I can bet

that no educational institution all over the world teaches how to rape and outrage the modesty of a woman. Then how in today's scenario an infant who is just about 8 to 14 years of age commit such an act, who taught him? Each and every single person will answer that we don't, then who? Family, Society or Cinema, of course for many of us the answer is "Cinema", where the story beings with a rape scene and ends with the murder in revenge or another rape. Even in the era of modern Cinema though women is portrayed as smart, intelligent, independent working equal to man in status and so on but in core of the story somewhere, somehow she got molested by villains and then the hero comes to rescue her thereafter she fall in love with the hero and then they have some intimate bold love making scenes and so on. Here the writer of the story portrays his Psychology with the help of director, producer actor and actresses and this is accessible to the public at large in the form of entertainment. .

Once, Dr. Rajendra Prasad noted that whatever the Constitution may or may not provide the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it. If the people who are elected, are capable and men of character and integrity, they would be able to make the best even of a defective Constitution; If they are lacking in these, the Constitution cannot help the country. But in a country like India the top officials and the members of the parliament and state legislatures who has taken pledge to respect and protect every single individual from any sort of inhuman behavior seems to be trapped in the orthodox beliefs. There statements after the incident of rape is reported reinforce their syco of gender bias. According to them "Women maintain a family's honor. Not men. If she cannot keep her honor, it is solely her fault." Asha Mirje, a Nationalist Congress Party Leader in Western Maharashtra and a member of state women commission in 2014 claimed in an Interview that "Rapes take place also because of a woman's clothes, her behavior and her presence at inappropriate places," she also commented on the case of photojournalist who was gang-raped in Mumbai, that, "Why did the victim go to such an isolated spot at 6 p.m.? Shri Anisur Rahman of Communist Party of India (Marxist) - West Bengal is of the views that if someone is raped then just provide her the compensation; he claimed that - "We have told the chief minister in the assembly that the government will pay money to compensate rape victims. Shri Om Prakash Chautala, INLD, Haryana: is of the view that "We should learn from the past... specially in Mughal era, people used to marry their girls to save them from Mughal atrocities and currently a similar situation is arising in the state. I think that's the reason khap has taken such a decision and I support it." The Trinamool Congress legislator, Chiranjeet aka Dipak Chakraborty, had said that eve - teasing had been in practice for a long long time and one of the key reasons for this was - "short dresses and short skirts worn by women. This in turn instigates young men".

Though the world is progressing, police state now has become the welfare state. But all the advancement and progress is useless unless and until we learn to respect the integrity and dignity of one and another. There is a need of brainwash and there is need to understand that – one cannot exist without the other, both are equal in all manner. If one cannot accept such a shame to him and how the other can. Only wearing a “Being Human t-shirt will not make you a human in true sense for that purpose one have to learn to love and respect.

2. Lack of strong political or legislative will:

The other big reason - this is so because since the concept of welfare state is emerged there seems to be a flood of legislative enactments to protect the integrity and dignity of the women. There is always a political agenda during elections to protect women from sexual and other form of violence and crime. But even after having dozens of legislative enactments. Still the situation is same. Though the judiciary is working as a game changer to protect the integrity and dignity of women through its interpretational skills; But it is also suffering from administrative defects, such as, poor investigation, frequent adjournments, witness getting hostile or witness not interested to appear in courts due to life threat, misinterpretation of laws, fabricated evidences, and delay in delivering sentences. Even where the sentence is delivered on time. Non - execution of the same by the concerned authorities make it useless.

In *Prem Chand vs. State of Haryana*⁵, the Supreme Court reduced the minimum sentence of 10 years for rape to five years on account of the “conduct” of the raped girl. The raped girl was a woman of easy virtue. This decision caused a stir, an agitation; and a movement by women’s organizations led to gross criticism of the Supreme Court and resulted in the filing of a review petition. The review petition was dismissed; however, the Supreme Court clarified its position as follows: “We have neither characterised the victim, Suman Rani, as a woman of questionable character and easy virtue nor made any reference to her character or reputation in any part of our judgment but used the expression „conduct” in the lexicographical meaning for the limited purpose of showing as to how Suman Rani had behaved or conducted herself in not telling anyone for about 5 days about the sexual assault perpetrated on her. [In the end Supreme Court observed:] we would like to express that this Court is second to none in upholding the decency and dignity of womanhood and we have not expressed any view in our judgment that character, reputation or status of a raped victim is a relevant factor for consideration by the court, while awarding the sentence to a rapist.

In *Pradeep Kumar vs. Union Admi, Chandigarh*⁶, it was laid down that to bring the offence of rape into the category of gang rape, it is necessary to prove the following:-

1. that more than one person had acted in concert with the common intention to commit rape on the victims;

2. that more than one accused had acted in concert in
3. commission of the crime of rape with a pre-arranged plan,
4. Prior meeting of mind, and with the element of participation in action. It may also be a plan formed suddenly at the time of commission of the offence, which is reflected by the element of participation in action; and that in furtherance of such common intention, one or more persons of the group actually committed the offence of rape on the victim or victims.”

In *State of U.P vs. Kaushailya*⁷, Section 20 of the Immoral Traffic (Prevention) Act, 1956 was again challenged as violating Article 14 of the constitution . The Supreme Court, in adopting the reasonable classification approach, held that the difference between a prostitute and non-prostitute was a reasonable classification. Further, the Supreme Court ruled that there were real differences between a prostitute, who does not demand, in public interest, any restrictions on her movement, and prostitute, whose action demand restrictions. The Supreme Court has further held thus:-

“There are obvious differences between a prostitutes, who is a public nuisance and one who is not. A prostitute who carries on her trade on the sly or in the unfrequented part of the town may not [be] so dangerous to public health or morals as a prostitute who lives in a busy locality. Though both sell their bodies, the latter is far more dangerous to the public, particularly to the younger generation during the emotional stage of their life. Their freedom of uncontrolled movement in a crowded locality not only helps to demoralise the public morals, but, what is worse, to spread diseases not only affecting the present generation, but also the future ones. [The court proceeded to hold:] As the imposition of restrictions is done through a judicial process on the basis of a clearly disclosed policy, the said restrictions are clearly reasonable. Recently, the courts have shown the lenient approach towards one of the rapist of “Nirbhya” as he was minor during the commission of offence. The above views of Supreme Court are only a reflection of what the person in authority thinks and how it proceeds with the same. Just delivering the sentence is not the solution.

Since after the independence a number of legislative enactments have been formed with a view to protect the women from every kind of violence that can affect her dignity. But still there is suffering in form of rape or the other. Even after server punishment including death penalty have been given in number of cases. The works performed by the legislature in forms of enactments do not provide a onetime solution, what it does? It just provides the definition of various crimes like Rape, sexual assault, domestic violence, prostitution etc; thereafter prescribe the procedure to be adopted by the authorities and the minimum and maximum

⁵ 1989 SCC (Cri) 418

⁶ (2007) 1 SCC (Cri) 41

⁷ AIR 1964 SC 416

punishment for the same. And whenever anything happen new or anew crime took place it again formulates view with a new enactment with new definitions or amends the existing one. But fails as they do not provide a permanent solution. Why? Because there is lack of belief and there is a doubt upon self credibility because at one part everybody is equal before the law including legislator being the citizens of the country under the authority of the Constitution or otherwise and if the crime is committed by the legislator or the person in authority or by their near and dear ones they should be punished, may be because of such a reason we don't have a permanent solution for such crimes against women, besides of having a long list of welfare enactment. Article 51 (A) (e) of the constitution of India emphasize that it is the duty of every citizen of India to renounce the practices of derogatory to the dignity of women. Is casting of such duty of a paper will reduce the suffering, will it bring moral and tradition values among the public, will public follow the same. May be - maybe not. Then what is the solution? This is still not answerable.

As per Article 14 of the Indian Constitution, the State shall not deny any person equality of law or the equal protection of laws, within the territory of India. As per Article 15 (1), the State shall not discriminate against any citizen on the ground of sex, religion, race, caste, place of birth. Article 14 of the constitution cast a mandatory obligation it is much wider than the concept of duty, upon the State only (the Government, Parliament, State Legislatures, Local and Other authorities with in the territory of India); it is the responsibility of the state to ensure equality before the law, and further State shall not discriminate. No responsibility or no mandate have been provided for the general public living within the territory of India to protect the integrity and dignity of one and the other, to avoid inhuman treatment etc. only Article 51 (A) (e) speaks about the duty which may or may not be mandatory or adopted by the public and is much narrower as that of absolute liability. The Convention on Elimination of all forms of Discrimination against Women (CEDAW) has recommended that the country should widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception of marital rape from the definition of rape. Article 14 of the Declaration on Elimination of Violence against Women 1993 (DEVW) provided that: State should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end should develop penal, civil, labour and administrative sanction and domestic legislation to punish and redress wrongs caused to women; women who are subjected to violence should be provided with access to the mechanism of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; State also informed women of their rights in seeking redress through such mechanisms.

Article 11(1) of CEDAW provides as follows:-
States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in

order to ensure on the basis of equality of men and women, the same rights in particular.

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Article 22, Postulates that equality in employment can be seriously impaired when women are subjected to gender specific violence such as sexual harassment in the work place. Article 24, Postulates that State parties will undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present convention. Article 24 also requires State parties to include in their reports information about sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace.

CEDAW was ratified by India on 25th June 1993. The only reservation which has been made by India is to Article 29, paragraph 1, relating to dispute resolution between States by arbitration.

III. SUGGESTIONS

It is a matter of great concern that despite the introduction of amendments in 2013 in the criminal Law by India under which the definition of Rape and other form of sexual violence's has been broaden along with the stiffer punishment for culprits, sexual offences are still on the rise. Some got reported and some not. Thus on the basic of discussion here are some suggestions which may be helpful to curb this social evil.

1. Rather of having different laws for different situations especially in case of laws for the protection of women and children from sexual violence. There should be a single complete Code "The Human Code" which covers all short of sexual offences and violence's and will prescribe such punishment which will teach a lesson to whole society so that no one ever can, even think about to commit such acts.
2. After family, School is the 1st temple where an individual nourished his character. Though sexual education is important, but it is more important to develop a strong character. And this can be done through moral and spiritual education along with gender education. Thus, it is important to educate children's the value of being a human. Therefore, gender respect and human value should be a part of academic curriculums.
3. Adolescents who are between the age of twelve to twenty years suddenly become aware of the tremendous changes that are taking place in their sex organs and hence seek various avenues to get answers to his or her sexual interest. Female student who are adolescents are often given little direct information about how to protect themselves from sexual abuse. This is so because of our sexual norms as they appear natural to

us are like air we breathe because we have internalized them since infancy. These norms are part of over cultural among the variety of factors that shape how we feel and behave sexually. Thus providing sexual education in school and colleges is not sufficient there should be a direct communication between parents and the child regarding their sexuality and sexual behavior and needs at home also.

4. Mandatory Self defense training should be provided from the 1st to 12th class in every school whether private or public, to each and every student. And this should be a part of academic qualifications. Also teaching female student to know their right could establish or instill confidence in them to report sexual harassment. As many of them Therefore, Skill training needs to be given to female students to help them to be able to be assertive in saying “No” to sexual abuse get away from an abusive situation or the assistant and be able to report any form of sexual abuse on her for immediate action in school. For this there should be a Complaint mechanism or a complaint committee in every school whether public or private. As at school and college level the offender is mainly the teacher who is having the authority over the children’s.
5. There should be amendment in Central Board of Film Certification in relation the screening of obscenity and the derogatory image of women such as a prostitute etc there should be complete ban upon bold and intimate scenes. In short there should not be a concept of “A” Certificate for films.
6. In modern era controlling the predatory use of the Internet is difficult. Laws governing its use, where they exist, are often vague or difficult to enforce. While it is important to encourage people to report online incidents, it is also important to provide information and resources to help youth and adults protect themselves online.
7. There should not be a concept of minority and maturity in case of rape and sexual assault. Because he who know how to rape and sexually assault, he can not a minor anymore neither he remains immature. In today’s era where things progress much faster than expected. Where a child about 3 or 4 years of age participate in reality shows and play with the electronic gadgets. Then determining his level of maturity on the basis of his age is not relevant.
8. Some time upon the benefit of doubt person charged with commission of sexual offence avails bail from the court and thereafter tries to influence the complainant and witness. Therefore Courts should have to take this on serious note that bail should not be granted at any cost to the offender or to the accomplish, charged with commission of sexual offence. Also there is a need to

amend criminal law in this regard. Though the offence is categories as Non Bailable. Bail should not be granted at any cost until the final adjudication of the case.

9. No doubt if the existing laws, if faithfully and efficiently implemented by law enforcement agencies, then they are sufficient to maintain law and order and to protect the safety and dignity of the people, particularly women, and to punish any offenders who commit any crime. This is not to say that the necessary improvements in the law, keeping in mind modern times, should not be enacted at the earliest. Several sections of the public are severely critical of the police being frequently subjected to unhealthy pressures and influences from political, executive or other extraneous sources, and police performance consequently falling off the standards required by truth, law and justice. In *State of U.P vs. Chhoteyal* ⁸ the Supreme Court observed as under: -
“We are constrained to observe that criminal justice system is not working in our country as it should. The police reforms have not taken place despite directions of this Court in the case of *Prakash Singh & Ors vs Union of India & Ors.* ⁹ We do not intend to say anything more in this regard since matter is being dealt with separately by a 3 - Judge Bench. The investigators hardly have professional orientation; they do not have modern tools. On many occasions impartial investigation suffers because of political interference. The criminal trials are protracted because of non-appearance of official witnesses on time and the non-availability of the facilities for recording evidence by video conferencing. The public prosecutors have their limitations”.

As one of the seven directives, in the above noted case the Court ordered all state governments and union territories to establish Police Complaints Authorities (PCAs) at the state and district levels, with immediate effect. The intention behind setting up police complaints authorities was to ensure that a local mechanism specialized in handling a wide ambit of complaints against the police, including the most serious, was readily available to the public at large. The long-term goal was to create a change in policing culture by drawing attention to and ensuring accountability for police abuses. The Court envisioned that state-level Authorities would look into complaints against officers of the rank of Superintendent of Police and above and look into only allegations of “serious misconduct” which includes but is not limited to death, grievous hurt, and rape in custody. At the district level, Authorities would inquire into complaints against

⁸ (2011) 2 SCC 550

⁹ (2006) 8 SCC 1

police officers of and up to the rank of Deputy Superintendent of Police.

However, six years has been lapsed since the Supreme Court provided seven directives for structural reform of the police and directed all states to begin reforming their police. But, till today, only six states - Assam, Goa, Haryana, Kerala, Tripura and Uttarakhand and five union territories - Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Andaman & Nicobar, and Delhi - have Authorities which are actually operational at the ground level. Kerala is the only state which has Authorities functioning at both the state and district levels.

And the data provided by the National Crime Records Bureau states that Out of 34,651 total rape cases registered in the country, 95 cases were registered as custodial rapes during the year 2015. Highest number of custodial rape cases were reported in Uttar Pradesh (91 cases consisting of 4 cases of gang rape and 87

cases of other custodial rapes) followed by Uttarakhand (2 cases of custodial rape other than gang rape), one case each in Andhra Pradesh and West Bengal of custodial rape other than gang rape were also registered in 2015.

Thus, police reforms that are recommended and directed for the autonomy and better quality of the police force must be implemented for the preservation of the rule of law.

10. Some time, in some cases of sexual assault / violence it is not the lust or sexual desire or need of sexual favor but is the desire for power and control, and to a variety of mental problems. Deviations and problems in sexual life may determine the type of violent forms of acts. Means to say that some time the Perpetrator's behavior or acts is motivated by both sexual and nonsexual components; such as family enmity and feeling of revenge etc.