



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CRIME AGAINST WOMEN IN INDIA: AN ANALYTICAL STUDY

AUTHORED BY - MANSI* & DR. RAJ KUMAR**

Abstract

Crime against women includes any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. The Constitution of India recognized equality rights of women in Articles 14, 15 and 16. Article 15 (3) allowed the State for making special provisions for women and children to prohibit discrimination on grounds of religion, race, caste, sex or place of birth. Despite the constitutional provisions and different gender specific laws in place, the problem of violence and crime against women has acquired phenomenal proportion. The incidence of crime against women in India have been increasing continuously with 2.13 lakh reported cases in 2010 which rose to 3.37 lakh reported cases in 2014 registering a growth of 58 per cent in last four years. According to the report of National Crime Records Bureau (NCRB) for the year 2014, Uttar Pradesh earned the dubious distinction of leading the list of States where crime against women in 2014 was highest, accounting for 11.4 per cent of the total number of incidence of crime against women in the country.

Keywords: Women, Crime, Rights, Violence, Law.

INTRODUCTION

Violence and crime against women is a social problem which is linked to gender inequality and violates the right of women to live without fear with freedom and dignity. The Committee on Crime Statistics setup by the Ministry of Statistics and Programme Implementation, GoI in their report submitted in June 2011 stated that it has been recognised that a sizable portion of criminal events are never reported to the police and are therefore not included in police or any other statistics. Further, the committee had concluded that NCRB captures even less than 0.16

* LL.M., School of Law, IEC University, Solan, Himachal Pradesh.

** Assistant Professor, School of Law, IEC University, Solan, Himachal Pradesh.

per cent of the total crime against women. The National Family Health Survey-3 (latest) which collected data on 'Help seeking by women' who were victims of violence, brought out that only 2.1 per cent of the women who experience physical and sexual violence sought assistance from institutional sources such as police. The above findings of the NFHS would entail that the law enforcement authorities in the State should not be complacent about the relatively lower registered crime rate per one lakh of women population. Crime and Criminal Tracking Network and Systems (CCTNS) Project was envisaged by Ministry of Home Affairs, GoI to modernise police force for enhancing outcomes in the areas of crime investigation and criminals' detection, information gathering and its dissemination among various police organisations and units across the country through creation of a nationwide network under the National e-Governance Plan (NeGP). The State Government in 2009 decided to implement the CCTNS project to modernize its police force. CCTNS Core Application Software (CAS) functionalities included four basic modules for Registration, Investigation, Prosecution, and Search and Reporting and a portal for providing Citizen interface. CCTNS aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing at all levels especially at the Police Station level through creation of a nationwide networked infrastructure for evolution of state-of-art tracking system. The implementation of the project has, however, been considerably delayed in the State. Except for registration of FIRs, other functionalities/ modules of CAS are rarely being used by the police stations and higher offices though made functional. Further, Citizen centric services envisaged to be made available through Police portal and via SMS have not yet been made fully functional. Detailed findings on the implementation of this project are included in Chapter 2 of CAG's Report No. 01 of 2016. Due to delays in the implementation of CCTNS project, modernisation of police infrastructure has been adversely affected and the outcomes in the areas of crime investigation and criminals' detection, information gathering and its dissemination among various police organisations and units across the country have been impacted¹.

Financial assistance cannot compensate for the agony and mental stress a woman suffers due to heinous crimes such as rape, acid attack etc. Compensation schemes were formulated by GoI and GoUP from time to time to assist the victims in overcoming the trauma and provide support to lead a dignified and meaningful life. The implementation status of two such schemes viz.

¹https://cag.gov.in/uploads/download_audit_report/2016/Chapter_7_Crime_Against_Women_Report_3_2016_Uttar_Pradesh.pdf.

'Financial Assistance and Support Services to the Victims of Rape: A Scheme for Restorative Justice' of GoI and 'The Uttar Pradesh Victim Compensation Scheme' of GoUP is discussed in succeeding paragraphs. Under the direction² of the Hon'ble Supreme Court, a scheme for restorative justice was formulated by GoI as 'Financial Assistance and Support Services to Victims of Rape: A Scheme for Restorative Justice'. Under the scheme, Criminal Injuries Relief & Rehabilitation Boards at districts and state level were to be set up. The Scheme envisages total cash assistance of ` 1.50 lakh as well as restorative support services such as counselling, shelter, medical and legal aid upto ` 0.50 lakh. Scrutiny revealed that for implementation of the scheme in the State, an amount of ` 15.03 crore³ was tentatively allocated by GoI for two years only (2010-12) during 2010-15, with the condition that actual releases were to be made on the basis of projected requirement and availability of overall funds. Audit observed that this allocation was not utilized by the department though 3544 rape cases were reported in the State during 2010-12. The Uttar Pradesh Victim Compensation Scheme, 2014 was introduced (April 2014) for the purpose of providing compensation to victims or their dependents who have suffered loss or injury as a result of crime and require rehabilitation. The State was to allocate separate budget every year for the scheme to be operated by the Secretary, State Legal Services Authority (SLSA). The District Legal Services Authority was to decide the quantum of compensation⁴ to be awarded to the victim or dependents on the basis of loss suffered by the victim. Scrutiny revealed that an amount of ` two crore was sanctioned (March 2015) by GoUP for the year 2014-15 but was placed at the disposal of Director General of Police (DGP) and not transferred to SLSA as of June 2015. As a result, no compensation could be paid under the Scheme to the victims and their dependents during 2014-15. SLSA in January 2016 replied that the fund allocation of ` two crore was received by them in October 2015 and a total compensation of ` 3.49 lakh had since been paid to two victims. The information provided by SLSA disclosed that out of the total 18 cases for sanction of compensation, only two cases were awarded compensation. In remaining 16 cases no compensation was awarded till December 2015 and the delay in these cases ranged between four and 20 months, basically for want of recommendations of DLSAs. The Immoral Traffic (Prevention) Act, 1956 (ITP Act) was enacted for prevention of immoral trafficking. The South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution defined trafficking as the moving, selling or buying of women and children for prostitution within and outside country for monetary or other considerations with or without the consent of the person subjected to trafficking. As per the information provided by Home (Police) Department, 154 cases⁵ (Minor Girl: 33; Adult

Women: 121) were registered under ITP Act in the State during 2010-15. Government was to establish Protective homes and Corrective institutions for trafficked women and children and was also to issue licence to persons or authorities for establishing and maintaining such protective homes or corrective institutions under the provisions of Section 21 of ITP Act. As per the information provided (August 2015) by the Department of Women Welfare, there were 621 sex workers and 326 children in 48 districts. Scrutiny revealed that the Government is yet to identify sex workers in remaining 27 districts of the State. Further, the Government had established (October 2010) one Protective home in Agra and one Corrective home in Varanasi with inmate capacity of 75 each. However, only 27 inmates were living (May 2015) in the Protective home at Agra and no inmate was found (August 2015) in Corrective home at Varanasi.

Violence occurs in about 35 per cent of women globally in their lifetime. In a study done in India, on about 10000 women, 26 per cent reported having experienced physical violence from spouses during their lifetime. The prevalence could be as high as 45 per cent as indicated by data from Uttar Pradesh. Latest figures from the National Crime Records Bureau show that a crime was recorded against women every three minutes. Every hour, at least two women are sexually assaulted and every six hours, a young married woman is beaten to death, burnt or driven to suicide. It is appalling to learn that 28.4 per cent of pregnant women suffer domestic violence. As a result of violence, women suffer social isolation, unemployment, income loss, poor self-care and fail to provide childcare, which is a grave concern. Multi-Country Study on Women's Health and Domestic Violence Against Women by the World Health Organization (WHO) reported that 40 and 60 per cent of women surveyed in Bangladesh, Ethiopia, Peru, Samoa, Thailand and Tanzania revealed that they had been physically and/or sexually abused by their close partners². United Nations defines 'violence against women' as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" The role of health professionals in providing care for the survivors can be better understood and addressed from the perspective of the WHO definition of 'health', which defines it as 'an individual's state of physical, mental and social well-being. Intimate partner violence with sexual violence is associated with high

²World Health Organization Fact Sheet No 239. Violence against Women, updated. 2013. Oct, [accessed on November 22, 2013]. Available from: <http://www.who.int/mediacentre/factsheets/fs239/en>

risk of pregnancy, sexually transmitted diseases (STDs) and HIV infection. Hence, there is a need to sensitize the doctors who will be able to immediately initiate prophylaxis for pregnancy, STDs and post-HIV exposure in survivors. Other symptoms which need to be addressed, include wounds, lacerations, cuts, bruises, contusions, menstrual disorders, vaginal discharge, dizziness, severe sexual dysfunction, and memory loss. There should be a structured protocol for comprehensive assessment to provide holistic support in suspected cases, particularly in women presenting with physical injuries to general hospitals. Sometimes hospital admission for appropriate assessment in suspected violence may be required. District hospitals should have a full time, qualified, forensic medical professional and his/her availability could be possibly extended to *Taluk* hospitals³. It should become a routine practice to compulsorily report all cases of violence against women and provide care to them. A detailed structured assessment of the survivors is to be incorporated in undergraduate curriculum and training. In a survey, 40 per cent of the survivors had poor mental health. Violence leads to mental disorders such as depression, post-traumatic stress disorder (PTSD), anxiety disorders, self-harm and sleep disorders. Chronic violence of increased severity is associated with severe depressive disorders. In a study of female psychiatric outpatients with history of intimate partner violence, 14 per cent were identified as having PTSD. In another study of their imperceptible emotional distress through physical complaints. These include headache, back pain, neck pain, joint pains or stomach cramps. Psychologically, there is prevailing mistrust, loss of confidence, guilt, shame and feelings of helplessness with particular reference to intimate partner violence. All such patients presenting with a history of violence should undergo a standardized and simplified mental health screening, to exclude depression, PTSD and suicide risk. Some may need referral for a specialist mental health assessment⁴. As a minimum standard, psychosocial support and counselling should be accessible and commenced early. This could be made a part of undergraduate training where students would learn to detect, counsel and refer the severely unwell survivors to specialists. There is a pressing need to develop guidelines for all cases of violence disclosed by women. Early detection, counselling and other psychological support in the long term is likely to significantly reduce psychiatric morbidity and mortality. Social and economic costs of intimate partner and sexual violence have serious implications throughout our society. A survey showed that only 25 per cent

³Jeyaseelan L, Kumar S, Neelakantan N, Peedicayil A, Pillai R, Duvvury N. Physical spousal violence against women in India: some risk factors. *J Biosoc Sci.* 2007;39:657–70. doi: 10.1017/S0021932007001836. [DOI] [PubMed] [Google Scholar]

⁴Jejeebhoy SJ. Wife-beating in rural India: a husband's right? Evidence from survey data. *Econ Pol Wkly.* 1998;33:855–62. [Google Scholar]

survivors sought help to end violence, whereas 33 per cent never told anyone. The survivors hardly ever approached the police, yet felt secure in seeking physical health care in hospital settings. More often survivors return to perpetrators as they believe there is no other place to reside, which leads to further exposure to violence and it becomes a vicious circle. Women with disabilities (such as hearing, visually, speech and intellectual disabled) are highly vulnerable to sexual assault. They may not be able to defend themselves during the crime and also post that fight for justice⁵. All district hospitals should have a woman and child welfare section with a medical social worker from the Social Welfare Department to assist survivors and also in crisis. Basic issues such as, transportation, food and also clothing are not generally addressed. All survivors should be given legal information including free legal aid. Non-governmental organizations (NGOs) working with women and children should be supported since these can contribute in providing holistic care. Community education and sensitization regarding women's rights, awareness on domestic violence act needs to be spread across all district hospitals. There is an urgent need to educate the public to stop victimizing or blaming the survivors. Family members may go through emotional distress and may not accept the survivor. Hence, there is a need to have family therapy to enable the family to cope and support the survivor⁶. Health and Family Welfare department of all states should work in liaison with judiciary, women and child welfare department, social welfare department, police department and NGOs to provide comprehensive care for survivors⁷. All the sensitive issues rising out of the violence including crisis intervention, physical and mental care, legal aid, socio-economic support, temporary shelter, child custody, re-integration into society, confidence building, counselling, psychosocial support, family therapy, sexual counselling, vocational rehabilitation and follow up care should be delivered under one roof. A supportive sensitive system needs to be developed, in which the survivor is assisted by a recovered survivor in educating, sensitizing, supporting, counselling, lodging the complaint, physical examination, fighting for justice, rehabilitation and re-integrating into society. Improved socio-economic status, better education and also increased access to social support system possibly are protective factors

⁵ National Crime Record Bureau. [accessed on July 30, 2014]. Available from : <http://ncrb.gov.in/index.htm> .

⁶Declaration on the Elimination of Violence against Women - UN Documents: Gathering a body of global agreements A/RES/48/104. [accessed on November 22, 2013]. Available from: <http://www.un-documents.net/a48r104.htm> .

⁷New York: 1946. Jun 19-22, [accessed on February 2, 2012]. World Health Organization, Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference. Available from: [http://www.who.int/bulletin/archives/80\(12\)981.pdf](http://www.who.int/bulletin/archives/80(12)981.pdf) , also see http://www.who.int/governance/eb/who_constitution_en.pdf . [Google Scholar]

against spousal physical violence and mental health issues⁸. There are innumerable challenges from political will to educating the society in implementing the comprehensive care programme. To address such complex issues, pilot projects need to be done in a few districts across the country. All sectors including education, health, legal, and judicial must work in liaison to address the issue. There is an urgent need to train the health personnel, police department, judiciary, women and child welfare department and all other people involved in providing care⁹. The WHO indicates that it is necessary to recognize victims of intimate partner violence, sexual violence, or their suicidal behaviour. The individual cases of violence to women often first come to attention with health care providers. The psycho-social care is generally not available and this leaves a large gap in terms of much required comprehensive care. Recent WHO guidelines emphasize role for physicians and other health professionals, as key gatekeepers in efforts to monitor, identify, treat, and intervene¹⁰.

CONCLUSIONS

In conclusion, violence against women creates a sense of insecurity and fear in the community. The complex issue can be tackled by providing comprehensive care pro-actively. A multi-dimensional and multi-agency team including access to psychosocial support is to be made available to deliver holistic care under one roof in district hospital setting. Also implementing primary prevention programmes such as life skills training programme, gender sensitization and sex education in all schools and colleges will go a long way. Incidence of crime against women has been increasing consistently during last five years. The incidence of such crimes in the State are much higher as compared to all India average and most of the other States. The number of serious crimes against women such Rape, homicide for dowry, dowry deaths or their attempts, torture- both mental and physical, assault on women with intent to outrage her modesty, kidnapping and abduction and cases under Dowry Prohibition Act have increased considerably. Despite high incidence of crime, the State Government has not taken effective steps to significantly strengthen its police force as the actual police manpower per one lakh population in the State is amongst the lowest in the country. The Government schemes for providing financial and other support to the victims have not been implemented effectively. No

⁸WHO (2005): Multi-Country Study on Women's Health and Domestic Violence Against Women. [accessed on February 20, 2014]. Available from : www.who.int/reproductivehealth/publications/violence/9241593512/en/index.html .

⁹Khosla AH, Dua D, Devi L, Sud SS. Domestic violence in pregnancy in north Indian women. *Indian J Med Sci*. 2005;59:195-9. [PubMed] [Google Scholar]

¹⁰ <https://pmc.ncbi.nlm.nih.gov/articles/PMC4216486/>

financial assistance was provided under the scheme 'Financial Assistance and Support Services to the Victims of Rape' despite substantial allocation by GoI and there have been delays in release of compensation under The Uttar Pradesh Victim Compensation Scheme, and the Ujjawala projects for trafficked women were mostly non-functional. Further, no Ujjawala homes were established in districts bordering Nepal. Major destination centres for trafficking had no Ujjawala projects.

