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## **Crime against Women in India and Domestic Violence Act 2005**

**Ashim Hazarika**

Asst. Professor, Dept. of Political Science, L.G.B .Girls' College, Tezpur, Assam, India

### **Abstract**

*Gender discrimination and violation against women are two important issues in the contemporary world. Women's rights are violated since time immemorial. Crimes against women increased day by day. Presently it was seen that not only outside but they are not safe inside the home also. In the domestic level women are exploited and dominated by their male counterpart. Indian constitution provides some kind of special arrangements for women but these are not sufficient to protect them from the physical and mental harassments. In this paper I am trying to discuss about some of the listed crimes against women as well as analyzing some of the data. In this paper I am also trying to mention some of the legal provisions of our constitution incorporated to protection of women. Domestic violence is very common in now days so in this paper Domestic violence act. 2005 was discussed and at last discussing about some of the remedies about these burning problems of our society.*

**Keywords: Crime, Women, Domestic Violence, Indian Constitution, Legal Provision.**

**Introduction:** Gender discrimination and inequality is a global phenomenon. Women rights are violated in every phase of human history. Women are treated as man's property. The semantic meaning of crimes against women is direct or indirect physical or mental cruelty to women. Crimes directed specifically against women and in which only women are victims are characterized as "crime against women". Indian women are facing lot of problems in their day to day life. According to 1993 "UN Declaration on the Elimination of violence against Women" say's that "any act. of gender-based violence that results in, or is likely 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". A woman is a female human. Various international conventions of women and women movements try to ascertain her dignified and equal status in the society. The constitution of India recognizes a wide range of fundamental rights from article 12 to 35. These rights include the rights to life, right to personal liberty, equality before law and equal protection of law etc. This implies that Indian constitution recognizes the protection and

promotion of human rights in general and creating a sense of gender equality amongst her citizens where women are the equal stake holders to it.

Indian ancient history is a rich heritage having no match in the other part of the world. In ancient India women enjoyed a significant role not only at home but in the society also. But latter women were reduced to the status of a maid, a playing and a Reproductive machine. Women had played a equal role during the Indian freedom movement, they have courage and are to be assigned with the same amount of rights which a man ought to get and perhaps the promise of India's freedom struggle to women was that once we do get independence women in India would be free from exploitation and her dignity would be equally protected within the territory of Independent India. But it's a big question whether they get equal opportunity and rights in free India or not.

### **Women in Contemporary Society:**

- 70% of the 1.2 billion people living in poverty are female.
- Women do more than 67% of the hours of work done in the world but earn only 10% of the world's income.
- Own only 1% of the world's property.
- The value of unremunerated work was estimated at about \$16 billion, from which \$11 billion represents the invisible contribution of women.
- Women are paid less than men for comparable work.
- 60-70% of the food in most developing countries is produced by women.
- Women hold between 10-20% managerial and administrative jobs.
- Women make up less than 5% of the world's heads of state

**Indian constitution and women:** The preamble to the constitution of India is of supreme importance and the constitution should be read and interpreted to the light of grand and noble vision expressed in the preamble. The preamble of the constitution declares, " We the people of India... and secure all its citizens; justice social economic and political; liberty of thought belief, faith and worship; equality of status and opportunity and to promote among them all; fraternity assuring the dignity of all the individuals and unity and integrity of the nation." In short the preamble sets out quintessence of human rights, represents the aspiration of the people who have established the constitution. The constitution of India has clearly specified the importance of equality in between man and women in India. Women are to be treated as equal partner as men in all respects of the society.

The fundamental rights as guaranteed by the constitution try to remove the in-equalities which the Indian women have suffered. Article 14 promises equality before law and equal protection by the law. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex or birth place and also provides that the state may make special provisions for women and children. Article 16 guarantees equality of opportunity in public employment. Article 23 prohibits traffic in human beings, as well as forced labor. Apart from these important provisions in the fundamental rights, some guidelines are given in the directive

principles of state policy which are non justicable. Article 39 directs the state to adopt a policy of equal pay for equal work for both man and women, and asked the state to ensure that the health and strength of men and women workers are not abused. It further seeks the protection of children and youth from exploitation and from morale and material abandonment. Article 42 directs the state to make provisions for ensuring just and human condition of work and maternity relief. Article 44 deals that the state endeavor to secure for all citizens uniform civil code. Article 71 inserted in 1976 by 42<sup>nd</sup> constitutional amendment imposes a fundamental duty (article 51A) on every citizens to renounce practices derogatory to the dignity of women.

The sixth five year plan (1980-1985), for the first time contained a separate chapter on women and development. The plan emphasized the need of opening up of opportunities for independent employment and income generation for women. Thereafter the objective of raising women's economic and social status has been reiterated as a policy goal. Subsequently, the National Perspective Plan of Action for Women was formulated outlining various administrative, legislative and other measures to promote women's development. In 1992 National Commission for Women was constituted. The government has introduced series of employment related programs with provision for women beneficiaries. These include "Jawahar Rozgar Yojana" with 30% reservation for women in wage employment generation; Integrated Rural Development Program and Training of Rural Youth for Employment with with 40% reservation for women in self-employment generated; Development of Women and Children in Rural Areas fostering self-employment ventures for rural women; Support to Training and Employment Projects aimed at asset-less rural women; "Rashtriya Mahila Kosh" and "Mahila Samridhi Yojana" aimed at extending credit and saving facilities for women. In extending political rights to women the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts (Panchayat Raj) with up to 50% reservation for women is an important step. On the other hand persistent stalling of the 84<sup>th</sup> Amendment indicates the deep rooted bias against women's political participation in Indian society.

Definition of crimes against women listed under the Indian Penal Code serves to provide us with a view of the legal stance on crime against women in India.

- Rape, section 376 IPC
- Attempt to commit rape, section 376/511 IPC
- Kidnapping and abduction of women, section 363, 364, 364A, 366 IPC
- Dowry death, section 304B IPC
- Assault on women including sexual harassment section 354 IPC
- Insult to the modesty of women including at work and in public transport, section 509 IPC
- Cruelty by husband or relatives, section 498A
- Importation of girl from foreign country (up to 21 years of age), section 366B IPC
- Abetment of suicide of women, section 306 IPC

Instead of these provisions listed as IPC, there are some specific gender related laws in India. Some of the landmark legislations that seek to enhance and protect the economic and social status of women are:

- Minimum Wages Act of 1948.
- Plantation Labor Act of 1951.
- Factories Act of 1952.
- Hindu Succession Act of 1956.
- The immoral traffic (prevention) Act. 1956
- Maternity Benefits Act of 1961.
- The Dowry Prohibition Act of 1961.
- Contract Labor (Regulation and Abolition) Act of 1966.
- Equal Remuneration Act of 1976.
- The indecent representation of women (prohibition) Act. 1986
- Sati Prevention Act of 1987.
- The Hindu Marriage Act, 1995.
- Domestic Violence Act of 2005.

Besides this constitutional provision for emancipation and development of women India has also obliged to the UDHR's in relation to the protection and promotion of the rights of women. India has rendered her promise to abolish all the existing laws, regulations, customs, traditions and practices that are derogatory and that violate the basic contents of the human rights in general and rights of women; and establish sound legal system where women's rights are being protected in India. Perhaps to say India with the largest constitution has the largest laws in relation to protection and promotion of the rights of women.

**The other side of Practice:** "Violence against women is a manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men and to the full advancement of women." Women through the World are being discriminated, subjected, undervalued, looked down upon, miss-represented, tortured to inhuman line, regarded as unholy being, regarded second class being, and most serious thing is that she is left all alone to determine her destiny on herself.

Though the constitution of India has guaranteed a wide range of Rights to its citizens, the question of gender in equality in a sense gender disparity is rampant in India. As such to say women are being grossly denied of their rights, their due share is taken away from them. The denial of equal of rights to women even in the back-drop of existing international laws, obligations and also National Laws, the denial of equal rights and status to women is rampant across the world, though women have played a significant and curtail role in all walks of life. Women's contribution in the development is hardly being recognized, women are not regarded as equal partner in the developmental processes though they have contributed largely to development of nation.

The most important fact is that women are considered inferior to men in most of the traditional Indian society and hence there is an under-valuation and under-estimation of the contribution of women in Indian society. Men in most of the traditional society in India prefer women to remain within the four walls of the house, rather to say bounded within the kitchen. Though women in India have played a very important role during India's struggle for freedom they have been relegated to the second class status of citizenship. The existence of discrimination and deprivation of women in India can be traced back to the pre-historic period because of the existing socio-cultural traditions that have been playing a crucial role in Indian societal system from time immemorial. In India it is the traditions that are contributing largely to the crime against women.

Women across the globe are being subjected to various forms of torture, be it in form of physical injury or in form of mental trauma. It is indeed a matter of great concern that even as various across the globe are working towards ensuring equal rights of women, crime grape towards women has only continued to move up-ward direction. In spite of national and international laws to reduce crime against women; the number of women becoming victims of torture has only increased.

Crimes that specially target women, such as trafficking, rape, kidnapping, and abduction, dowry death, domestic violence, sexual harassment, molestation, witchcraft-related murders, female infanticide and other related crimes assaults even human rights of women as even such offence deprives them of the security life and limbs and the basic dignity as a member of the society. According to the National Crime Record Bureau report in 2014 there are 3,37,922 cases and in 2015 3,27,394 cases are registered. Amongst them the most heinous crimes are rape and dowry death. Rape cripples a woman mentally and hurts her physically beyond imagination of any one. 34,651 rape cases registered in 2015 in India. In India a women is raped in every 29 minutes. Dowry death arises out of a mentality that denies the women equal status and respect in her own house, In 2015 7634 women are killed. In every 77 minutes a women were burned alive for dowry.

The practices such as terming birth of a girl child a curse and early marriage has also looked down upon the rights of women. The female infanticides shows how girl child is being neglected even prior to her birth in India, she is denied here even of her right to life. This development in relation to health science has also added to the scores of problems to women. Witchcraft-related murders are now very common in India especially in the rural and backward areas. There are 84,222 cases of sexual offences and 59,277 cases of kidnapping are registered in 2015. Cruelty by husband and relatives under section 498A of IPC is the major crime committed against women across the country around ten in every hour. Women are facing lot of difficulties to survive in this world with respect and dignity.

Many of the women are being forced to work as a bonded laborer, prostitute, or in other immoral by either by the traffickers, parents or their husbands. Women in India hardly get a say in the house hold decision making –processes though they contribute a lot to the development of the household.

**Domestic Violence Act. 2005:** Before discussing about the legislature made law we must understand that what is domestic violence? Domestic violence is not only seen in India but it was found in whole world. Domestic violence can be described as the power misused by one adult in a relationship to the other in a relationship through violence and other forms of abuse. It's a pattern of coercive control. Sexual violence, threats, emotional insults, physical harm, economic deprivation are the example of domestic violence. According to the domestic violence act. 2005, it says that harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security.

The act. was implemented in India except Jammu and Kashmir from 26<sup>th</sup> October 2006. The act. Explain that:

- (1) "physical abuse", means any act or conduct which is of such a nature as the cause bodily pain, harm or danger to life, limb or health or impair the health of development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- (2) "sexual abuse", includes any conduct of sexual nature abuses, humiliates, degrades or otherwise violates the dignity of women.
- (3) "verbal and emotional abuse", includes, insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child and repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- (4) "economic abuse", includes deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any 'Stridhan' property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance. Disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her 'Stridhan' or any other property jointly or separately held by the aggrieved person and prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this sections, the overall facts

and circumstances of the cause shall be taken into consideration and if someone found guilty according to this act., the person entitled fine with jail.

**Remedial measures to the problem:** Women in India should be aware of the existing laws that do protect the rights and the liberties of women. The legal system should have fast track systems. Women themselves should be in a position to start the initial step to in relation to protect their rights.

The existing laws that protect and promote the rights of women should be properly implemented as such the gender based violence can be reduced.

The police administration has often been seen with lack of spirit to tackle the menace of the crimes against women. The police should show a sincere attitude towards the cases of crime against women. Crime against women should be dealt as seriously as the other cases.

The role of civil society and public are also very important to protect the rights of women. Social boycott is one of the way to punished the culprits who violates women dignity, crimes against women or violates women rights.

Educational and economic independence of women also plays a vital role to protect her own rights. The govt. must do something for the development of girl's education specially in the rural areas.

Nongovernmental organization (NGO) can also play vital role in women upliftment through creating awareness among them about their rights, so that they may say things publicly which they dares not say before. The women organizations can also take some protest step to protect and safety of women victims. The role of National Human Rights Commission (NHRC) and the National Commission of Women (NCW) is very important for the protection of women rights.

Societal approach where towards women where women are being accepted as equal in the society as men will do a lot in improving the status of women in India, the traditional customs should have a structural change as such that it accepts women as equal partner of society and prohibits crime against women and do promote women's rights.

Gender based socialization should be done away with, as the looking down upon women starts within a family itself, when gender base socialization can be curbed gender disparity can be reduced.

Women themselves protect her rights and dignity, If they are conscious and aware about her rights. For that, education is very important as well as courage to protest and to raise her voice against the violation of her basic rights as a human being.

A genuine urge to solve the problem of women on the part of the government, civil society, and the women themselves will help minimizing the gender based violence and problems. A positive approach towards the issues of women from all angles of the society is

of immediate necessary if the gender based violence and the gap of gender-disparity is to be bridged up and the rise of the crime graph can be reduced.

At last there is a need to make all round attempt to educate people about the concept of women dignity and rights, to treat women as a human being and individual and a person demanding respect and dignity. Thus there is a need for better protection through Strong legislation and policy with proper implementation and reform in criminal justice system. Education and legal awareness widens women's perspective, lays confidence to stand up to the oppressor, and if need be take recourse to the courts for redresses. Educational and economic independence of women can play very important role in the realization and protection of her own rights.

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