

CRIME AGAINST WOMEN AND LEGISLATIONS IN INDIA

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ABSTRACT

Women represent more than one-half of the population. They are still, far from being represented to that degree in political and administrative programs. In fact, there is absolutely unsafe condition in the society for them, inefficient public transport, strict opening hours of municipal services, unsuitable public transport, are just some examples. It is for this reason, their participation in the decision making process is vital. Equal representation is certainly an excellent means of ensuring that the needs of women are satisfied.

Women's experience of living in the city differs greatly from men's. Although a city belongs to those men and women who live there, women's access is limited due to the unsuitability of public places. Developments within the city, infrastructure and urban life in general, are often carried out without consulting women, thereby hindering them from exercising their fundamental right to full citizenship.

Key Words—Crime, Legislation, fundamental right, sexual harassment

Introduction

If the main objectives are, to ensure the full and equal participation of women in government proceedings at local and regional level; to ensure the full participation of women as citizens in the development of cities and communities; to implement different approaches for men and women in planning, development and urban management procedures; ensure greater involvement of women in city management, then these objectives can only be redress and fulfilled when the government becomes a key player in all strategies to **fight violence against women, and women's security in the city becomes a clear priority**. Whether it be in the private or public arena, for example in the street, office, shops, bus or underground station, women are the main victims of sexual harassment and assault. This means that in large cities,

most women restrict their movements or activities because they feel unsafe. This feeling acts as a way of socially controlling women's activities. Living with this feeling each day makes women sensitive to various aspects of urban life, which may contribute to their insecurity. The daily experience makes them infinitely qualified to detect problems and offer solutions. One of the ways in which women can reclaim their city in order to get full benefit from its resources and move around freely whatever the hour, is to actively changing the environment through the proper, simple, active legislations and the absolute, proper implementation of them.

The Article 14, 15, 16, 21, 39 of the Constitution of India provide the basic foundation on which most legislations and laws are built. A basic understanding of some of the constitutional guarantees is pertinent to the subject of equal representation of women in the society.¹

Objectives

In the present study crime against women in general and urban women in particular has been analysed. The study also attempts to examine the legislations and amendments in the legislations to curb or minimise the ever increasing rate of against the women.

Study Area

It is a general study based on India.

Methods and Material

The study is based on secondary data collected from different Govt offices and publications.

Results and Discussion

Major Categories of Crimes against Women

Crimes against women are broadly classified under two categories: 1) crimes identified under the Indian Penal Code (IPC), and 2) crimes identified under the special laws (SL). The crimes under the former category include eight types: I) rape (section 376 IPC), ii) kidnapping and abduction (sections 363 and 373), iii) dowry homicides (section 302 and 304B), iv) torture-physical and mental (section 498A) v) molestation (section 354), vi) eve-teasing or sexual harassment (section 509), vii) importation of girls (section 366B), and viii) murder (other than dowry homicides) (section 302). The crimes under later category include four types: I) immoral trafficking (1956 act) ii) demanding dowry (1961 Act), and iv) indecent representation of women (1986 Act).²These are Acts passed by the Government of India and Government of the NCT of Delhi.

Section 363, IPC --Punishment for Kidnapping

Whoever kidnaps any person from [India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.³ The words "British India" have successively been substituted by the A.O.1948, the A. O.1950 and Act 3 of 1951, sec.3.

Section 366, IPC--Kidnapping, abducting or inducing woman to compel her marriage, etc.

Section 366 (Act 20, Section 2) IPC had been enacted in 1923. It states that whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; Section 493, Section 494, Section 495, Section 496, Section 498, IPC provides the elaborative explanation to give judgment to cases coming under this law.

Section 373, IPC-- Buying Minor Girls for the purposes of Prostitution, etc.

Section 373 IPC (Act 18, Section 2) had been enacted in 1924. Section 366 (a), IPC says, whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.⁴ Section 366 (b), Section 367, Section 372, Section 373, IPC are also the part of Section 373 IPC.

Section 376, IPC--Punishment for Rape

Punishment for Rape got enacted under Indian Penal Code in 1860, maximum sentence of life imprisonment. Section 375, IPC says, a man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:

- Against her will.
- Without her consent.
- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- With or without her consent, when she is under sixteen years of age.

Amendments to Rape Laws in 1983 were made to address mainly 3 issues:

- A. Minimum Punishment in rape cases (IPC Section 376 sub section 1)
- B. Special cases of rape (IPC Section 376 subsection 2 a- g & A)
- C. Marital Rape (IPC Section 376 A)
- D. Abuse of official power (IPC Section 376, B, C, D).

Section 376, IPC -- Punishment for Rape

(1) Whoever, except in the cases provided for by subsection (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

Section 509 of the IPC--Insulting the Modesty of a Woman

Code of Criminal Procedure, 1973 mentioned broadly explained about this section. It says, a person commits the offence of insulting the modesty of a woman when he:

1. Utters any words
2. Makes any sounds or gestures
3. Exhibits any object with the intention that the same be seen/heard by a woman
4. Intrudes upon the privacy of a woman

With the intention of insulting the modesty of the woman For Example- writing letters making indecent overtures, making obscene gestures, exhibiting pornographic material, singing vulgar/suggestive songs, exposing one's nude body, entering the private apartment of a woman and making obscene gestures. Punishment would be imprisonment up to 1 year/fine/or both. The offence of outraging the modesty of a woman is cognizable, bailable and compoundable - by the woman whose modesty was insulted. ⁵ Section 354, IPC, Section 509, IPC is the elaborative explanation in Indian Penal Code to be able to provide the just judgment in different cases.

Offences by Acids (Prevention and Regulation) Act, 2007

Acid attacks have been increasing in the recent past. These attacks permanently disfigure the victims and harm them physically as well as psychologically. The government and National Commission for women have formulated a law which seeks to focus on the problem and suggest measures to stop them. The act of the acid thrower is so grave that no amount of compensation can compensate the victim for the trauma which she suffered and the injuries which have left a permanent mark on her soul and body reduce the victim to nothing but a moving mass of bones and flesh.

But under the present law, acid attacks that deform people for life are either tried under Section 307 (attempt to murder) or Section 326 (for voluntarily causing grievous hurt) of IPC. So such attackers, even if brought to book, can get bail from the court. It depends on the judge to give maximum punishment, which is life imprisonment, under Section 326.

Blank Calls, Lewd SMS/MMS

To tackle rising crime against women, the Delhi police are all set to launch a dedicated help-line where women in distress can call for help. They can also lodge complaints if they receive obscene messages or MMSs on their cell phones. If found guilty, the alleged face jail of up to 5 years and fine of Rs. 2 Lakhs. Accused will also be booked under sections 509 IPC (words, gesture intended to outrage modesty of a woman), 354 (assault or criminal force to outrage modesty) and other sections.

Harassed women can seek action against accused even without lodging a formal complaint. All the complainant needs to do is to forward the obscene message to the help - line, the police will take of the rest. The help -line, which has started functioning in January, 2009—is being launched in wake of the spiralling number of eve-teasing complaints against women. The help -line will

also cater to women being harassed on the roads. In 2007, 835 molestation cases were registered. The Special Investigation

Team (SIT) of the Delhi Police Crime Branch will monitor the project.⁶

Eve Teasing

Section 294, IPC: Obscene acts and songs. Punishment would be imprisonment, which may extend to three months or fine or both.⁷ The government has suggested making harassment of women, including eve-teasing, non-bailable offences. Acts of eve-teasing by way of whistling, winking and stalking offences with a minimum punishment of seven years imprisonment. Those who are witness to such incidents-whether in public places, offices or elsewhere-and do not intervene to help the victim should also be made a party to the offence. The recommendations have already been received by the Union Women and Child Development Ministry in the draft of the Sexual Assault Bill and the amendments to the laws on sexual assault. The need for a new law on sexual assault was felt as the present law does not define regarded as criminal offences and there is a need now to include them in the definition of sexual assault. A recommendation has been made for an amendment to Section 375 of the various kinds of sexual assault that women are subject to in the country. The Supreme Court has explicitly defined sexual harassment to include “such unwelcome sexually determined behaviour, (whether directly or by implication) as: physical contact and advances; a demand or request for sexual favours; sexually colored remarks; showing pornography; any other unwelcome physical, verbal or non-verbal conduct of sexual nature”. The court has emphasized that this should be treated as law under Article 141 of the Constitution. That said, there is a growing need to define sexual harassment as a separate legal offence in our country with suitable penalties.

Sexual Harassment at Workplace

Pursuant to the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution of India and also embodied in the International Covenants the Supreme Court of India in its judgment in Vishakha vs. State of Rajasthan [(1997) 6 SCC 241], laid down certain guidelines to ensure the prevention of sexual harassment of women as to live with dignity is a human right guaranteed by the Indian Constitution.

It has been laid down by the Supreme Court that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

Since there are no legislations to deal with sexual harassment at the work place, some provisions in the Constitution has taken into consideration by the Supreme Court while enumerate the guidelines were Articles 14, 19 (1) (g) and 21, along with Article 15, 42, 51, 51 A, 253 and the provision in the Union List of the Seventh Schedule, which provides for the implementing of treaties, agreements and conventions with foreign countries. The right of 'Gender Equality' and the 'Right to Life and Liberty' are explicit under Article 14, 15 and 21. Article 19 (1) (g) guarantees right 'to practice any profession or to carry out any occupation, trade or business'.

The international convention which formed the basis of the guidelines enumerated by the Supreme Court is the 'Convention on the Elimination of All Forms of Discrimination against Women' (CEDAW) and in particular Article 11 and Article 24. Article 11 of CEDAW provides that States Parties shall take all appropriate measures to eliminate discrimination against women in the ground of employment in order to make certain, on a basis of equality of men and women.

Bias in the law -- Negates Effective Implementation

- As a whole, the process of law is biased against the victim. If the victim is a minor, the onus is on the accused to prove his innocence. But if the victim is a major, it is up to her to prove her charge.
- Also in rape cases, unless the woman is examined medically within 24 hours, it becomes difficult forensically to prove that rape has occurred.
- The laws too are discriminatory in nature. According to Section 155 (4) of Indian Evidence Act, "When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix (victim) was of generally immoral character".
- Section 54 of Indian Evidence Act says, " In criminal proceedings (including rape) the fact that the accused person has a bad character is irrelevant, unless evidence has been given (by him) that he has a good character, in which case it becomes relevant"
- Forced cohabitation, molestations and sexual harassment is the norm. Justice is rarely meted out to such victims who either do not lodge a complaint for the fear of a social stigma.
- Moreover the accused gets acquitted due to a poor prosecution, hostile witness and the like. In India the rate of conviction is about 2-3%. Thousands of widows and elderly people are left to fend for themselves. Insensitivity, non-action and a lack of desire to come forward are responsible factors.
- For the victims, who do not have any shelter, place to go, to rehabilitating them still is not mandatory. The process of legal fight, ensuring legal rights through the judicial process is still very expensive for the lot of people.

- Under the Offence by Acids Act, 2007 law, acid attacks that deform people for life are either tried under Section 307 (attempt to murder) or Section 326 (for voluntarily causing grievous hurt) of IPC. So such attackers, even if brought to book, can get bail from the court. It depends on the judge to give maximum punishment, which is life imprisonment, under Section 326.

Women-Relevant Legislations

Table 2.1: Overall Review of Women-Relevant Legislations

1856	Hindu Widow's Marriage Act [a Hindu widow can legally remarry under this law]
1860	Rape Punishment Law [Got enacted under Indian Penal Code in 1860, maximum sentence of life imprisonment]
1872	Indian Evidence Act 1872 [expedient to consolidate, define and amend the law of evidence, it has enacted Relevancy of facts, applies to all judicial proceedings in or before any court; explained the crime like-murder and insulting the modesty of women]
1923	Abduction and Kidnapping to compel her marriage Section 366 IPC(Act 20, section 2)
1924	Buying minor for purposes of prostitution-Section 373 IPC (Act 18, Section 2)
1929	Child Marriage Restraint Act, 1929 [" child" means a person, if a male has not completed 21 years of age & if female, has not completed 18 years of age; "minor" means a person of either sex who is under 18 years of age]
1948	Act of Order-Punishment for Kidnapping: Section 363 IPC (Act 3, Section 3) [Whoever kidnaps any person from 1[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. The words "British India" have successively been subs. by the A.O.1948, the A. O.1950 and Act 3 of 1951, sec.3 and such]
1950	Act of Order-Punishment for Kidnapping: Section 363 IPC (Act 3, Section 3)
1951	Punishment for Kidnapping-Section 363 IPC
1955	Punishment for Murder-Section 302 IPC (Act 26, Section 117)
1956	Immoral Traffic Act [Government of India ratified an International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of others. Under Article 23 of the Convention, Traffic in human beings is prohibited and any contravention of the prohibition is an offence]

	<p>punishable by law. Under Article 35 such a law has to be passed by Parliament as soon as may be after the commencement of the Constitution]</p>
1961	<p>The Dowry Prohibition Act [An Act to prohibit the giving or taking of dowry. In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly at or before or any time after the marriage]</p>
1973	<p>Code of Criminal Procedure (Explains Section 509 IPC: Insulting the Modesty of a Women)</p>
1983	<p>Criminal Law Amendment Act: 375 IPC, Rape Punishment Law (Act 43, Section 376) [Medically Examine of victim within 24 hours; Review laws pertaining to 'Rape' & 'Sexual Assault'; Distinguish between consent and forcible submission; alter the definition of sexual intercourse; Acknowledge marital rape ;)</p>
1983	<p>Husband/Relative of husband Subjecting her to Cruelty: Section 498A IPC(Act 46, Section 2)</p>
1997	<p>Vishakha vs. State of Rajasthan Case, Supreme Court Verdict on Sexual Harassment at Work Place</p>
2000	<p>Criminal Law Amendment Act, 2000 [cover every aspect of sexual assault against women & minors; no women shall be arrested after sunset or before sunrise]</p>
2001	<p>Domestic Violence Bill [paved the way for a new legislation that seeks to protect a woman from her relatives related to her by blood, marriage or adoption and with whom she is living - from acts of domestic violence.]</p>
2002	<p>Protection from Domestic Violence Bill [The new legislation - which is in addition to the existing criminal law –would empower courts to grant protection orders to victims of domestic violence and provide other relief. It also includes new concepts such as “civil wrong of domestic violence, the right to reside in a shared household and the right to protection against domestic violence by obtaining protection orders including monetary relief and custody of children orders".]</p>
2004	<p>Proposed Amendments for Rape Punishment Laws [Rape redefined as sexual assault; New law on sexual assault to define & reflect various kinds of sexual assault of women; Stringent punishments]</p>
2004	<p>Prevention of Child Marriage Bill, 2004[The upper house of parliament approved a bill to ban child marriages on December 15, 2006. The bill had been tabled in parliament in 2004]</p>
2005	<p>Scheme has been proposed for Relief and Rehabilitation for Victims of Rape and Acid attacks [monetary compensation in cash & rehabilitation of the victim; rehabilitation of the victim includes counselling, medical & legal aid, provision for shelter & vocational training]</p>
2005	<p>Amendments on Dowry Prohibition Act [Section 304B IPC to be deleted as it only consider dowry death within seven years of marriage; definition of dowry revised as 'gifts' in place of</p>

	presents with voluntary intent]
2005	Amendments on Protection from Domestic Violence Bill (Brought into force on 26th October, 2006) [Comprehensive legislation to protect women from all forms of domestic violence; immediate & emergent relief to women who face violence at home]
2006	Amendments on Child Marriage Prohibition Act and Repeal of Child Marriage Restraint Act, 1929 [compulsory registration of Marriage]
2006	Amendments on Sexual Harassment at Workplace [definition of sexual harassment; detailed definition of workplace including all sectors; establishment of internal complaints committee and power to them to deal the cases]
2006	Amendments on Immoral Traffic [to widen scope, focus on the trafficker & prevent re- victimization of the victims]
2007	Offence by Acid Attacks Act [acid attacks that deform people for life are either tried under Section 307 -attempt to murder or Section 326 (for voluntarily causing grievous hurt) of IPC]

Source: <http://mynation.net/ipc.htm>; <http://indiacode.nic.in/coiweb/coifiles/part.htm>

Rape Punishment Laws/Amendments and Recommendations

- In rape cases, unless the woman is examined medically within 24 hours, it becomes difficult forensically to prove that rape has occurred.
- Rape redefined as sexual assault
- Need to immediately review the laws pertaining to 'rape' and 'sexual assault'.
- Passive submission due to fear induced by serious threats could not be construed as willing sexual intercourse. The law did not distinguish between consent and forcible submission.
- Rape laws only recognize sexual crimes involving penile penetration. Not forced oral, anal and finger penetration. Questioned the legal procedures during a trial and urged the apex court to alter the definition of sexual intercourse [with reference to section 375 of the Indian Penal Code (IPC)].
- Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.
- Minimum Punishment in rape cases (IPC Section 376 sub section 1)

- The need for a new law on sexual assault was felt as the present law does not define and reflect the various kinds of sexual assault that women are subjected to in our country.

The government has proposed amendment in the laws relating to sexual assault in Section 375, 376, 354 and 509 IPC and the relevant sections of the Code of Criminal Procedure 1973 and the Indian Evidence Act 1872 based on the 172nd report of the Law Commission. If the victim is a major, it is up to her to prove her charge. The laws too are discriminatory in nature. According to Section 155 (4) of Indian Evidence Act, “When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix (victim) was of generally immoral character”.

Forced cohabitation, molestations and sexual harassment is the norm. Justice is rarely meted out to such victims who either do not lodge a complaint for the fear of a social stigma.

Domestic Violence Act, 2005

- Domestic violence not even being well defined in the Domestic Violence Bill, 2001.
- Recommended comprehensive legislation to protect women from all forms of domestic violence
- Provides immediate and emergent relief to women who face situation of violence in their homes.

Review of the Dowry Prohibition Act, 1961

- The definition of dowry has been revised with the expression ‘gifts’ in place of presents to indicate the voluntary intent of the exchange (very much problematic)
- The Act has been harmonized with Domestic Violence Act, 2005
- Amendment proposed in Section 304B IPC. Dowry death was earlier considered only within seven year of marriage which is proposed to be deleted.

Criminal Law Amendment Act, 2000

A comprehensive piece of legislation covering almost every aspect of sexual assault against women and minors has been drafted called the Criminal Law Amendment Bill. It is based on the 172nd report of the Law Commission to amend laws relating to sexual assault in Sections 375, 376, 354 and 509 of the IPC, the relevant sections of the Code of Criminal Procedure (CrPC), 1973, and the Indian Evidence Act. When it becomes law, the legislation will be called the Criminal Law Amendment Act, 2000.

No women shall be arrested after sunset and before sunrise and where exceptional circumstances, the women police shall by making a written report, obtain the prior permission of the judicial magistrate within whose local jurisdiction.

Sexual Harassment at work place (Prevention, Prohibition and Redressal) Bill, 2006

There are no legislations to deal with sexual harassment at the work place. The Supreme Court of India, in Vishakha vs. State of Rajasthan & Anr. The Supreme Court of India after taking into consideration the provisions in our constitution, the definition of 'Human Rights' under the Protection of Human Rights Act, and the various international conventions relating to gender justice laid down guidelines which will operate in the absence of any enacted law to provide for the effective enforcement of the basic human right of gender equality and promise against sexual harassment and abuse, more particularly against sexual harassment at work places.

The Draft Bill seeks-

- Definition of sexual harassment
- Detailed definition of workplace covering the government, private and the un-organised sector
- Establishment of internal complaints committee and the local complaints committee and powers to the committee to deal with cases of sexual harassment.
- States/UT's duty to implement Supreme Court guidelines till the law is passed.

Child Marriage Prohibition Act and Repeal of Child Marriage Restraint Act, 1929 (in 2006)

The cabinet in its meeting approved the proposal on proposed Legislation on Child Marriage Prohibition Act and Repeal of Child Marriage Restraint Act, 1929 (in 2006). Compulsory Registration of Marriage Bill, 2005 has been proposed and sent to the Ministry in 2006.

Immoral Traffic Act Amendment, 2006-07

The premier legislation, Immoral Traffic (Prevention) Act, 1956 (ITPA) is being amended in order to widen its scope, focus on the trafficker and prevent re-victimization of the victims.

Scheme for Relief and Rehabilitation for Victims of Rape & Acid Attacks, 2005

- Monetary compensation in cash and rehabilitation of the victim

- Rehabilitation of the victim includes counselling, medical and legal aid, provision for shelter, and vocational training.

Offence by Acids Act, 2007

Under the present law, acid attacks that deform people for life are either tried under Section 307 (attempt to murder) or Section 326 (for voluntarily causing grievous hurt) of IPC. So such attackers, even if brought to book, can get bail from the court. It depends on the judge to give maximum punishment, which is life imprisonment, under Section 326.

Eve Teasing and defining Sexual Harassment

The Supreme Court has explicitly defined sexual harassment to include “such unwelcome sexually determined behaviour, (whether directly or by implication) as: physical contact and advances; a demand or request for sexual favours; sexually coloured remarks; showing pornography; any other unwelcome physical, verbal or non-verbal conduct of sexual nature”. The court has emphasized that this should be treated as law under Article 141 of the Constitution. That said, there is a growing need to define sexual harassment as a separate legal offence in our country with suitable penalties.⁸

The Criminal Law (Amendment) Ordinance, 2013

The Bill was passed by the Lok Sabha on 19 March 2013 and by the Rajya Sabha on 21 March 2013, making certain changes from the provisions in the Ordinance.

New offences

This new Ordinance created some new offences which were dealt under related laws. These new offences like, acid attack, sexual harassment, voyeurism, stalking has been incorporated into the Indian Penal Code (IPC).

Section 326A Acid attack-Imprisonment not less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupees

Section 326B Attempt to Acid attack-Imprisonment not less than five years but which may extend to seven years, and shall also be liable to fine

Section 354A Sexual harassment-Rigorous imprisonment upto five years, or with fine, or with both Imprisonment upto one year, or with fine, or with both

Section 354B Public disrobing of woman-Imprisonment not less than three years but which may extend to seven years and with fine.

Section 354C Voyeurism-In case of first conviction, imprisonment not less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or

subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Section-354D Stalking-Imprisonment not less than one year but which may extend to three years, and shall also be liable to fine.

Changes in law

Section 370 of Indian Penal Code (IPC) has been substituted with new sections, 370 and 370A which deal with trafficking of person for exploitation. If a person (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by using threats, or force, or coercion, or abduction, or fraud, or deception, or by abuse of power, or inducement for exploitation including prostitution, slavery, forced organ removal, etc. will be punished with imprisonment ranging from at least 7 years to imprisonment for the remainder of that person's natural life depending on the number or category of persons trafficked.

The most important change that has been made is the change in definition of rape under IPC. The word rape has been replaced with sexual assault in Section 375. Except in certain aggravated situation the punishment will be imprisonment not less than seven years but which may extend to imprisonment for life, and shall also be liable to fine. In aggravated situations, punishment will be rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine. A new section, 376A has been added which states that if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death." In case of "gang rape", persons involved regardless of their gender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim who shall be reasonable to meet the medical expenses and rehabilitation of the victim.⁹

Recommendations

Respect of women to be inculcated from childhood and schools and colleges need to include it in their syllabi of moral science or environmental science. Doing this would improve the status of women and create a friendlier environment for women to work and travel.

Effective security has to be provided after 7 pm in the transport vehicles and work

places and the journey terminals have to have a strong presence of security personnel, proper lighting, public amenities, and strict supervision of road vendors and service providers.

It is vital to reduce density and congestion, in the work areas and informal economic activity zones. Ensure some minimal standards of security with respect to working women and amenities for them in their work place.

Social awareness and sensitization should be a high priority program. It should cover the police personnel, citizens of the country and the victims/prospective victims of crimes against women. Apart from providing knowledge and information, a component of training to face situations of crime has to be included. Training in self-defense techniques is another important requirement.

Mere laws are not enough, but it is important to have proper and effective machinery for enforcement of such laws. Moreover, the co-operation of the people is also essential for the effective implementation of the social welfare legislations for which awareness about such laws should be created among the masses.

Last, but not the least is to improve trust in the police so as the reporting of crime is not hampered.

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