



WOMEN PROTECTION UNDER CRIMINAL LAWS

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INTRODUCTION

India, women have faced oppressed for an extended period of time. We live in a nation where gender equality is a myth and feminists are considered to be women who lack social values and morals. Women are told to behave in a certain manner and wear certain kind of clothes to keep themselves safe. A lot of women are underpaid even when they are qualified just because they are women. Furthermore, there a lot of well-educated women who are denied the right to work by their family in the name of safety.

This is a list of female-friendly rights that the law provides to women.

Entitlement to Equal Remuneration: Women have a legal right against discrimination on the grounds of gender for remuneration paid to them. Section 4 of the Equal Remuneration Act, 1976 states that “No employer shall while making recruitment for the same work or work of a similar nature, make any discrimination in the amount to be paid to women against men.”

No Woman can be arrested in the Night: According to Supreme Court Guidelines, no woman can be arrested in the night. Furthermore, if a woman needs to be arrested on urgent grounds during the night, the police must procure permission from the Magistrate stating the reason for the urgency of arrest. Section 46 (4) of Code of Criminal Procedure “No woman shall be arrested after sunset and before sunrise, except in exceptional circumstances, where the woman police officer shall make a written report, obtain the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offense is committed or the arrest is to be made.”

Right to be arrested only by a Female Police Officer: The presence of a female police officer is imperative in case of an arrest of the woman. Section 46(1) of Code of Criminal Procedure states

that, unless the police officer is a female, the police officer shall not touch the woman for making her arrest”

Right to interrogation within the premises of her residence only: Section 160 of the Code of Criminal Procedure provides that no woman or child under the age of 15, can be called in for interrogation. They must be interrogated within the premises of their house.

Right to Inheritance in Family Property: This is the much talked about the verdict of the year 2015. This stated the amendment of the Hindu Succession Act 2005. Under this amendment, now women are entitled to equal share in her parent’s belongings similar to the son. She can also take the role of ‘Karta’ in the property.

Right to Zero FIR: A zero FIR gives a woman a right to file a FIR in a police station irrespective of the jurisdiction of the police station. The police cannot deny the registration of any such FIR on the grounds of lack of jurisdiction. The FIR can later be transferred to a police station having jurisdiction over the matter.

Right to Privacy: Section 228 An of the Indian Penal Code makes revealing the identity of the victim of sexual assault a crime. The police or the media have no right to reveal the identity of a Victim of sexual abuse. This is done to prevent social victimization or ostracism of the victim of a sexual offence. Even while a judgment is in progress at the high court or a lower court, the name of the victim is not indicated, she is only described as 'victim' in the judgment. Furthermore, Section 164 of Criminal Procedure Code provides a woman with the right to privacy while recording her statement.

FIR of a Rape or Molestation cannot be refused even after a considerable period of time has lapsed: The police do not have the right of refusal against registering a rape or molestation FIR on the grounds that a reasonable time has passed since the happening of the offence. This provision is made because of the societal pressure a victim of abuse faces and also the trauma that victim goes through. It is thus understandable if there is a delay in reporting such obscene offences.

Protection from Cruelty and Domestic Violence: Section 498 of the Indian penal code
laws that protect women and their rights

Crimes against women occur every minute in India. Women are not safe, whether it is in their houses, public places or at the workplace. Your safety in your hands sounds like a clichéd adage to repeat. Given the number of crimes that are committed against women, it is pertinent that women are aware about the laws that are in place to protect them.

Remember knowledge is power. As a parent, wife, daughter, employee and a woman these are rights set in place to protect you and it is important that you are aware about these.

Here are 10 laws that women should know:

The Prohibition of Child Marriage Act, 2006

According to the International Research Centre for Women, almost 47 percent of girls are married before the age of 18. Currently, India ranks 13 in the world when it comes to child marriages. Since child marriage has been steeped into the Indian culture and tradition since centuries, it has been tough eliminating it.

The Prohibition of Child Marriage Act was made effective in 2007. This act defines child marriage as a marriage where the groom or the bride are underage, that is, the bride is under 18 years of age or the boy is younger than 21 years.

Parents trying to marry underage girls are subject to action under this law. Since the law makes these marriages illegal, it acts as a major deterrent.

Special Marriage Act, 1954

The objectives of this act are to provide – a special form of marriage in certain cases, provide for registration of certain marriages and, to provide for divorce. In a country like India and with the diverse religions and cast, when people from different faiths and caste chose to get married they do it under the Special Marriage Act.

It is not applicable to the state of Jammu and Kashmir and also extends to intending spouses who are Indian nationals and living abroad.

Dowry Prohibition Act, 1961

According to this act, taking or giving of dowry at the time of the marriage to the bride or the bridegroom and their family is to be penalized. Dowry system, giving and taking of dowry, is a norm in India. Dowry is often asked of the bride and her family by the groom and his family. The system has taken strong roots because women after marriage move in with their spouse and in-laws. Also, over the centuries, the lack for economic independence of women and the taboo towards divorce has resulted in bride burning. When demands for dowry even after marriage are not met by the girl's families, many women are tortured, beaten and even burnt.

It is one of the major challenges that our society is grappling with. Women openly complaining about it have helped to spread the word and encourage other women to take a stand.

Indian Divorce Act, 1969

The Indian Divorce Act allows the dissolution of marriage, mutual consent, and nullity of marriage, judicial separation and restitution of conjugal rights.

Family Courts are established to file, hear, and dispose of such cases.

Maternity Benefit Act, 1961

This act regulates the employment of women and maternity benefits mandated by law. It states that a woman employee who has worked in an organization for a period of at least 80 days during the 12 months preceding the date of her expected delivery is entitled to receive maternity benefits, which includes maternity leave, nursing breaks, medical allowance, etc.

Medical Termination of Pregnancy Act, 1971

The Act came into effect in 1972, was amended in 1975 and 2002. The aim of the Act is to reduce the occurrence of illegal abortion and consequent maternal mortality and morbidity.

It clearly states the conditions under which a pregnancy can be ended or aborted and specifies the persons qualified to conduct the same.

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

To ensure women's safety at workplace, this Act seeks to protect them from sexual harassment at their place of work. Thirty-six percent of Indian companies and

Alongside, there have been many judgments from non-constitutional decision-making bodies like khap panchayats and kangaroo courts sanctioning violence against particular women or curtailing women's freedom in significant ways. Why is it that while there has been a legal expansion of women's rights in India, the societal trends that maintain a violent order against women have remained intact?

Recently, a 20-year-old Santhal tribal woman was raped by 12 men in West Bengal on the orders of a kangaroo court called a salishi sabha. Her crime was to have fallen in love with a man outside her community. The couple were tied up and "tried" and asked to pay Rs.25,000 as payment. The man

was able to pay but the woman could not. The headman reportedly decreed that she could be “enjoyed” by several men and that they could “have fun” with her.

The tone of this diktat parrots what Nirbhaya’s rapists said — they were out to “have some fun” and a “good time.” She later died after having sustained massive injuries but left behind a mass political movement calling for more rights for Indian women.

Societally sanctioned rape and sexual assault is not new in India. It has been repeatedly established that Indian men assert a claim over the bodies of women because somehow, families believe that in Indian society a woman exists as an appendage to some man in her life — father, brother, son or husband. If a woman steps across an invisible line (lakshman rekha), where her behaviour is seen as outrageous and unacceptable, then many people still believe that she is opening herself up to sexual assault. The most recent such pronouncement came from Ms Asha Mirje, a member of the Maharashtra State Commission for Women who stated: “Rapes take place also because of a woman’s clothes, her behaviour and her presence at inappropriate places.” In other words, for many people in society (including many women) such a woman deserves what she gets.

Over the years, violence against women in various forms has reached epic proportions. An estimated 30 to 70 million girls are “missing” in India since 1950, i.e., they don’t make it out of the birth canal. In 2011, the International Men and Gender Equality Survey (IMAGES) on gender attitudes showed that 68 per cent of the Indian men surveyed (n=810) agreed that women should tolerate violence to keep their families together, while 65 per cent believed that sometimes a woman deserves to be beaten; 37 per cent of men (n=929) had physically assaulted their intimate partner at least once; 24 per cent had committed an act of sexual violence against someone in society and 20 per cent had committed sexual violence against their partners. The most interesting finding from the TrustLaw study was this one — 92 per cent of those surveyed knew of the laws pertaining to violence against women. What does this figure tell us about what is happening in India to women?

Last year, the landmark Criminal Law (Amendment) Act, 2013 expanded the definition of rape to include more than just vaginal penetration. Stalking, voyeurism, acid attacks were brought under the Act as punishable crimes. The age of consent was raised to 18 years, below which all penetrative sexual acts will now constitute statutory rape. A rape shield clause was included, where the character of the victim was rendered irrelevant to establishing her consent. However, marital rape did not find its way into the Act and neither was rape and sexual assault removed from the purview of the Armed Forces (Special Powers) Act (AFSPA).

Khap panchayats and kangaroo courts

One of the agents of mass pushback against women's rights is kangaroo courts in India. These clan-based khap panchayats and sabhas have had a long history in India. Khaps are unconstitutional and informal law-giving bodies that have captured much rural terrain in north and eastern India. Why they have re-emerged recently as strong political bodies is still a mystery but one that suggests that they have more than just traditional authority. Khaps in rural India have been asserting much power over the lives of people in rural India, the weakest of whom are women of all communities.

In the last two years alone, khaps have sanctioned several honour killings and have suggested a level of misogyny that is completely at odds with what the leading courts in the country are articulating. For instance, in the State of Haryana, there are several local khaps. Two such jat caste bodies imposed dress codes on women, and one even said that girls are "agents who pollute society and bring a bad name to the community." For these bodies, policing women is easy. In rural India, police presence is low and many local notables have links with local law enforcement agents. These notables are also involved in the functioning of khaps. So, they are reasonably confident that their diktats policing women's behaviour will not be challenged.

What is transpiring in contemporary India is a backlash against an expansion of rights for women that stops women from building capabilities, economic careers and acquiring some independence from male figures in their lives. Second, since khap problems are singular statements that send messages to all women, they instill fear in young women and families with daughters, successfully silencing any protest that could arise against their rulings. The Indian state has been quite reticent in initiating any action against khaps even though it is apparent that khap diktats are blatantly undercutting women's rights and thereby contradicting the verdicts of the highest constitutional law-making bodies

Good laws,,bad implementation

This process — giving rights with one hand, while the other takes it away — shows that people resent an expansion of rights for women and go to extreme lengths to make sure that the law of the land has no stronghold in their local communities. The Indian state may make many laws that protect women. However, none of this means much unless law enforcement agencies actually implement the law.

This mismatch between the existence of good laws and their actual implementation is itself a commentary on state capacity in India. Many years ago, Francine Frankel and M.S.A. Rao drew our

attention to social structures of dominance in India and how they inhibit, negotiate or encourage state power. The Indian state has failed Indian women by allowing khaps to issue diktats that contradict constitutionally sanctioned rights women have. In ignoring the khap question and not taking them head-on as groups that violate human rights, the Indian state seems to be saying that its job is done when it passes good legislation. Rights may be apparent or self-evident and constitutionally secured; however, they do not automatically implement themselves.

MINISTRY FOR WOMEN & CHILD DEVELOPMENT

The Ministry for Women & Child Development was established as a department of the Ministry of Human Resource Development in the year 1985 to drive the holistic development of women and children in the country. In 2006 this department was given the status of a Ministry, with the powers to formulate plans, policies and programs; enacts/ amends legislation, guiding and co-coordinating the efforts of both governmental and non-governmental organizations working in the field of Women and Child Development. It delivers such initiatives such as the Integrated Child Development Services (ICDS) which is a package of services such as supplementary nutrition, health check-ups and immunization. As mentioned earlier, the empowerment of women begins with their safety and health and this Ministry is committed to providing them.

SWAYAMSIDHA PROGRAM

It is an integrated scheme for the empowerment of women at a total cost of Rs. 116.30 Crores. It is implemented by ministry for women and child development. Crux of this program will be the establishment of women's self-help groups which will empower women to have increased access to all kinds of resources that they are denied, in addition to increasing their awareness and skills. This program will benefit about 9, 30,000 women with the setting up of 53,000 self-help groups, 26,500 village societies and 650 block societies.

NATIONAL COMMISSION FOR WOMEN

It was launched by the government of India on International women's day in 2010 with the aim to strengthen the overall processes that promote all round development of women. It has the mandate to strengthen the inter-sector convergence; facilitate the process of coordinating all the women's welfare and socio-economic development programs across ministries and departments. The Mission aims to provide a single window service for all programs run by the Government for Women under aegis of various Central Ministries. In light with its mandate, the Mission has been named Mission Poorna Shakti, implying a vision for holistic empowerment of women.

The National Resource Centre for Women has been set up which functions as a national convergence centre for all schemes and programs for women. It acts as a central repository of knowledge, information, research and data on all gender related issues and is the main body servicing the National and State Mission Authority. [1]

This commission has around 15 major ministries of Indian government as its partner.

There are number of schemes running under the women empowerment mission we will discuss the major schemes here:-

Poverty Alleviation and Economic Empowerment of Women

Schemes of Department of Animal Husbandry Dairying Fisheries

Scheme on Development of Inland Fisheries and Aquaculture

Scheme on Development of Marine Fisheries, Infrastructure and Post harvest Operations

Scheme on Fisheries Training and Extension

Assistance to Cooperatives

National Bamboo Mission

Central Poultry Development Organisation

Development of Commercial Horticulture through Production and Post-Harvest Management

Promotion and Strengthening of Agricultural Mechanization through Training, Testing & Demonstration

Gramin Bhandaran Yojna

Capacity Building to enhance Competitiveness of Indian Agriculture and Registration of Organic Products

Technology Development and Transfer for Promotion of Horticulture

Marketing Assistance Scheme

Scheme of Support to Voluntary Agencies for Adult Education and Skill Development

Scheme of Fund for Regeneration of Traditional Industries (SFURTI)

Performance & Credit Rating Scheme for Small Industries

Entrepreneurship Development Institutions (EDIs) Scheme

National Award Scheme/ Guidelines [Launched by Ministry of Micro, Small & Medium Enterprise (MSME)]

Credit Linked Capital Subsidy Scheme (CLCSS) for Technology Upgradation of the Small Scale Industries

Management Training Programs

Scheme For Market Development Assistance For MSME Exporters

Credit

LEGISLATIONS

1.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.

2.The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986)

An act that abolishes the dowry system practiced in Indian weddings and imposes penal charges on violation of the act. It discourages the taking or giving of dowry.

3.The Indecent Representation of Women (Prohibition) Act, 1986

An act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for the matters connected herewith or incidental there to.

An amendment bill of this act is pending in Rajya Sabah.

4.The Commission of Sati (Prevention) Act, 1987 (3 of 1988)

An act to provide for the more effective prevention of the commission of sati and its glorification and for matters connected herewith or incidental thereto, whereas sati or the burning or burying alive

of widows or women is revolting to the feelings of human nature and is nowhere enjoyed by any of the religions of the India as an imperative duty.

5. Protection of Women from Domestic Violence Act, 2005

An act to provide for the more effective protection of the rights of women guaranteed under the constitution that are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

6. The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013

An act to provide protection against sexual harassment of women at work place and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto. It is applicable and enacted whereas sexual harassment results in violation of the fundamental rights of a woman to equality under article 14 and 15 of the constitution of India and her right to life and to live with dignity under article 21 of the constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to safe environment free from sexual harassment.

7. The Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse) Act 1994 [3]

An Act to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and, for matters connected there with or incidental thereto.

8. The criminal law (amendment) Bill, 2013

This legislation is the result of protest against Delhi rape case also known as Nirbhaya case. This legislation provides amendment in Indian penal code, Code of Criminal Procedure and Indian evidence act on laws related to sexual offences. This bill introduces and amended offences like acid attack, act with intent to disrobe a women, voyeurism, stalking & sexual harassment into the Indian penal code.

9. Women's Reservation Bill (The Constitution 108th Amendment Bill)

It proposes to amend the Constitution of India to reserve one third of all seats in the Lok Sabha, and in all state legislative assemblies for women. The Rajya Sabha passed the bill but the Lok Sabha has not yet voted on the bill.

This will be helpful in increasing the political participation of women.

10. The Equal Remuneration Act, 1976

This major piece of legislation deal with the equal rights in employment for women workers. This act was implemented in the International women's year on the demand for equality in employment voiced by working wome

CASE LAWS

1. Air India Vs Nargesh Meerza, [(1981) 4 SCC 335]

This case deals with the women's right to equality. In this case the Supreme Court struck down the clause of retirement of air hostess on attaining 35 years of age or on marriage within first 4 year of service or on first pregnancy as being arbitrary and unreasonable and clearly violative of article 14 of Indian Constitution.

2. Vishaka Sawhney Vs State of Rajasthan, AIR 1997 SC 3011, (1998)

This is the very famous case and the alarm raiser for the need of such act which can prevent the women from sexual harassment at the work place.

In this landmark judgment the supreme case held that sexual harassment at work place is a violation of article 15 and 21 of the constitution and he laid down the exhaustive guidelines to prevent sexual harassment of working women in places of their work until a law is passed for this purpose. Recently in 2013 The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013 was passed by the parliament of India.

3. Sarla Mudgal Vs Union of India 1995, AIR 1531, 1995 SCC (3) 635

This case brought to lime light, the gross exploitation of personal laws of women. In this instance, a Hindu male, married under the Hindu law, desirous of taking on a second wife, converted to Islam.

After the second marriage he reverted to Hinduism. Second wife pleaded that she had no protection under either of the personal law.

In view of this case the Supreme Court directed the union government to implement uniform civil code.

4. Mohammad Ahmed Khan Vs Shah Bano Begum, 1985 AIR 945, 1985 SCR (3) 844

Popularly known as the Shah Bano case, a penurious Muslim woman claimed for maintenance from her husband under section 125 of the code of the criminal procedure after she was given triple talaq from him. The Supreme Court held that the Muslim women have a right to get maintenance from her husband under section 125. After the decision, nationwide discussions, meetings and agitations were held. Then Rajiv Gandhi led government overturned the Shah Bano case decision by way of Muslim women (Right to protection on divorce) act, 1986, which curtailed the right of a Muslim women for maintenance under section 125 of the code of criminal procedure.

5. Tuka Ram And Anr vs State Of Maharashtra, 1979 AIR 185, 1979 SCR (1) 810

Popularly known as the Mathura rape case was an incident of custodial rape. Mathura, a young tribal girl, was allegedly raped by two policemen on the compound of Police Station. But the Supreme Court acquitted the accused, and the decision resulted the big public outcry and protest, which eventually led to amendments in Indian rape law via The Criminal Law (Second Amendment) Act 1983 (No. 46) .

6. Mackinnon Mackenzie Vs Audrey D'costa, 1987 AIR 1281

The first major judgment on the Equal Remuneration act had been delivered by the Supreme Court in this case. In this case Audrey a lady stenographer sued her company under equal remuneration act as she was paid less than the male stenographer.

Criminal law amendment bill 2013(critical analysis)

Criminal Law (Amendment) Bill, 2013, more popularly called the Anti-Rape Bill, is now law. The Act came into force on 3rd February, 2013 following the outrage of the entire nation behind the homicidal gang rape that took place in New Delhi on the night of 16th December 2012. The protest in the Delhi after the barbarous Rape Incident indicated the whole of India, the enormity as well as the seriousness for an immediate reform in Rape Laws.

This project works discusses the major amendments of the sections regarding sexual offences in the Indian Penal Code. The insertion of the new provisions and the amendment of the existing provisions have been dealt with in detail in the present work.

The Act recognizes the broad range of sexual crimes to which women may fall victim, and a number of ways in which gender based discrimination manifests itself. It also acknowledges that lesser crimes of bodily integrity often escalate to graver ones. It seeks to treat cases as “rarest of the rare” for which courts can award capital punishment if they decide so. The Act clarifies and extends the offense of sexual assaults or rape as a result of abuse of position of trust. As per the Act, the police will also be penalized for failing to register FIRs – this will make it easier for rape victims to report their cases.

The Act introduced unprecedented provisions in the Indian Penal Code which criminalises sexual voyeurism and stalking and amends legal provisions to protect the privacy of individuals, such as discontinuing the practice of examination of the sexual history of the victim of a sexual assault for evidence. With instances of threats to individual privacy on the rise in India, it was high time that the criminal law expands its scope to deal with offences which violate physical privacy.

The Act has also been widely criticized for not following the recommendations of the Verma Committee that had been specifically constituted to observe and recommend changes in the present penal provisions.

Reasons for the Enactment

The nation-wide spread outrage over the brutal gang rape and subsequent death of the physiotherapy intern in India’s very own capital city, New Delhi was the driving force behind the passing of the Criminal Law (Amendment) Act, 2013 that sought to amend the existing laws regarding sexual offences in India. The Act is deemed to be one of the most important changes that have been made in the existing criminal laws namely the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act.

Nirbahaya Case / 2012 Delhi Gang Rape Case.

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Nirbahaya Case / 2012 Delhi Gang Rape Case

The Justice Verma Committee

IPC provisions :-

of the Provisions of the Indian Penal Code, 1860

The Criminal Law (Amendment) Act, 2013 that came into force on the 3rd of February, 2013 amended as well as inserted new sections in the IPC with regard to various sexual offences. The new Act has expressly recognized certain acts as offences which were dealt under related laws. New offences like, acid attack, sexual harassment, voyeurism, stalking have been incorporated into the Indian Penal Code.

Sexual Offences

·Sexual Harassment – Section 354A

Sexual harassment is bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favors.[xii] The critical factor is the unwelcomeness of the behaviour, thereby making the impact of such actions on the recipient more relevant rather than intent of the perpetrator.

The essentials of the offence of sexual harassment as defined in the case of Vishaka v. State of Rajasthan[xiii] are –

physical contact and advances involving unwelcome and explicit sexual overtures; or

a demand or request for sexual favours; or

making sexually coloured remarks; or

forcibly showing pornography; or

any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

According to the Indian Constitution, sexual harassment infringes the fundamental right of a woman to gender equality under Article 14 and her right to life and live with dignity under Article 21.

Existing Provisions

Before the passing of the Act, the provisions in the IPC that dealt with sexual harassment existed but there was no such provision that clearly laid down the punishment for sexually harassing a person. The provisions were[xiv]–

Section 209: Obscene acts and songs, to the annoyance of others like:

- a) does any obscene act in any public place or
- b) sings, recites or utters any obscene song, ballad or words in or near any public place.

Punishment: Imprisonment for a term up to 3 months or fine, or both.

Section 354: Assault or use of criminal force on a woman with intent to outrage her modesty.

Punishment: 2 years imprisonment or fine, or both.

Section 376: Rape

Punishment: Imprisonment for life or 10 years and fine

Section 509: Uttering any word or making any gesture intended to insult the modesty of a woman. Punishment: Imprisonment for 1 year, or fine, or both. (Cognisable and bailable offense)

Provisions after Amendment

Section 354A – Sexual harassment has been made a gender neutral offence whereas earlier, a man who makes unwelcome sexual advances, forcefully shows pornography or demands/requests sexual favours from a woman commits the offence of sexual harassment simpliciter under section 354A; this is punishable by imprisonment of up to three years. Making sexually coloured remarks also amounts to sexual harassment, which is punishable by imprisonment for up to one year.[xv]

Assault or Use of Criminal Force to woman with intent to disrobe – Section 354B

Existing Provisions

There was no specific provision regarding this offence. The act was dealt under Section 354. Outraging a woman's modesty was punishable with imprisonment for maximum 2 years and fine under IPC.

Provisions after Amendment

Section 354B – If a man assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, he commits an offence under section 354B, which is punishable with imprisonment between three and seven years.

This section deals with a very specific offence and adds to and supplements the provision dealing with the offence of outraging the modesty of a woman.[xvi] This is a welcome provision in view of the fact that many cases have been reported in the news of women being stripped in public as an instrument of punishment mostly in backward areas.

Rape – Section 375 and 376

Justice Krishna Iyer in the case of Rafiq v. State of U.P.[xxi] made a remark that, “a murderer kills the body, but a rapist kills the soul”. The Parliament by means of Amendment Act, 2013 has enlarged the ambit of rape by making certain non-penetrative act as offence amounting to rape. The Amendment Act, 2013 repealed the Ordinance (Amendment) Act, 2013 which was having wider ambit, thereby raising serious questions regarding the lacunas or loopholes that the judiciary could confront in future.

Existing Provisions

Sections 375, 376 and 376 A-D of the IPC cover rape. However, medical examination was not an exception under the old provision. Rape under the IPC had been interpreted to mean only penile-vaginal intercourse.

Provisions after Amendment

Section 375 – Under the new section, a man is said to commit rape if there is:

Penetration of penis into vagina, urethra, mouth or anus of any person, or making any other person to do so with him or any other person;

Insertion of any object or any body part, not being penis, into vagina, urethra, mouth or anus of any person, or making any other person to do so with him or any other person;

Manipulation of any body part so as to cause penetration of vagina, urethra, mouth or anus or any body part of such person or makes the person to do so with him or any other person;

Application of mouth to the penis, vagina, anus, urethra of another person or makes such person to do so with him or any other person;

Lastly, touching the vagina, penis, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person.[xxii]

The 2013 Act expands the definition of rape to include oral sex as well as the insertion of an object or any other body part into a woman's vagina, urethra or anus.

The punishment for rape is seven years at the least, and may extend up to life imprisonment. Any man who is a police officer, medical officer, army personnel, jail officer, public officer or public servant commits rape may be imprisoned for at least ten years. A punishment of life imprisonment, extending to death has been prescribed for situations where the rape concludes with the death of the victim, or the victim entering into a vegetative state. Gang rape has been prescribed a punishment of at least 20 years under the newly amended sections.

The new amendment defines 'consent', to mean an unequivocal agreement to engage in a particular sexual act; clarifying further, that the absence of resistance will not imply consent. Non-consent is a key ingredient for commission of the offence of rape. The definition of consent therefore is key to the outcome of a rape trial, and has been interpreted systemically to degrade and discredit victims of rape

SUGGESTIONS

Proper awareness for laws should be there that is law should not be restricted to papers only but the implementation of law should be there so that every woman can be familiar with her rights. Significant steps should be taken to implement all the laws which are amended to facilitate detention, prevention and punishment of crimes against women.

Women education has to be made compulsory and women should be encouraged to become literate because without being educated women cannot have a access to her right.

Strict implementation of the schemes and policies for women empowerment should be done.

Awareness camps for women should be organized where they can become familiar with the framed schemes and policies and can take benefit of those schemes and policies.

Conclusion

The Criminal Law (Amendment) Act, 2013 has been known all over as one of the most concrete steps taken by the Indian government to curb violence against women. Major amendments by the Act in the Indian Penal Code, not only widen the ambit of certain offences but also recognises new offences like acid attacks which earlier lacked a specific provision and definition in the Code.

This mismatch between the existence of good laws and their actual implementation is itself a commentary on state capacity in India. Many years ago, Francine Frankel and M.S.A. Rao drew our attention to social structures of dominance in India and how they inhibit, negotiate or encourage state power. The Indian state has failed Indian women by allowing khaps to issue diktats that contradict constitutionally sanctioned rights women have. In ignoring the khap question and not taking them head-on as groups that violate human rights, the Indian state seems to be saying that its job is done when it passes good legislation. Rights may be apparent or self-evident and constitutionally secured; however, they do not automatically implement themselves.

Thus it is no real surprise that women empowerment in India is a hotly discussed topic with no real solution looming in the horizon except to doubly redouble our efforts and continue to target the sources of all the violence and ill-will towards women.

To truly understand what women empowerment is, there needs to be a sea-change in the mind-set of the people in the country. Not just the women themselves, but the men have to wake up to a world that is moving towards equality and equity. It is better that this is embraced earlier rather than later, for our own good.

Swami Vivekananda once said “arise away and stop not until the goal is reached”. Thus our country should thus be catapulted into the horizon of empowerment of women and revel in its glory.

Concluding the very paper it's to be said that good laws and. A better implementation of laws is needed in order to empower the nation and women's..and as it is said by Swami Vivekananda ji "stri Shakti..jag shkti..