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PREFACE

There are two main pillars of human life—man and woman. Both share equal responsibility in making of society and hence both supplement each other. But from the very beginning, there has been a big question mark on the status of women in our society. All talk of their role and responsibility but none care for their position and above all they have been exploited and ill-treated. Natural given characteristics to both sexes whether they be physical or mental have always been quite different amongst the two sexes. In all societies the obvious biological difference between men and women is used as a justification for forcing them into different social roles which limit and shape their attitudes and behaviour. That is to say, no society is content with the natural difference of sex, but each insists on adding to it a cultural difference of gender. It is not enough for a man to be male; he also has to appear masculine. A woman, in addition to being female, must also be feminine.

In modern time women and men are gaining the same amount of power, while in the past men were the only holders of power. Women still face different obstacles that men do not, though things are looking up for the female's future. While they are gaining ground in education, politics and work force, women are still victimized as *piece of meat*. The status of women in India has been subject to many great changes over the past few centuries. There is no denying the fact that women in India have made a considerable progress from independence but yet they have to struggle against many handicaps and social evils in the male dominated society. However, the fact that they occupying key positions in almost every field of society.

Women in India now participate in all activities such as education, sports, politics, media, art and culture, service sectors, science and technology, etc. and enhancing social as well national development. Therefore, it is a felt need to understand the imperative roles played by women in contemporary society and hence the present book is an inclusive attempt to integrate the researches done on the status of women in the context of Indian society. The content of the book is divided into five major parts viz.,

Chapter 10
Crime against Women

Mrs. R. Jothimani and Dr. K.C.Leelavathy***

INTRODUCTION

Women are the pillars of our society. They constitute half of the population and play a crucial role in all spheres of life. Creating life, nurturing it she also guards and strengthens it. Through her role as mother, she plays a vital role for the nation. Why then has her status been ranked lower as compared to a man's status? She has no identity of her own. Her identity is being her relationship with a man being the mother, wife, daughter and sister of a man.

Women are victimized in many ways through overwork, undernourishment and ill treatment, having no say in any matter. It is for us to investigate into the attitude of indifference prevailing in our society and ensure justice and equitable status for them. Factors which attribute this indifference are: Lack of awareness of seriousness of the problem, general acceptance of man's superiority over woman being the reason why violence against women was not viewed as violent or deviant and the denial of violence by women themselves owing to their religious values and socio-cultural attitudes. As the cases of wife-battering, rapes, kidnapping and abduction, intra-familial murders, dowry-deaths, eve-teasing, molestation etc. have been more frequently reported since the late 1960s and early 1970s, the issue of violence against women has been transformed from a private issue into a public problem.

'Crime against women' refers to crimes in which a woman becomes victim. The phrase contains two terms viz crime and against women.

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While the latter term refers only to those crimes in which the victim is female, the former term is meant by the acts which are legally forbidden, intentionally committed and punishable by courts. If we use the definition of crimes as conduct which incurs the formal punitive pronouncements of the courts, or that crime is the violation of conduct norms of the normative groups, the scope (of crime) becomes broader and more meaningful vis-à-vis violence against women.

VIOLENCE: CONSEQUENCES

Violence has been defined as "*injuries and destructive behaviour which damages the victim physically, mentally and for financially*". The three consequences of 'violent behaviour' are

1. pain to victim
2. social disapproval and public concern and
3. realizing the need for enacting legislation.

That violence against women generally occurs in the privacy of the home or in the privacy of the working places or in the institutions away from the public eye sharply reduces the likelihood of a complaint.

CLASSIFICATION OF CRIME UNDER LAW

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:

1. Rape (section 376IPC)
2. Kidnapping and abduction (sections 363 and 373)
3. Dowry homicides (sections 302 and 304b)
4. Torture –physical and mental (section 498 a)
5. Molestation (section 354)
6. Eve-teasing or sexual harassment (section 509)
7. Importation of girls (section 366b) and
8. Murder (other than dowry homicides) (section 302)

The crimes under the last category includes for types:

1. Immoral trafficking (1956 Act)
2. Demanding dowry (1961 Act)
3. Commission of sati (1987 Act) and
4. Indecent representation of women (1986 Act)

CRIMES AGAINST WOMEN: STATISTICS

A total of 2,03,804 incidents of crime against women (both under IPC and SLL) were reported in the country during 2009 as compared to 1,95,856 during 2008 recording an increase of 4.1% during 2009. These crimes have continuously increased during 2005 - 2009 with 1,55,553 in

2005, 1,64,765 cases in 2006, 1,85,312 cases in 2007, 1,95,856 cases in 2008 and 2,03,804 cases in 2009.

- Andhra Pradesh, accounting for nearly 7.1% of the country's population, has accounted for 12.5% of total crimes against women in the country by reporting 25,569 cases. West Bengal with 7.6% share of country's population has accounted for nearly 11.4% of total crime against women by reporting 23,307 cases in 2009.
- Madhya Pradesh has reported the highest number of Rape cases (2,998) accounting for 14.0% of total such cases reported in the country.
- Andhra Pradesh has reported 32.0% (3,520) of Sexual Harassment cases followed by Uttar Pradesh 22.9% (2,524).
- Bihar (31) has reported 64.6% cases of Importation of Girls.

Cases under Immoral Traffic (Prevention) Act decreased by 6.9% (from 2,659 in 2008 to 2,474 in 2009).

- Tamil Nadu reported 28.9% of cases under Immoral Traffic (Prevention) Act (716 out of 2,474).
- No case under Sati Prevention Act was reported across the country during the year 2009.
- Incest Rape cases increased by 3.9% in 2009 over 2008 (from 309 in 2008 to 321 in 2009).
- Maharashtra reported 23.7% of total Incest Rape cases (76 out of 321).
- Offenders were known to the victims in 94.9% of Rape cases (20,311 out of 21,397).
- Among 35 mega cities, Delhi city reported 23.8% (404 out of 1,696) of total Rape cases, 38.9% cases (1,379 out of 3,544) of Kidnapping and Abduction of Women, 15.2% cases (104 out of 684) of Dowry Deaths and 14.1% cases (491 out of 3,477) of Molestation.
- 49.2% conviction was reported in the country in Sexual Harassment cases (3,784 convictions out of 7,696 cases in which trials were completed).

As many as 20 offences under the Indian Penal Code and Local and special laws are considered broadly to be crimes against women.

OFFENCES AFFECTING THE HUMAN BODY

- Abetting the commission of suicide (Sec.306 IPC).
- Molestation (Sec.364 /366 IPC)
- Kidnapping, abduction or including a woman to compel her marriage etc. (Sec.364 / 366 IPC)
- Procurement of minor girl (Sec.366-A IPC)

- Importation of girls (Sec.366-B IPC)
- Selling minor for purposes of prostitution (Sec.372 IPC)
- Buying minor for purposes of prostitution (Sec.373 IPC)
- Rape (Sec.376 IPC)
- Unnatural offence, involving women (Sec.377 IPC) (377 IPC)

Offences against Property

- Chain snatching (Sec,356 and sec.393 IPC)

Offences relating to marriage

- Marrying again during the life time of wife (Sec.494 IPC)
- Adultery (Sec.497 IPC)
- Enticing or taking away or detaining with criminal intent a married women (Sec.498 IPC)

Offences relating to Criminal Intimidation, Insult and Annoyance

- Uttering any word, making any gesture or act intended to insult their modesty of women (Sec. 509 IPC).

Suppression of Immoral Traffic of Women and Girls Act

- Punishment for keeping a brothel or allowing premises to be used as a brothel (Sec.3 of Suppression of Immoral Traffic in Women and Girls Act – SITA)
- Procuring inducing or taking a woman or girl for the sake of prostitution (Sec.5 of SIT Act).
- Detaining woman or girl in premises where prostitution is carried on (Sec.6 of SIT Act).
- Seducing a girl for purpose of Prostitution (Sec 8 of SIT Act).
- Seduction of a women or girl in custody (Sec.9 of SIT Act).

Dowry Act

- Penalty for demanding dowry (Sec.4 of Dowry Prohibition Act, 1961).

Special Woman Welfare Laws

- The Hindu Widow Remarriage Act, 1856. An act to remove all legal obstacles to the marriage of Hindu widows.
- The Indian Christian Marriage Act, 1872 whereas it is expedient to consolidate the amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion.
- The Anand Marriage Act, 1909. An Act to remove doubts as to the validity of the marriage ceremony common among the Sikhs called Anand.

- The Child Marriage Restraint Act, 1929. This is an Act to restraint the solemnization of Child Marriage.
- The Arya Marriage Validation Act, 1937. An Act to recognise and remove doubts as to the validity intermarriage current among Arya Samajists.
- The Muslim Personal Law (SHARIAT) Application Act 1937.
- An Act to make provision for the application of the Muslim Personal Law (Shariat) to Muslim.
- The Immoral Traffic (Prevention) Act, 1956. An Act to provide in pursuance of the International Convention Signed at New York on the 9th day of May, 1950 for the prevention of immoral traffic.
- The Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Marriage Validation Act, 1982.
- Family Court Act, 1984
- The Indecent Representation (Prohibition) Act, 1986
- The Commission of Sati (Prevention) Act, 1987
- The Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
- The Protection of Women from Domestic Violence Act, 2005.
- The Hindu Succession Act, 2005.

STATE AS THE CUSTODIAN OF THE RIGHTS OF WOMEN

Equal rights of men and women are explicitly mentioned in the preamble to the Charter of the United Nations. The World Conference on Human Rights held at Vienna in 1993 reaffirmed clearly that the human rights of women throughout the life cycle are an inalienable, integral and indivisible part of Universal Human Rights.

The United Nations celebrated the 50th Anniversary of the Universal Declaration of Human Rights by announcing the year 1998 as Human Rights Year. The preamble of the Declaration states thus: "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of Freedom, Justice and Peace in the world".

The Platform for Action emerging out of the IV World Conference on Women held in Beijing, 1995 again reaffirmed that all human rights are universal, indivisible, interdependent and interrelated. Governments must not only refrain from violating the Human Rights of Women, but must work actively to promote and protect these rights. As a follow up, Governments have initiated policy reforms and mechanisms such as interdepartmental committees, guidelines and protocols to address violence. Governments have also introduced or reformed laws to protect

women from various forms of violence, including sexual assault, harassment and trafficking.

Progress has been made in services for abused women, including shelters, hot lines and special police units. Education for law enforcement, medical personnel and welfare workers is being promoted. Educational materials for women and public awareness campaign have been developed.

On 18th December, 1979, the United Nations had adopted the Convention on Elimination of All forms of Discrimination Against Women (CEDAW), also known as the Women's Convention and the Women's Bill of Rights. This convention is an important instrument for addressing women's rights for distributing justice and equality. There are 163 member nations who are signatories to this Convention. The member nations are supposed to submit periodic reports to CEDAW once in four years. NGOs can also submit alternate/shadow reports. In July 1993, India ratified to ensure that discriminating practices against women are brought to an end. In June 2000, both the Government of India and NGO task force reports were presented at the UN.

CONSTITUTIONAL GUARANTEE

The Constitution of India guarantees the fundamental rights of men and women. Articles 14, 15 and 16 guarantee rights to equality. Part IV of the Constitution, the Directive Principles of State Policy contains a statement on the need to have equality between men and women in employment opportunities, wages and control over material resources. The section on fundamental duties states that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women. Article 325 guarantees that all shall have the right to vote irrespective of sex. The 73rd Constitutional Amendment also provides for the reservation of 1/3 seats for women in all tiers of local government.

NATIONAL COMMISSION FOR WOMEN (NCW)

Set up in 1992 as an integral part of the national machinery for women in the country, the NCW is playing a significant role as an activist for Women's rights. NCW as initiated a multi-pronged strategy.

- NCW is revising the legislations having a direct bearing on women. Amendments have been already suggested to the following legislations.
 - Immoral Traffic Prevention Act (1996)
 - Dowry Prohibition Act (1961)
 - Indecent Representation of Women Act (1986)
 - Commission of Sati (prevention) Act, (1987)

- So far 1752 complaints have been lodged with the complaints, Pre-litigation and Counselling Cell of the NCW.
- Parivarak Mahila Lok Adalatha (Family Women's Courts) have been organized with the help of NGOs and the State/District Legal Aid Boards. These courts facilitate access to law enforcement system and foster justice delivery for poor women in cases of family dispute, dowry harassment etc., Until 2000, 130 such courts have been held and 7500 cases were dealt with.
- NCW conducts advocacy campaigns and workshops on dowry prohibition, rape etc., in collaboration with the Department of Women and Child Development, CBI and NGOs.
- Research on thrust areas such as sexual harassment of women at workplace, domestic violence etc., are being sponsored.

The National Human Rights Commission (NHRC) was set up under the Protection of Human Rights Act, 1993. The Chairperson and members are drawn from Chief Justices and Judges of the Supreme Court. NHRC has greater powers and resources than the NCW. The Chairperson of NCW is a member of the NHRC. Between 1993 and 1997, seven cases of custodial rape and 482 cases of indignity to women have been dealt with. The Amnesty International is dealing with redressal of human rights abuses of women living in areas of armed conflict by security, police etc., who may violate the special legal provisions given to them. The Human Rights Cell of the Army Headquarters deals with these cases.

GOVERNMENT INITIATIVES

The Government has initiated gender sensitization programmes for all levels of administration and the law enforcing machinery such as police, through the National and State Police Academies as well as Administration Institutes. A National Centre for Gender Training and Research has been set up in Lal Bahadur Shastri National Academy of Administration, Mussoorie with the objective of gender sensitization of young administrators and policy makers. The British Council is also sponsoring gender-training programmes in UK. The Department of Women and Child Development of the Ministry of Human Resource Development, Govt. of India is the nodal agency for implementing the strategies as outlined in the PFA of Beijing and the articles of CEDAW. The Department co-ordinated with all the other ministries and Departments by circulating the text of PFA and Convention on Elimination of All Forms of Discrimination Against Women, conducting sensitization workshops for Government and NGOs, making available the country status report to the public through internet etc. The Department in collaboration with UNIFEM, initiated a pilot project in 1998, in the capital, to try out the

efficacy of community based strategy involving setting up of Mahila Committees (Neighbourhood Committees) to create zero violence zones with the help of NGOs and service organizations. Police plays a significant role in creating an enabling environment for reporting of all crimes against women.

INSTITUTIONAL SUPPORT

To complement legislative and other measures that are under process, the establishment of institutionalized support structures has been taken up by the government, in acknowledgement of its responsibility towards the victims of gender violence.

- Around 80 protective homes and juvenile homes provide vocational training.
- Helpline services for distressed women.
- CSWB assistance to NGOs for running child care centres for children of sex workers.
- Cradle Baby Scheme of Tamil Nadu to prevent female infanticide.
- Voluntary Action Bureau (VAB) and Family Counselling Centres(FCC) provide counselling and rehabilitative services to women.

Professional bodies like the Indian Medical Association have been involved in the implementation of both the MTP and Pre-natal Diagnostic Techniques Act, 1994. A Parliamentary Committee on Empowerment of Women has been set up in March 1997, to serve as an effective monitoring mechanism on the measures taken by the Departments and Ministries as detailed hereunder:

- Early finalization and adoption of the 'National Policy for Empowerment of Women'.
- Expediting action to legislate reservation of not less than one third of seats for women in the Parliament and the State legislatures.
- Effective convergence of services, resources, infrastructure and manpower in the concerned sectors.
- Women's Component Plan to ensure that not less than 30% of funds/benefits flow to women, from the development sectors.
- Organizing women into Self Help Groups.
- According high priority to reproductive child health care.
- Universalizing the ongoing supplementary feeding programmes and the mid-day meal scheme.
- Easy and affordable access to education for women and girls.
- Taking steps to eliminate gender bias in all educational programmes.
- Equipping women with necessary skills in modern emerging

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trades which could keep them gainfully engaged and make them economically independent.

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