



# An Overview on Protection of Women under Criminal Law in India

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## **Abstract:**

Women's are very vulnerable section in the society. In India, in ancient time only mother, sister and daughters were hardly protected by their sons, brothers and father and rest of women being the subject of torture, exploitation and molestation. During the British rule, several laws enacted for the protection of women but a dynamic change has been taken place after the implementation of our constitution. This research paper concern with the study of various criminal laws enacted for the protection of women in India.

**Keywords-** Justice , Liberty, Protection and crime, torture, exploitation, discrimination, cruelty, rape, sexual harassment, domestic violence, acid attack voyeurism, and staking.

## **Introduction**

Women were having honorable place and position during first Vedic period. They had opportunity to enter into almost religious and cultural ceremonies. India had rich tradition, custom, culture, language, script, religion and civilization and refers kindness towards all creatures of almighty God. Women are given the pace of goddess like Lakshmi, Durga and Sarswati in Indian culture and tradition. Apalla, Ghosha were learned women of that time. But with passage of time they gradually face discrimination in later period and became victims of various social, economic and political disabilities like child marriages and violence. Since the implementation of Indian Constitution women's are well protect and having opportunity to develop him in all stream of the development without any kind of discrimination. They may become poet, writer, scientist and artist and so on.

There are 723.97 million males and 669.44 million females in India. The percentage of female population is 48.04% compare to 51.96% male population<sup>1</sup>. The Constitution of India by Preamble declares India is a "sovereign, socialist, secular, democratic republic" country. To provides "justice", "liberty", "equality" and promotes "fraternity" among the citizens are core goal of our constitution. Article 14 embodies the general

<sup>1</sup> <https://population.un.org/wpp/Download/Standard/Population/>

principles of equality before law and equal protection of laws. The Constitution of India specially provides protection to women<sup>2</sup>. It prohibits discrimination on the basis of sex, empowers to state to make special provisions, free legal aid, humane condition of work, maternity leave.

The criminal justice system has historically been designed by men for men, which has often meant that laws and policies fail to take into account the pathways to female incarceration and their mitigation.

Criminal law is the body of law that relates to crime prevention, treatment, reformation and rehabilitation of an offender in society and victim's protection. The Indian Penal Code 1860 have several provisions in the protection of women from sexual assault, harassment, rape, cruelty etc and other several Acts enacted by parliament in the protection of women like the Immoral Traffic (Prevention) Act, 1986, Indecent Representation of Women (Prohibition) Act, 1987, the Protection of Children From Sexual Offences Act, 2012, and Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013.

### **(A) Protection of Women under Indian Penal Code**

Indian Penal Code is a basic criminal law, define and describe offences committed by a human being and punishment for crime. It was enacted by British government to curb the incident of crime against human being and property. There are 511 sections, among it several sections directly related with the protection of women. The sections of IPC which are connected with the protection of women are the following:

#### **(i) Sale of obscene books, etc**

A book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest and whoever sells, hire, distributes, publicly exhibits, puts into circulation, kept, imported, exported, conveyed, or offers or attempts to do any which is an offence under this section, shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees<sup>3</sup>. Whoever to the annoyance of others does any obscene act in public place, sings, recites or utters any obscene song, ballad or words in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months or with fine or both.

#### **(ii) Dowry Death**

Dowry death defined by section 498 A, Indian Penal Code. If the death of a marriage women caused by any burns or bodily injury or does not occur under normal circumstances or within seven years of her marriage or soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

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<sup>2</sup> Article 15(1), (2), (3) and (4), 39A and 42 of Indian Constituion

<sup>3</sup> Section 294 Indian Penal Code

Punishment is of at least 7 years which may even extend to life imprisonment

### **(iii) Acid Attacks**

The parliament has been taken step to deal the matters relating to acid attack in 2013 by the Criminal Laws Amendment Act 2013 and inserted two other sections 326A and 326B.

### **(iv) Grievous hurt by use of acid**

There is general presumption that acid attack takes place over the women by man. If a person causes permanent or partial damage, burns, disfigures and disables any part or parts of the body of a person or persons by throwing acid or provide acid to other person with the intention or knowledge that other person cause injury or hurt to intend person. The acid attacker and provider shall be punished with imprisonment which shall not be less than ten years but it may extend to imprisonment for life and with fine. The fine shall be just and reasonable to meet the medical expenses of the treatment of the victim and it shall be paid to victim not to others<sup>4</sup>.

### **(v) Voluntarily throwing or attempting to throw acid**

If a person throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity of burns or maiming or disfigurement or disability or grievous hurt to that person shall be punished with imprisonment of either description for a term which shall not be less than five years but it may extend to seven years and also be liable to fine<sup>5</sup>.

### **(vi) Assault or criminal force to woman with intent to outrage her modesty**

If a person assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine<sup>6</sup>

### **(vii) Sexual Harassment:**

If a person making physical contact and advances involving unwelcome and explicit sexual overtures; or demand or request for sexual favours or showing pornography against the will of a woman; or making sexually coloured remarks constitute sexual harassment and such person shall be punished with three years, or with fine, or with both or one year, or with fine, or with both as the case<sup>7</sup>.

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<sup>4</sup> Section 326-A

<sup>3</sup> Section 326-B, IPC1860

<sup>6</sup> Section 354 IPC 1860

<sup>7</sup> Section 354A ,IPC1860

**(viii) Assault to woman with intent to disrobe**

Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked shall be punished 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<sup>8</sup>.

**(ix) Voyeurism**

Any man who watches, captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment not be less than one year, but which may extend to three years and in second or subsequent conviction he shall be punished minimum three years and maximum seven years and shall also be liable to fine<sup>9</sup>.

**(x) Stalking**

Any man who follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitors the use by a woman of the internet, email or any other form of electronic communication or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person commits the offence of stalking and such man shall be punished on first conviction with imprisonment of three years and in second or subsequent conviction with five years and with fine<sup>10</sup>.

**(xi) Rape:**

Rape is a heinous crime; it breaks the victim of crime and her family. A man is said to commit “rape” if he penetrates his penis, inserts any object or part of the body into the vagina, mouth, urethra or anus of a woman to any extent or manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra or anus of the women or applies his mouth to the vagina, anus, urethra of a woman or makes her to do above act with him or any other person. The said act or acts must be taken place against her will or without her consent and other remaining circumstance which are mentioned in this section<sup>11</sup>. The person who commits the rape shall be punished with ten years imprisonment or for life imprisonment<sup>12</sup>. The Indian Penal Code also punishing for causing death or resulting in persistent vegetative state of victim<sup>13</sup>, Sexual intercourse by husband upon his wife

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<sup>8</sup> Section 3 54 B, IPC1860

<sup>8</sup> Section 354C, IPC1860

<sup>9</sup> Section 354D, IPC1860

<sup>11</sup> Section 375 IPC1860

<sup>12</sup> Section 376 (1) IPC 1860

<sup>13</sup> Section 376A IPC1860

during separation<sup>14</sup>, Sexual intercourse by person in authority<sup>15</sup>, Gang rape<sup>16</sup> and Punishment for repeat offenders<sup>17</sup>.

### **(xii) Cruelty:**

From the beginning when the Indian Penal Code was enacted there was no any provision relating to punish cruelty and problems was a lot, so due to this reason, a section was introduced in IPC by the Criminal Laws (Amendment) Act, 1983. It may be mental or physical. The harassment of the women with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is also amount to cruelty. The husband or his relatives if commits cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine<sup>18</sup>.

### **(B)The Protection of Women from Domestic Violence Act, 2005**

Domestic violence is a major problem in almost every family and society. Every women, being the subject of domestic violence in her life. Domestic violence means any act or omission of the respondent which harms or injures or endangers the health, safety, life, limb of the women or to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security and the domestic violence may be mental or physical<sup>19</sup>. This Act, has been enacted with a view to curb domestic violence. The rights granted to women under this Act are right to reside in a shared household, protection from abuse, harm, injuries, right to monetary relief, compensation etc.

### **(C)The Immoral Traffic (Prevention) Act, 1986**

Human trafficking is a major problem in India, it is illegal under the law. People are frequently indulged in trafficking for the purposes of commercial sexual exploitation and forced or bonded labour. The Indian Penal Code, prohibiting kidnapping and selling minors into prostitution respectively, to arrest traffickers. Penalties under these provisions are a maximum of ten years' imprisonment and a fine<sup>20</sup>. The Immoral Traffic (Prevention) Act, 1986, is the Central legislation dealing with trafficking in India. It refers to immoral trafficking of persons and limited to commercial sexual exploitation or prostitution and penalizes those who facilitate and abet commercial sexual exploitation

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<sup>14</sup> Section 376B IPC

<sup>15</sup> Section 376C IPC

<sup>16</sup> Section 376D IPC

<sup>17</sup> Section 376E IPC

<sup>18</sup> Section 498A IPC

<sup>19</sup> Section 3 DVA

<sup>20</sup> Sections 363 A 366(A) 370 and 372 IPC

**(D) Indecent Representation of Women (Prohibition) Act, 1987**

This Act refers to prohibit indecent representation of women through advertisements, publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto<sup>21</sup>. Indecent representation of women means the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, derogatory to, denigrating, women, or is likely to deprave, corrupt, injure the public morality or morals<sup>22</sup>.

**(E)The Protection of Children from Sexual Offences Act, 2012**

The Act was enacted to provide a legal framework for the protection of children from offences of sexual assault, sexual harassment and pornography and safeguarding the interest of the child at every stage of the judicial process. This Act also provides mechanisms for child friendly reporting, recording of evidence, investigation and speedy trial of offences. The POSCO Act, intended to penalize the penetrative sexual assault, sexual assault, sexual harassment, child pornography etc.

**(F)Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013**

Sexual harassment of women at work place is a basic problem in India and possibility of this always create fear in the mind of working women. They may harass by colleagues or by authority. To curb sexual harassment and to provide protection to them, the parliament has passed this Act on 22 April 2013 and it came into operation from 9 December 2013. Sexual Harassment means any act or pattern of behavior which indicates physical contact or request for sexual favours or sexually coloured remarks or showing pornography and like that<sup>23</sup>.

**(G) The Medical Termination of Pregnancy Act, 1971**

Before passing Medical Termination of Pregnancy Act, matter relating to abortion was dealt by Indian Penal Code. Due to increasing of population and abnormality of the child pressurize the society to allow abortion within certain period of pregnancy. The parliament has passed this Act with a view to terminate pregnancy in safe environment. The Act allowed to a registered medical practitioner to terminate the pregnancy of a woman where

- (a) The length of the pregnancy does not exceed twelve weeks;
- (b) The length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks by two medical practitioner, if they having the opinion that the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health and there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped<sup>24</sup>.

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<sup>21</sup> Section 3 and 4

<sup>22</sup> Section 2 (c)

<sup>23</sup> Section 2 (n)

<sup>24</sup> Section 3

No termination of pregnancy shall be made in accordance with this Act at any place other than a hospital established or maintained by Government, or a place for the time being approved for the purpose of this Act by Government. where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners<sup>25</sup>.

### **(H)Status of Women's Protection**

The data realized by NCRB in 2021 presents the real pictures relating to women protection. The rate of crime against women increased from 56.5 percent in 2020 to 64.5 percent in 2021 per one lakh population. The highest rate of crime against women 168.3 percent was in Assam and it followed by Orissa, Haryana, Telangana and Rajasthan. Among Union Territories, Delhi had the highest rate of crime against women is 147.6 percent in 2021. As per cities analysis the Jaipur has the highest rate at 194 percent and it followed by Delhi, Indore and Lucknow. Crime wise figures also realized by the NCRB, it presents that offence of murder increased to 29272 in 2021 cases from 29193 in 2020. The figure of murder is highest in Uttar Pradesh and it followed by Bihar and Maharastra<sup>26</sup>.

### **Conclusion**

At the legislature side several criminal laws has been legislated for the protection of women but the rest of agencies, institutions or bodies which are liable to protect and to promote women are not performing their acts as requires by the concern law. Due to this negligence or avoidance, the women's in India are even vulnerable section. The NCRB report and other study reveals that we are failed to achieve the goals as envisaged by concern laws for the protection women. Women's are not as safe as man in India. There is, a need to change our mind set regarding to protection of women.

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<sup>25</sup> *The Medical Termination of Pregnancy (Amendment) ACT, 2021*

<sup>26</sup> <https://www.un.org/youthenvoy/2013/09/un-women-supported-survey-in-delhi-shows-95-per-cent-of-women-and-girls-feel-unsafe-in-public-spaces/>