

SEXUAL ASSAULT ON WOMENDara Durga Prasad¹**HOW TO CITE THIS ARTICLE:**

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ABSTRACT: Our India is a vast nation with rich cultural heritage and social diversity. We have been respecting women in the highest form as Goddesses since ages. There have been several laws to protect women from many centuries in this ancient country. Yet our country is still facing difficulties in achieving women safety. And the situation is no different in the rest of the world. The prevailing situation, laws and suggestions to prevent atrocities were discussed. **AIM:** The current situations of women hardships around the world were mentioned. The current legal situation and recent legal changes were described. The mammoth task ahead of us to achieve the desired social objective of women safety and respect were discussed. **MATERIAL & METHODS:** various news articles, police journals, legal textbooks and forensic medicine text books. **CONCLUSION:** Many things were done to prevent sexual assaults on women, yet the true goal is still a mirage. It's time to look into the issue from its true grass root levels, i.e., from the psycho-social view apart from legal measures, to achieve the much desired objective of prevention of sexual assaults on women.

KEYWORDS: Sexual Assault on Women, Current Situation, Preventive Measures, Laws, Suggestions for Amendment.

INTRODUCTION: There is a proverb that "where women are being worshipped, Gods will live there". Similarly, the most important of elements of human life like education, money are believed to be gifted to us by Goddesses like Saraswathi, Lakshmi. But in reality, women are being treated as secondary persons in this society. Not only in India, but in almost all countries, the condition is similar.

On the occasion of declaring 2013 as women's year, the UN president, BanKi Moon said there are 7 major problems that women are facing in the world.

1. 'Female genital mutilation' which is a religious custom in African Countries.
2. Maternal death.
3. Foeticide/ abortion.
4. Rape.
5. Illegal human trafficking.
6. Child marriages.
7. Infant deaths/ child abuse.¹

In this world, one in every 3 persons is being raped, sexually harassed or beaten severely. Every country in this world should recognize 'rape' as a very cruel activity and be punished severely. Now instead of rape, they are calling it as 'sexual harassment' and is recognized as 'statutory crime'.²

LEGAL SCENARIO: In America, in 2008, 90 thousand rape cases were noted, out of which only 25% were punished. The ' Bureau of Justice Statistics', says that out of all the rape cases, 91% were on women, out of which 99% criminals were males. In developed countries like USA, the punishment

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ranges from fine to life imprisonment. In Islamic countries, 'Shariah Law' is under usage. They will not use the word 'rape' and consider it as an illegal marital affair called 'Jana'. There, DNA like advanced tests are not permitted. 4 male witnesses are allowed, female witnesses are not allowed. If the accused confesses, then he will be asked to pay specific amount of money as fine else would be given life punishment depending on the situation. The woman will be forced to commit suicide or would be beaten to death by throwing stones over them.³

In civilized countries, women rights, human rights and children rights are being given due importance. The punishment for sexual assault varies in different countries:

Canada – 4, 5, 7 yrs. to life imprisonment

France – 15, 20, 30 yrs. to life imprisonment

Netherlands –4, 6, 8, 12 yrs. plus fine

Norway – 3, 5, 10 yrs. punishment

Russia – 3, 6, 10, 15 yrs. punishment, 2 yrs. freedom prohibition

USA- 50 states have their own laws and acts.^{4,5}

In India, according to IPC Sec 375, rape is defined as: unlawful sexual intercourse by a man with a woman against her will/without her consent/ with her consent when such consent is obtained by force, fear, fraud/ without or with her consent when she is of unsound mind or intoxicated or under age of 16 years. It also explains that mere penetration of penis is sufficient to constitute the offence of rape. As per IPC 375, women can't be accused of sexually assaulting a man.

As per 1983 criminal law amendment, IPC Sec 376, additionally A, B, C, D clauses are added.

- A. Husband who has sexual intercourse with his own wife, who is living separately while divorce proceedings are pending in court – upto 2yrs imprisonment.
- B. If a woman under custody of government official is raped by him - 5 yrs. imprisonment plus fine.
- C. If a woman under remand is raped by jail officials - 5 yrs. jail imprisonment & fine.
- D. If a woman in hospital is harassed by hospital management or other staff - 5 yrs. imprisonment.^{6,7,8}

According to IPC Sec 354, in case if any woman is harassed/ insulted, then it is considered as a severe offence and 2 years imprisonment is given. As per IPC Sec 155(4), the personal and sexual history of the woman is being questioned. This is being misused by the accused. As per the Honorable Supreme court of India, injuries over the body are not necessary in a rape case. But the lower courts are insisting on bodily injuries to prove rape.¹

To prevent sexual harassments on women, central Govt. of India constituted a 3 member committee under the chairmanship of Justice Verma. They gave the report to the central home ministry and the president passed the ordinance. Important points in the ordinance are: If the rape victim has died or gone permanently into coma state, then accused should be punished for 20 years jail punishment or death sentence can be given by court.

The term 'sexual assault/sexual harassment' be used instead of 'rape'. Due to this, as per the committee, the sexual assault victims of all types of assaults can be considered under this term; Acts

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like following the women, frightening them, observing them secretly, acid attacks, touching private parts of females unnecessarily should be considered more seriously than before, said the committee.

The main reasons for increased sexual assaults on women as per Justice Verma committee are:

1. Deficient government management.
2. Irresponsibility of police personnel
3. Gender discrimination.⁹

SUGGESTIONS FOR PREVENTION: The victim's statement is to be recorded by lady police only. Witness should be given an option of being examined from their home itself and they should not be insisted to come to the police station. Courts should not decrease the punishments given by the lower courts on the accused. The Govt. Official who is non-cooperative or misleads the investigation should be given severe punishment. In acid attacks, if the woman kills the attacking person in the process of self-defense, it shouldn't be considered a crime. Sexual assault on women usually begins as eve teasing. If eve teasing is considered as a serious crime and be punished severely, these crimes can be brought down.

Cases should be taken up quickly in women harassment cases and punishments should be increased. IPC 1860 (Indian Penal Code-which provides a general penal code for India and consolidates the whole of law), CrPC 1973(Criminal Procedure Code- which is the main legislation on procedure, like collection of evidence, determination of guilt, for administration of substantive criminal law in India) and IEA 1872(Indian Evidence Act- which deals with concepts pertaining to admissibility of evidences in the Indian courts of Law)should be revamped periodically as per the current situation and are to be applicable even to police and military departments without discrimination.

Gang rapes, custodial rapes, sexual acts, caste based harassments against women, causing severe physical & mental violence on women are to be punished severely. Accused in sexual assault cases should not be given bail until complete investigation. Victim girls should be sent to immediate medical care & examination in Clinical Forensic Medicine units, like the one at Sevagram.



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Sexual intercourse against un-consenting wife or with wife of inadequate mental capacity should be regarded as marital rape. Civil policing should be employed for women protection. There should not be disputes regarding the police jurisdiction of crime scene. Co-education should be encouraged so as to inculcate the feeling of gender equality. Public media and TV shows are showing women in criminal or provocative roles, which should be prevented with proper censorship. Film directors should create roles in the way which increases the respect towards women. Nuclear families be reduced, joint families be encouraged which provides security and emotional support. Women should be trained in self-defense/ martial skills.

They should be encouraged to carry small defense weapons like pepper spray. Women should avoid travelling alone in the outskirts, until this country achieves true freedom as per our Mahatma - where the women can walk safe at midnight. Dresses of women should preferably be non-provocative. School education should focus on inculcating respect toward women. Right from birth, parents should bring up their children, teaching them respect towards women. Women welfare homes and working women hostels should be manned with women only.

The parents should not show any discrimination in bringing up of male and female children. There are special powers being conferred to military personnel in Kashmir and north eastern states as per the special privileges act, it has to be amended. There should be proper organization to take care of the safety of the inmates of juvenile homes, and expert opinions to improve inmate's safety be taken. The victim deserves both justice and help in the form of medical & financial aid, social privacy. Women should be given adequate protection in public and working places and safe public transport be arranged. Public addressing system should be proper. Every home/work place/public places should have toilet and safe drinking water facilities. Adequate changes are made in juvenile laws.

As per 2011 crime records bureau, 64% of the crimes were done by ages below 16-18 yrs., People of lower classes were more victimized in crime.¹⁰ So lower caste and below poverty line people should be given special attention towards education and social security. Special fast track courts should be established to deal with women atrocities and effort should be made to punish the accused within 3 months. Complaints against women should be taken up properly, and charge sheet should be submitted to court by quickly investigating in one month. Protection should be given to witnesses.

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