

Sexual violence as a social issue

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Source: The Hindu

Manifest pedagogy: Disha Gangrape and Murder have shaken the collective conscience of our society. It has led to a people's movement against the perpetrators. This social anger finally led to the Extra Judicial killing of the perpetrators. The entire episode raises some pertinent questions about the continuing sexual violence against women along with the social and political measures required to counter these ghastly incidents. A brief History of similar issues along with recommendations of Justice Verma Commission add value to the article.

In news: A series of brutal rape cases have shocked India.

Placing it in syllabus: Social issues

Static dimensions: Rape and sexual violence as a social issue

Current dimensions:

- IPC sections against them
- Justice Verma committee recommendations
- Various acts and provisions
- Social measures needed

Content:

Rape and sexual violence as a social issue:

Cases of violence against women and girls in India have continued to rise. They are supported by the **persistence of patriarchal gender and social norms**. The indicators of violence against women are a **reflection of the structural and**

institutional inequality.

India's **average rate of reported rape cases** is about 6.3 per 100,000 of the population. The **extent of under-reporting** tends to be higher on average in **states with a low female literacy.**

The increasing frequency of such gory cases depict the **barbaric mentality of revenge against women and girls.** The persistence of harmful practices, **pervasive gender stereotypes and objectification of women** and her treatment as the “weaker sex”, in schools or university, at work, in the family, in the community is a serious concern.

The widespread **socio-economic dependency of women** along with the **fear of social exclusion and banishment** and the **lack of effective response to violence** have made women face continuing violence and intimidation. In some countries, **violence against women is estimated to cost countries up to 3.7 percent of their GDP** (World Bank, 2018).

Women who experience violence are more at risk of **unwanted pregnancies, maternal and infant mortality, and sexually transmitted infections,** as well as **mental health consequences.** In society many women who are raped or sexually abused are stigmatised and isolated, which **impacts not only their well-being, but also their social participation, opportunities and quality of life.**

Facts:

- India is the most dangerous country for sexual violence against women (Thomson Reuters Foundation 2018 survey).
- India is placed 131st of 152 countries in the Georgetown Institute's global ranking of women's inclusion and well-being.
- India's **NCRB reported 338,954 crimes against women** – including **38,947 rapes in 2016.**
- Uttar Pradesh topped the list followed by Maharashtra.
- Out of 48 percent female population in India, **women hold**

just under 12 percent of seats in the national legislature.

- The **National Family Health Survey (NFHS-4)** suggests that 30 percent of women in India in the age group of 15-49 have experienced physical violence since the age of 15 and about 31 percent of married women have experienced physical, sexual or emotional violence by their spouses.
- As per 2011 census, an **effective literacy rate for men was 82.14% whereas for women it was 65.46%.**

IPC sections against them:

- **Section 354** of the IPC criminalises any act by a person that assaults or uses criminal force against a woman with the intention or knowledge that it will **outrage her modesty.**
- **Sexual harassment** is defined under **Section 354 A** of the IPC as a man committing any of the following acts:
 - physical contact and advances involving unwelcome and explicit sexual overtures; or
 - a demand or request for sexual favours; or
 - showing pornography against the will of a woman; or
 - making sexually coloured remarks
- **Section 354B** of the IPC criminalises assault or use of criminal force against a woman with the **intention of disrobing** her.
- **Section 354C** of the IPC criminalises the act of **voyeurism.**
- **Section 354D** of the IPC criminalises **stalking of a woman by a man.** It also includes acts of monitoring a woman's electronic communication.
- **Section 370** of the IPC defines **human trafficking** as the action or practice of transporting people illegally or without their consent across areas mainly to be used in the labour or commercial sex industry.
- **Section 375** of the IPC make punishable the act of sex by

a man with a woman if it was done against her will or without her consent. The definition of rape also include sex when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

- The Supreme court in **Independent Thought vs Union of India and Anr (2017)** has **criminalised sexual intercourse with a minor wife aged between 15 and 18 years.**
- **Section 376** provides for seven years of jail term to life imprisonment to whoever commits the offence of rape.

Special provisions are provided for **cases of aggravated rape** under the IPC, as amended by the Criminal Law (Amendment) Act, 2013. A person accused of aggravated rape can be imprisoned from ten years to life along with a fine.

Justice Verma committee and its recommendations:

On December 23, 2012 a three member Committee headed by Justice J.S. Verma, former Chief Justice of the Supreme Court, was constituted to recommend amendments to the Criminal Law and the Committee submitted its report on January 23, 2013.

- The Committee recommended that the **gradation of sexual offences should be retained** in the IPC, 1860.
- Any **non-consensual penetration** of a sexual nature should be included in the definition of rape.
- The **exception to marital rape** under IPC should be removed.
- The **offence of sexual assault** should be defined so as to include all forms of non-consensual non-penetrative touching of a sexual nature.
- Use of criminal force to disrobe a woman should be punishable with 3 to 7 years of imprisonment.
- The **use of words, acts or gestures that create an unwelcome threat of a sexual nature** should be termed as sexual assault and be punishable for 1 year imprisonment

or fine or both.

- The central and state government should create a **corpus to compensate victims of crimes against women.**
- The requirement of sanction for prosecution of armed forces personnel under **Armed Forces (Special Powers) Act (AFSPA)** should be specifically excluded when a sexual offence is alleged.
- The Committee **rejected the proposal for chemical castration** as it fails to treat the social foundations of rape.
- It opined that death penalty should not be awarded for the offence of rape and **recommended life imprisonment for rape.**
- The Committee has recommended the **discontinuation of the two-finger test** for medical examination of rape victim.
- A **Rape Crisis Cell** should be set up and should be immediately notified when an FIR in relation to sexual assault is made. The Cell must provide legal assistance to the victim.

Various acts and provisions:

Criminal Law (Amendment) Act, 2013 (Nirbhaya Act):

It is an Indian legislation which provides for amendment of Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973 on laws related to sexual offences.



Honourable President Ram Nath Kovind gave assent to the **Criminal Law (Amendment) Act, 2018**, which came into force on the 21 April, 2018.

- It that provides for stringent punishment, including **death penalty for those convicted of raping girls below the age of 12 years.**
- The minimum punishment in case of rape of women has been **increased from rigorous imprisonment of seven years to**

10 years, extendable to life imprisonment.

- In case of **rape of a girl under 16 years**, the minimum punishment has been increased **from 10 years to 20 years, extendable to imprisonment for rest of life.**
- The **deadline for the completion of trial** in all rape cases will be **two months.**
- A six-month time limit for the disposal of appeals in rape cases has also been prescribed.
- There will also be **no provision for anticipatory bail** for a person accused of **rape or gang rape of a girl under 16 years.**

At least four states – Rajasthan, Jammu and Kashmir, Haryana and Arunachal Pradesh have introduced the death penalty for rapes of minors, defined as below 12 years of age.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:

- It is a legislative act in India that seeks to protect women from sexual harassment at their place of work which came into force from 9 December 2013.
- This statute superseded the **Vishakha Guidelines** for prevention of sexual harassment introduced by the Supreme Court of India.
- The Act **defines sexual harassment at the work place and creates a mechanism for redressal of complaints.**
- It provides safeguards against false or malicious charges.
- The Act also **covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment** if it occurs in connection with an act or behaviour of sexual harassment.
- The **definition of "aggrieved woman"**, under the Act covers all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.

- Every employer is required to constitute an **Internal Complaints Committee** at each office or branch with 10 or more employees and these committees have the powers of civil courts.
- The Committee is required to complete the inquiry within a time period of 90 days.
- **Employers who fail to comply** will be punished with a **fine of up to 50,000 rupees.**

Protection of Children from Sexual Offences (POCSO) Act, 2012:

- The Act defines a **child as any person below eighteen years of age.**
- It **defines different forms of sexual abuse**, including penetrative and non-penetrative assault, as well as sexual harassment and pornography.
- It **deems a sexual assault to be “aggravated” under circumstances such as** when the abused child is mentally ill or when the abuse is committed by a person in a position of trust vis-à-vis the child, like a family member, police officer, teacher, or doctor.
- **People who traffic children** for sexual purposes are also **punishable** under the provisions relating to abetment in the Act.
- The Act prescribes stringent punishment with a **maximum term of rigorous imprisonment for life and fine.**

Social measures needed:

- Prevention should start early in life, by educating and working with young boys and girls promoting respectful relationships and gender equality.
- Addressing the deeply entrenched patriarchal attitudes of the people, police and judicial officers that continues to contribute to low reporting and conviction rates.
- Bridging the gap between gender based violence (GBV) laws and its correlated areas such as legal rights to

property, land, inheritance, employment and income.

- **Systematic intervention for multi sectoral linkages** between Health sector (medical and psychosocial support), Social Welfare sector (Shelters, counselling and economic support/skill) and Legal (legal aid).
- **Recognize sexual and reproductive health rights of women** by promotion and protection and decide freely over matters related to their sexuality, family-planning choices and access to comprehensive sexuality education.
- **Use of technology and emerging concepts** such as Smart City in urban policy making for ensuring safer and gender friendly infrastructures and spaces that prevents GBV.
- Making the home and public spaces safer for women and girls, ensuring women's economic autonomy and security, and increasing women's participation and decision-making powers, in private, public life as well as politics.
- **Awareness-raising and community mobilization**, including through the media and social media, is another important component of an effective prevention strategy.
- Research demonstrates that governments that include representatives from across society – of different political parties, races, classes, genders, geographies and religions produce better quality of life for citizens than less inclusive governments.

UN Women initiatives:

In partnership with the World Association of Girl Guides and Girl Scouts (WAGGGS) UN Women has developed **a global non-formal education curriculum "Voices against Violence"** to engage young people (age groups ranging from 5 to 25 years) in efforts to prevent and end violence against girls and women.

Partners for Prevention (P4P), is a regional UN joint programme for Asia and the Pacific whose long-term goal is to reduce the prevalence of gender-based violence in the region through behaviour and attitudinal change among boys and men,

increase institutional capacity and facilitate policy enhancements.