CHAPTER-2

TYPES OF CRIME AGAINST WOMEN

2.1. Introduction

Violence affects the lives of millions of women worldwide, in all socio-economic and educational classes. It cuts across cultural and religious barriers, impeding the right of women to participate fully in society. Violence against women takes a dismaying variety of forms, from domestic abuse to rape to child marriages and female circumcision. All are violations of the most fundamental human rights.¹

In a statement to the Fourth World Conference on Women in Beijing in September 1995, the United Nations Secretary General, Boutros Boutros-Ghali, said that violence against women is a universal problem that must be universally condemned. But he said that the problem continues to grow. The Secretary General noted that domestic violence alone is on the increase. Studies in 10 countries, he said, have found that between 17 percent and 38 percent of women have suffered physical assaults by a partner. In the Platform for Action, the core document of the Beijing Conference, Governments declared that “violence against women constitutes a violation of basic human right and is an obstacle to the achievement of the objectives of equality, development and peace”.²

Some women fall prey to violence before they are born, when expectant parents abort their unborn daughters, hoping for sons instead. In other societies, girls are subjected to such traditional practices as circumcision, which leave them maimed and traumatized. In others, they are, compelled to marry at an early age before they are physically, mentally or emotionally mature. Women are victims of incest, rape and domestic violence that often lead to trauma, physical handicap or death. And rape is still being used as a weapon of war, a strategy used to subjugate and terrify entire communities.
Soldiers deliberately impregnate women of different ethnic groups and abandon them when it is too late to get an abortion.\(^3\)

The Platform for Action adopted at the Fourth World Conference on Women declared that rape in armed conflict is a war crime—and could, under certain circumstances, be considered genocide.\(^4\)

### 2.2. Defining Gender-based Abuse

The Declaration on the Elimination of Violence against Women is the first international human rights instrument to exclusively and explicitly address the issue of violence against women. It affirms that the phenomenon violates, impairs or nullifies women's human rights and their exercise of fundamental freedoms.\(^5\)

The Declaration provides a definition of gender-based abuse calling it "any act of gender-based violence that 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 in private life”.

The definition is amplified in article 2 of the Declaration, which identifies three areas in which violence commonly takes place:

- Physical, sexual and psychological violence that occurs in the family, including battering: sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation;

- Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; Sexual harassment and intimidation at work; and forced prostitution;

- Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.
2.3. Common Practices of Violence against Women

Violence against women is a problem around the world. It affects women of all races, ethnic groups, classes and nationalities. It is a life-threatening problem for individual women, and it is a costly problem for societies. In many countries, women fall victim to traditional practices that violate their human rights. The persistence of the problem has much to do with the fact that most of these physically and psychologically harmful customs are deeply rooted in the tradition and culture of society.\textsuperscript{6}

*Domestic violence*

Violence against women in the family occurs in developed and developing countries alike. It has long been considered a private matter by bystanders -- including neighbors, the community and government. But such private matters have a tendency to become public tragedies. In the United States, a woman is beaten every 18 minutes. Indeed, domestic violence is the leading cause of injury among women of reproductive age in the United States. Between 22 and 35 per cent of women who visit emergency rooms are there for that reason. The highly publicized trial of O. J. Simpson, the retired United States football player acquitted of the murder of his former wife and a male friend of hers, helped focus international media attention on the issue of domestic violence and spousal abuse.\textsuperscript{7}

According to the Special Rapporteur's report, many Governments now recognize the importance of protecting victims of domestic abuse and taking action to punish perpetrators. The establishment of structures allowing officials to deal with cases of domestic violence and its consequences is a significant step towards the elimination of violence against women in the family. The Special Rapporteur's report highlights the importance of adopting legislation that provides for prosecution of the offender. It also stresses the importance of specialized training for law enforcement authorities as well as medical and
legal professionals, and of the establishment of community support services for victims, including access to information and shelters.8

Son Preference

Son preference affects women in many countries, particularly in Asia. Its consequences can be anything from foetal or female infanticide to neglect of the girl child over her brother in terms of such essential needs as nutrition, basic health care and education.

In India, some women choose to terminate their pregnancies when expecting daughters but carry their pregnancies when expecting sons. According to reports from India, genetic testing for sex selection has become a booming business, especially in the country’s northern regions.9

Dowry-related Violence and Early Marriage

In some countries, weddings are preceded by the payment of an agreed-upon dowry by the bride’s family. Failure to pay the dory can lead to violence. In India, an average of five women a day is burnt in dowry-related disputes and many more cases are never reported. Early marriage, especially without the consent of the girls, is another form of human rights violation. Early marriage followed by multiple pregnancies can affect the health of women for life.

Prostitution and Trafficking

Many women are forced into prostitution either by their parents, husbands or boyfriends — or as a result of the difficult economic and social conditions in which they find themselves. They are also lured into prostitution, sometimes by “mail-order bride” agencies that promise to find them a husband or a job in a foreign country. As a result, they very often find themselves illegally confined in brothels in slavery-like conditions where they are physically abused and their passport withheld.

Most women initially victimized by sexual traffickers have little thinking of what awaits them. They generally get a very small percentage of
what the customer pays to the pimp or the brothel owner. Once they caught up in the system there is practically no way out, and they find themselves in a very vulnerable situation.

Since prostitution is illegal in many countries, it is difficult for prostitutes to come forward and ask for protection if they become victims of rape or want to escape from brothels. Customers, on the other hand, are rarely the object of penal laws. The extent of trafficking in women and children has reached alarming proportions, especially in Asian countries. Many women and girl children are trafficked across borders, often with the complicity of border guards. In one incident, five young prostitutes were burnt to death in a brothel fire because they have been chained to their beds. At the same time, sex tours of developing countries are a well-organized industry in several European and other industrialized countries.10

Violence in the community

Rape

Rape can occur anywhere, even in the family, where it can take the form of marital rape or incest. It occurs in the community, where a woman can fall prey to any abuser. It also occurs in situations of armed conflict and in refugee camps. In the United States, national statistics indicate that a woman is raped every six minutes. In 1995, the case of a Brazilian jogger raped and murdered in New York City's Central Park drew international attention once again to the problem. The incident occurred only a few years after an earlier sensational jogger-assault case in which the victim -- an American assaulted in the same general area of the park -- barely survived after her assailants left her for dead. Relations between residents of the Japanese island of Okinawa and American GIs were thrown into turmoil in 1995 after two marines and a sailor allegedly kidnapped and raped a 12-year-old girl.11

Sexual assault within marriage

In many countries sexual assault by a husband on his wife is not considered to be a crime; A wife is expected to submit. It is thus very difficult
in practice for a woman to prove that sexual assault has occurred unless she can demonstrate serious injury.¹²

*Sexual harassment*

Sexual harassment in the workplace is a growing concern for women. Employers abuse their authority to seek sexual favors from their female co-workers or subordinates, sometimes promising promotions or other forms of career advancement or simply creating an untenable and hostile work environment. Women who refuse to give in to such unwanted sexual advances often run the risk of anything from demotion to dismissal. But in recent years more women have been coming forward to report such practices -- some taking their cases to court. The Special Rapporteur stressed that sexual harassment constitutes a form of sex discrimination. "It not only degrades the woman", the report noted, "but reinforces and reflects the idea of non-professionalism on the part of women workers, who are consequently regarded as less able to perform their duties than their male colleagues".¹³

*Violence against women migrant workers*

Female migrant workers typically leave their countries for better living conditions and better pay -- but the real benefits accrue to both the host countries and the countries of origin. For home countries, money sent home by migrant workers is an important source of hard currency, while receiving countries are able to find workers for low-paying jobs that might otherwise go unfilled. But migrant workers themselves fare badly, and sometimes tragically. Many become virtual slaves, subject to abuse and rape by their employers. In the Middle East and Persian Gulf region, there are an estimated 1.2 million women, mainly Asians, who are employed as domestic servants. According to the independent human rights group Middle East Watch; female migrant workers in Kuwait often suffer beatings and sexual assaults at the hands of their employers.
The police are often of little help. In many cases, women who report being raped by their employers are sent back to the employer -- or are even assaulted at the police station. Working conditions are often appalling, and employers prevent women from escaping by seizing their passports or identity papers.¹⁴

**Female Genital Mutilation**

According to the World Health Organization, 85 million to 115 million girls and women in the population have undergone some form of female genital mutilation and suffer from its adverse health effects. Every year an estimated 2 million young girls undergo this procedure. Most live in Africa and Asia — but an increasing number can be found in immigrant and refugee families in Western Europe and North America. Indeed, the practice has been outlawed in some European countries.

There is a growing consensus that the best way to eliminate these practices is through educational campaigns that emphasize their dangerous health consequences. Several Governments have been actively promoting such campaigns in their countries.¹⁵

**Pornography**

Pornography represents a form of violence against women that "Glamorizes the degradation and maltreatment of women and asserts their subordinate function as mere receptacles for male lust". Pornography treats women's body as packages of anatomical parts, rather like cuts of meat arranged on a butcher's shop.

Recent studies show that pornography actually incites otherwise fairly non-aggressive men to attack women. Even the kind of sex and violence shown on television may have this effect. Thus we can speak of pornographic films, books, photographs, postcards, figures and much else.¹⁶
Custodial violence against women

Violence against women by the very people who are supposed to protect them -- members of the law enforcement and criminal justice systems -- is widespread.

Women are physically or verbally abused; they also suffer sexual and physical torture. According to Amnesty International, thousands of women held in custody are routinely raped in police detention centers worldwide. The report of the Special Rapporteur underlines the necessity for States to prosecute those accused of abusing women while in detention and to hold them accountable for their actions.

Violence against women in situations of armed conflict

Rape has been widely used as a weapon of war whenever armed conflicts arise between different parties. It has been used all over the world: in Chiapas, Mexico, in Rwanda, in Kuwait, in Haiti, in Colombia. Women and girl children are frequent victims of gang rape committed by soldiers from all sides of a conflict. Such acts are done mainly to trample the dignity of the victims. Rape has been used to reinforce the policy of ethnic cleansing in the war that has been tearing apart the former Yugoslavia.

The so-called "comfort women" -- young girls of colonized or occupied countries who became sexual slaves to Japanese soldiers during the Second World War -- have dramatized the problem in a historical context. Many of these women are now coming forward and demanding compensation for their suffering from Japanese authorities. "Such rape is the symbolic rape of the community, the destruction of the fundamental elements of a society and culture -- the ultimate humiliation of the male enemy", the report by the Special Rapporteur noted. It stressed the need to hold the perpetrators of such crimes fully accountable.
Violence against refugee and displaced women

Women and children form the great majority of refugee populations all over the world and are especially vulnerable to violence and exploitation. In refugee camps, they are raped and abused by military and immigration personnel, bandit groups, male refugees and rival ethnic groups. They are also forced into prostitution.

2.4. Recognized Crimes against Women

Despite existence of a number of special legislations in India for providing protection to women, crime against women has increased. Women continue to be victims of various types of crimes.

Although Women may be victims of any of the general crimes such as ‘Murder’, ‘Robbery’, ‘Cheating’, etc, only the crimes which are directed specifically against Women are characterized as ‘Crimes Against Women’. Various new legislations have been brought and amendments have been made in existing laws with a view to handle these crimes effectively. These are broadly classified under two categories. 19

(1) The Crimes under the Indian Penal Code (IPC)

(i) Rape (Sec. 376 IPC)

(ii) Kidnapping & Abduction for different purposes (Sec. 363 - 373 IPC)

(iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)

(iv) Torture - both mental and physical (Sec. 498-A IPC)

(v) Molestation (Sec. 354 IPC)

(vi) Sexual harassment * (Sec. 509 IPC)

(vii) Importation of girls (up to 21 years of age) (Sec. 366-B IPC)

(* referred in the past as ‘Eve-Teasing’)
(2) *The Crimes under the Special & Local Laws (SLL)*

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. The gender specific laws for which crime statistics are recorded throughout the country are -

(i) Immoral Traffic (Prevention) Act, 1956

(ii) Dowry Prohibition Act, 1961

(iii) The Child Marriage Restraint (Amendment) Act, 1979

(iv) Indecent Representation of Women (Prohibition) Act, 1986

(v) Commission of Sati (Prevention) Act, 1987

Among the above mentioned crimes, rape is the most reprehensible crime that women are subjected to, because once committed the effect on the women is not only as irreversible as in the crime of murder but also the suffering caused to the victim and to her family is much the same. Each such incident is also a permanent living scar on the face of the society because it not only reminds it of the injustice that has been done to one of its members by another but it is also indicative of its inherent weakness to protect those who for various reasons are not able to protect themselves. It is also a slur on the noble virtues and institutions which the society so loudly extols.

In terms of sufferings which it brings upon the victims and their families it is, perhaps, the most severe punishment which can be inflicted upon them. The victim woman is haunted for life by one single monstrosity committed against her and it puts her to embarrassment at almost every step; be it among friends, be it in marriage, if, at all that is possible, or be it the rest of her life in any shape. For all purposes she becomes an outcaste. It marks a drastic change in her future existence and there is no wonder that most of the victims of this crime commit suicide. The worst aspect of this crime is that the woman concerned is to suffer
for what is forced upon her without her being in anyway responsible. In fact by the very definition, she is totally opposed to it.²⁰

Again, it is not only the physical violation of the body of the victim but an intrusion upon her mental, psychological and emotional sensitivities. It is the destruction of her sense of pride, sense of security, sense of purity, and quake-like shock to the future hopes, aspirations and dreams of a happy married life. The sense of loss suffered by the victim by this single thoughtless act the mad man is so colossal and so complete that nothing can restore her self-confidence, self-respect and self-assurance. This loss is further aggravated in the woman by rising sense of extreme depression and self-pity, which are the main causes why most of the victim’s think of and actually commit suicide. The entire fabric of life suddenly falls before the victim’s very eyes and she may completely lose her mental equilibrium and become unbalanced and even insane. Nothing can be more shocking and more repulsive to her and the whole meaning of life is lost to her after such an occurrence. It is worse than actual death for her as the miseries are not only physical and all engrossing but also continuous and permanent.²¹

In the words of Kiran Bedi- “The law of rape is not just a few sentences. it is a whole book which has clearly demarcated chapters and can not be read selectively. We can not read the preamble and suddenly reach the last chapter and claim to have understood and applied it.”²² Therefore, it is worthwhile to discuss types of this heinous crime so as to understand it completely.

2.5. Types of Rape

Rape can be categorized in different ways, for example, by reference to the situation in which it occurs, by the identity or characteristics of the victim, and/or by the identity or characteristics of the perpetrator. These categories are referred to as types of rape. Types of rape include, but not limited to:-

1. Acquaintance rape / Date rape
2. Spousal rape / Marital rape
3. College campus rape
4. Gang rape / Mass rape
5. Rape of children / Child rape
6. Statutory rape
7. Prison rape
8. War rape
9. Corrective rapes

Acquaintance rape / Date rape

Date rape, also called acquaintance rape, is a non-domestic rape committed by someone who knows the victim. This constitutes the vast majority of rapes reported. It can occur between two people who know one another usually in social situations, between people who are dating as a couple and have had consensual sex in the past, between two people who are starting to date, between people who are just friends, and between acquaintances. They include rapes of co-workers, schoolmates, friends, and other acquaintances.

Spousal rape / Marital rape

Also known as spouse, marital rape, wife rape, husband rape, partner rape or intimate partner sexual assault (IPSA), is rape between a married or de facto couple. Research reveals that victims of marital/partner rape suffer longer lasting trauma than victims of stranger rape.

College campus rape

Some studies indicate a particular problem with rape on college campuses. According to a 1992 study, one out of twelve college girls were subjected to rape. The Department of Justice study also found that in "about half of the incidents categorized as completed rapes, the women or men did not consider the incident to be a rape." According to the Journal of Counseling and Development, females aged 16–24 are at the highest risk of sexual assault.
Gang rape / Mass rape

Gang rape, or mass rape, occurs when a group of people participate in the rape of a single victim. Rape involving at least two or more perpetrators is widely reported to occur in many parts of the world. Systematic information on the extent of the problem, however, is scant.

One study showed that offenders and victims in gang rape incidents were younger with a higher possibility of being unemployed. Gang rapes involved more alcohol and drug use, night attacks and severe sexual assault outcomes and less victim resistance and fewer weapons than individual rapes. Another study found that group sexual assaults were more violent and had greater resistance from the victim than individual sexual assaults and that victims of group sexual assaults were more likely to seek crisis and police services, to contemplate suicide and seek therapy than those involved in individual assaults. The two groups were about the same in the amount of drug use and drinking during the assault.

In Johannesburg, South Africa, surveillance studies of women attending medico-legal clinics following a rape found that one-third of the cases had been gang rapes. National data on rape and sexual assault in the United States reveal that about 1 out of 10 sexual assaults involve multiple perpetrators. Most of these assaults are committed by people unknown to their victims. This pattern, though, differs from that in South Africa where boys are often involved in gang rapes, called jackrolling.

The expression la tournante is a French noun meaning "the turning" and is used as a slang term to mean a gang rape. According to the testimony of numerous victims, local women who stray from traditional conduct in the immigrant (Muslim) neighborhoods, such as behaving and dressing like a westerner, or wanting to live as Europeans or refusing to wear traditional clothes have been targeted for tournantes. According to Samira Bellil in a CNN interview, there was a trial in Lille regarding a 13-year-old girl who had allegedly been gang-raped by as many as 80 men.
Rape of children

Rape of a child is a form of child sexual abuse. When committed by a parent or other close relatives such as grandparents, aunts and uncles, it is a form of incest and when committed by another child (usually older or stronger), it is a form of child-on-child sexual abuse. When a child is raped by a family member, especially a parent, it can result in serious and long-term psychological trauma. When a child is raped by an adult who is not a family member but in a caregiver or in a position of authority over the child, such as school teacher, religious authority, or therapist, to name a few, on whom the child is dependent, the effects can be similar to incestual rape.

Psychologists estimate that 40 million adults, 15 million of those being men (Adams 1991), in the United States were sexually abused in childhood often by parents, close relatives and other elders on whom they were dependent. According to the National Center for Victims of Crime 46% of rape committed in the United States is perpetrated by a family member. Effects of child rape include depression, post-traumatic stress disorder, anxiety, propensity to re-victimization in adulthood, and physical injury to the child, among other problems. Children, including but not limited to adolescents, raped by their parents and other close elders are often called 'secret survivors' by psychologists, as they often are unable or unwilling to tell anyone about these rapes due to implicit or explicit threats by the adult rapist, fear of abandonment by the rapist, and/or overwhelming shame. Since the signs of these rapes are usually invisible except to trained professionals, these children often suffer ongoing offenses in silence until independence from the adult rapist is attained. By that time, the statute of limitations is often long-expired, the adult victim's repressed memories are often considered inadmissible as evidence and the child-rapist is able to avoid punishment.

More than 67,000 cases of rape and sexual assaults against children were reported in 2000 in South Africa. Child welfare groups believe that the
number of unreported incidents could be up to 10 times that number. A belief common to South Africa holds that sexual intercourse with a virgin will cure a man of HIV or AIDS. South Africa has one of the highest numbers of HIV-positive citizens in the world. According to official figures, one in eight South Africans is infected with the virus. Edith Kriel, a social worker who helps child victims in the Eastern Cape, said: “Child abusers are often relatives of their victims - even their fathers and providers.”

According to University of Durban-Westville anthropology lecturer and researcher Suzanne Leclerc-Madlala, the myth that sex with a virgin is a cure for AIDS is not confined to South Africa. “Fellow AIDS researchers in Zambia, Zimbabwe and Nigeria have told me that the myth also exists in these countries and that it is being blamed for the high rate of sexual abuse against young children.”

Statutory rape

National and/or regional governments, citing an interest in protecting "young people" (variously defined but sometimes synonymous with minors), treat any sexual contact with such a person as an offense (not always categorized as "rape"), even if he or she agrees to the sexual activity. The offence is often based on a presumption that people under a certain age do not have the capacity to give informed consent. The age at which individuals are considered competent to give consent is called the age of consent. This varies in different countries and regions, and in the US ranges from 16 to 18. Sex which violates age-of-consent law, but is neither violent nor physically coerced, is sometimes described as "statutory rape," a legally-recognized category in the United States (however most states allow persons younger than the age of consent to engage in sexual activity if the age difference between the partners is small, these are called close in age exemptions).

Prison rape

Many rapes happen in prison. These rapes are virtually always homosexual in nature (since prisons are separated by sex). The attacker is most
commonly another inmate, but prison guards may also be involved, primarily in female prisons.44

War rape

During war, rape is often used as means of psychological warfare in order to humiliate the enemy and undermine their morale. Rapes in war are often systematic and thorough, and military leaders may actually encourage their soldiers to rape civilians. Likewise, systematic rapes are often employed as a form of ethnic cleansing.

In 1998, the International Criminal Tribunal for Rwanda established by the United Nations made landmark decisions that rape is a crime of genocide under international law. In one judgment Navanethem Pillay said: "From time immemorial, rape has been regarded as spoils of war. Now it will be considered a war crime. We want to send out a strong message that rape is no longer a trophy of war." An estimated 500,000 women were raped during the 1994 Rwandan Genocide.

The Rape of Nanking during the Japanese invasion of China in World War-II is another example of war rape.46

Corrective rape

Corrective rape is a criminal practice, whereby men rape lesbian women, purportedly as a means of "curing" the woman of her sexual orientation. The term "corrective rape" was invented in the early 2000 by human rights non-governmental organizations to describe rapes committed against South African lesbians. A notable attack of this kind came in 2008 when Eudy Simelane, a member of the South Africa women's national football team and a vocal LGBT-rights activist in South Africa, was gang raped and murdered in KwaThema, Gauteng. A November 2008 report by the NGO Action Aid and the South African Human Rights Commission called for the creation of legislation to specifically target hate crimes, including corrective rape.47
2.6. Concluding Remarks

The meaning of gender and sexuality and the balance of power between women and men at all levels of society must be reviewed. Combating violence against women requires challenging the way that gender roles and power relations are articulated in society. In many countries women have a low status. They are considered as inferior and there is a strong belief that men are superior to them and even own them.

Since women are easy victims, they experience a great deal of direct behavioral violence in every society. The use of violence against woman as a form of control is not only pervasive, but varied in its expression. Such variations reflect social and cultural differences which have resulted in battering, rape, incest, foot-binding, infibulations, clitoridectomy, dowry death, selective malnourishment, bride burning, female infanticide, gang rape, forced prostitution, homicide, sexual harassment, international sexual trafficking and slavery, sexual degradation, child prostitution, violent pornography, child sexual abuse, abuse of widows and elderly women etc.

Changing people's attitude and mentality towards women will take a long time, at least a generation, many believe, and perhaps longer. Nevertheless, raising awareness of the issue of violence against women, and educating boys and men to view women as valuable partners in life, in the development of a society and in the attainment of peace are just as important as taking legal steps to protect women's human rights.

It is also important in order to prevent violence that non-violent means be used to resolve conflict between all members of society. Breaking the cycle of abuse will require concerted collaboration and action between governmental and non-governmental actors, including educators, health-care authorities, legislators, the judiciary and the mass media.
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