ABSTRACT

The problem of crime against women is not new. Women in Indian society have been victims of ill-treatment, humiliation, torture and exploitation for as long as written records of social organization and family life are available. These records are replete with incidents of abduction, rape, murder and torture of women. But, regretfully, female victims of violence have neither been given much attention in the literature on social problems or in the literature on criminal violence nor has any attempt been made to explain why both the public and the academicians alike have ignored for so long the hard fact that women have continuously been ruthlessly exploited in our society.

It is said that one way to judge the state of nation is to study the status of its women. In reality, the status of women represents the standard of culture of any age. The social status of the women of a country symbolizes the social spirit of the age. However to draw a conclusion about the position of women is a difficult and complicated problem. It is therefore, necessary to trace this position in the historical perspective. In the course of Indian history from prehistoric to modern times, there were distinct stages of the rise and fall in the status and role of women. It appears that the Ancient Hindu society had a flexible social structure. There was equality between men and women. Women were given freedom to move freely in the society and to take part in public life. This gives us an idea as to how they had realized the truth that women too have their own contribution in the development process and progress of the society.

Later on, many barbarious practices developed and women were confined to a subordinate status. The Shastras directed women to be in the state of dependence and submission. The deterioration of the status of women started with Manu, who equated woman with slave and said, “a woman should never be independent”. He led society to consider a woman to be a perpetual minor and as such should always be looked after by others. Education was denied to her and she was confined to the shadows of ignorance. She used to be behind purdah and living in the seclusion. Woman was known as ‘abala’, a weak
helpless and powerless person, incapable of managing and preserving the family property. A wife was treated as a property of her husband. She was made to immolate herself on her husband’s funeral pyre. The subordinate position of woman was deep rooted in the Indian society of that period.

Women’s role began to change towards greater emancipation from the domination of man with the advent of the British rule, democracy and liberalism all over the world in the eighteenth century. This new freedom brought about new changes in the role of women. In addition to this the processes of industrialization and urbanization also brought forth a lot of changes in the life of the people. With the efforts of a number of social reformers of the 19th century and the legislations passed after independence, women were brought out of their homes and helped in achieving equality with men. These changes caused profound influence on different dimensions of the family system and women’s status in the society.

In India, specific activities to enhance the status of women were initiated in the 19th century under the ‘reform movement’. It demanded more humane treatment for women. During 1975, the Western women’s liberation movement, its literature and the issues raised by the feminist movement influenced many educated Indian women and small groups of ‘women liberationists’ started appearing. Many young women-activists who were involved in various progressive, radical and leftist organizations started raising their voice against sexual discrimination. Around mid-seventies, India witnessed the emergence of new type of women’s groups and organizations which took up women’s issues from a totally different perspective. The later half of the International Women’s Decade(1975-85) witnessed the formation and growth of women’s organizations like the Platform Against Rape, Stree Atyachar Virodhi Parishad and the ‘All India anti-Dowry Movement’. These organizations voiced their anger at the injustice perpetrated to women and sought to redress it through socio-legal justice. These groups have now gained
prominence because of their constant fight for justice, equality and freedom for women.

Since women are easy victims, they experience a great deal of direct behavioral violence in every society. The use of violence against women 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.

Among the above mentioned crimes, rape is the most reprehensible crime that women are subjected to, because once committed the effect on the individual woman 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. Rape is the least reported of all crimes. In fact, fewer than twenty percent of rapes and attempted rapes are ever reported. Some victims are silent because they are ashamed. Others are afraid of their attacker. Some are simply too hurt or too angry to speak out.

According to 2008 statistics, out of 35 cities checked for women’s security, national capital Delhi stood first, with an incredible one-third of total rapes happening here. A stupendous 92 per cent of all rape victims already knew the ones who violated them. These figures are clearly indicative of the Indian social fabric being so designed that it leaves little scope for a woman to express her resentment of anything, even intrusion in her own space. The fact
that she will keep quiet for fear of being ill-treated and taunted is exactly what drives most rapists to commit this heinous crime. Not only that, the rate of conviction of rapists is also insignificant. Put together, these two factors create a lethal combination that encourages rape, for the fear of being caught and punished is insignificant while the chances of getting away with the crime are very high. Psychologists say it is a result of a dangerously lopsided equation between the sexes. Whatever may be the reasons, one thing is painfully clear that rape is very evidently India’s biggest crime threat.

Society is in a continuous process of evolution. It will take several decades for these imbalances to be rectified. India is one of the few countries in the world which has had a woman Prime Minister. Various States have from time to time, had women Chief Ministers. A woman Judge in the Supreme Court and in the High Courts has today become the norm. Women have crossed many barriers, and head various departments in large multinationals today. The proposed Women’s’ Reservation Bill to provide 33% reservation for women in the Lok Sabha and State Legislature is now under consideration. However, the empowerment of women in urban areas and the metropolises cannot be the indicator of growth in the country. In a country, where eighty percent of the population is in rural areas, until the lot of women in these areas is also not improved simultaneously, development will remain an illusion to them. The status of women cannot be raised without opening up opportunities of independent income and employment.

Agencies of the United Nations have declared in many documents and forums that violence against women is an obstacle to the achievement of the objectives of equality, development and peace. As such, women’s vulnerability to violence violates and impairs enjoyment of their human rights and fundamental freedoms. It has been described by the Secretary-General of the UN as the most shameful human rights violation and perhaps the most pervasive.
Violence against women remains a serious, prevalent and largely invisible threat to human development. Human rights violations such as physical violence, human trafficking, and rape and other sexual abuses, still affect women and girls in nearly every society worldwide. In order to design and implement an adequate response to this problem, it is necessary first to understand it, for which we need reliable and consistent data and other information about the prevalence, the causes, the nature and the consequences of violence against women. Second, institutional, national and global information and knowledge on violence against women must be translated into effective and integrated action. Third, responses to violence against women should be broadened to include the participation of multiple sectors and social groups: the police, judicial officials, the health sector, community groups, men's groups, and above all women themselves. Finally, in order to effect a change in both consciousness and behaviour, responses to violence against women must be implemented at the community, municipal, national and international levels, so that a “community-based response” involves not just local, but regional and international communities as well.

Though a number of relevant laws, policies, guidelines, concepts, rules and definitions have been adopted as establishing a theoretical framework for the response to violence against women, the means to implement this framework have not been as forthcoming. Despite the important legal framework set up by the UN, regional organizations and national governments through resolutions, guidelines and reports condemning all forms of violence against women, the UN Secretary-General recently affirmed that the collective response to violence against women is “inadequate” in comparison to the magnitude of the problem. According to recent surveys, at least one in every three women, or up to one billion women, have been beaten, coerced into sex, or otherwise abused in their lifetimes. Usually, the abuser is a member of her own family or someone known to her.

Even though many measures, such as National Action Plans, awareness-
raising campaigns or gender-sensitive training and education programmes have been taken at UN and at regional and national levels to combat violence against women, an objective assessment and evaluation of the actual impact of such measures is often missing. A general overview indicates that, despite numerous initiatives, we are far from achieving a truly integrated response to the problem of violence against women. An integrated response brings multiple sectors: law enforcement, the judiciary, the military, education, health and social services, community and women's organizations, and the international community together to design and implement a holistic response that addresses both prevention and treatment of violence from the perspective of the victim, her safety and her needs. An integrated response implies sensitization and training for all those people who are involved in addressing violence against women: teachers and students; counselors; doctors and nurses; police and other law enforcement officers; lawyers, judges and other judicial officials; government officials and other policy and law-makers; soldiers and other armed forces personnel. An integrated approach is necessary to ensuring not only that violence against women becomes universally regarded as an unacceptable and criminal violation of women's human rights, but also that victims of sexual, physical and psychological violence receive the attention and support that they need to enable them to escape and resolve any bad situation.

Changing people's attitude and mentality towards women will take a long time, at least a generation 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.
One question, which is asked generally, by sociologists, criminologists, law-maintenance officers and the public alike is what causes men to be violent, abusive and cruel towards women? So far as Indian scene is concerned, in the past few decades, with increasing evidence regarding the phenomenon, crime against women has drawn the attention of several concerned feminists, human rights groups, social scientists and social work practitioners. Many scientists have also attempted to study the phenomenon and have proposed several theories to explain the same. Several theories have been identified which we believe have some relevance for understanding violence committed by an individual. These theories range from intrapsychic theories to macro-sociological theories. We may classify these theories on the basis of four (theoretical) levels of analysis: (1) Feminist theory, (2) psychiatric or psychopathological analysis, (3) socio-psychological analysis and (4) the social problem approach.

An analysis of causes of violence against women in the light of theoretical explanation reflects that crime against women is a complex and multifaceted problem in Indian society. Its root cause is as diverse and varied as there are researchers who study it. Much of researches into this area also indicate that there are several factors to be reviewed. Over the last two decades, the trend has been to move towards a more integrated “multidimensional” model in order to better understand and address the complexity of crime against women, which has psychological, inter-personal, social, cultural and legal aspects. The phenomenon of crime against women is so complex that a single theory does not and cannot explain all sorts of violence against women. There are numerous factors such as socio-cultural, structural, economic, pathological and psychological, responsible for it. Changing social norms and values shape the evolution and typology of violence. Therefore, multifactor theory provides a comprehensive framework to understand the nature and causes of crime against women in India.
In a large and complex country like India, the dimensions and problems of violence against women do not yield easy solutions. Setting standards is a first step, and while it is an important and necessary one, it is not enough. There must be effective implementation at the national and regional levels. There are several areas of concern for women in law and judicial administration. However, it is in criminal law and criminal justice administration where the problems are more acute and unbearable. These problems are partly embedded in substantive law and partly in procedural aspects, i.e., Criminal Procedure Code, 1973 and the Indian Evidence Act, 1872 and the way they are administered. In cases of offences against women like sexual abuse, harassment, dowry deaths and the like, the victims in most cases do not get justice at all. With regard to women, basic right (to get justice) is not easily available because of a variety of factors on which they have little control.

Indian women are, by and large, handicapped in respect to all the pre-requisites essential for access to justice. The widespread illiteracy, the cultural barriers and subordination they suffer from, and unfriendly process of law have kept most women, who have problems, away from the law and courts. Victimized women have various experiences with the national criminal justice systems. They can not always depend on the criminal justice system for protection. In terms of combating violence against women, there often exist gaps and ambiguities in the laws criminalizing violence. Laws tend to be piecemeal, focusing on specific forms of violence rather than dealing comprehensively with all forms of violence against women. When the law is in place, there is often weak law enforcement. This leads to victim's apathy and distrust and avoidance of the system. In certain situations such as the cruelty and dowry deaths, corruption among police and other enforcement officials works as a major obstacle.

The Constitution of India confers a catena of rights upon women. Our revered constitution-makers were well aware of the subordinate and backward
position of women in our society. They therefore made conscious efforts for improving the entire situation in favour of women. With regard to the women, the Constitution contains many negative and positive provisions, which go a long way in securing gender justice.

Apart from various Articles of Indian Constitution and provisions in criminal law i.e. Indian Penal Code 1860, Indian Evidence Act 1872, Criminal Procedure Code 1973, many legislative enactments pertaining to the crimes committed against women have been passed by Indian Parliament from time to time to prevent such crime in the Indian society. Followings are some of those important enactments.

1. The Immoral Traffic Act, 1956
2. The Dowry Prohibition Act, 1961
3. The Medical Termination of Pregnancy Act, 1971
4. The Indecent Representation of Women (Prohibition) Act, 1986
5. The Commission of Sati (Prevention) Act, 1987
7. The Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
8. The Protection of Women from Domestic Violence Act, 2005

The law-enforcement agencies i.e., the police and the judiciary can play an important role in the control of crime against women and particularly rape. The law-enforcement is a continuous process from the time a crime is reported till the criminal is prosecuted and punished. This is a long process involving various stages such as, investigation, prosecution, trial and judicial decision. The victim needs to be facilitated at all these stages.

The questions are generally raised whether the increase in crime against women in general and rape incidents in particular are due to the failure on part of law or due to the fallacy of judiciary or police authorities. Time and again, various eminent jurists, psychiatrists, law enforcement officers and social
activists have expressed their valuable connotations on the nightmarish subject, but the green eyed monster is still surviving.

It is heartening to note that the Indian Judiciary has been sensitive to the status and dignity of women, which may be observed by various ruling of Supreme Court and High Courts. As observed by Krishna Iyer, J. in Rafiq’s case (Rafique v. State of U.P. (1980) 4 S.C.C. 262) “The escalation of such crimes has reached proportions to a degree that exposes the pretensions of the nation’s spiritual leadership and celluloid censorship, puts to shame our ancient cultural heritage and humane claims and betrays vulgar masculine outrage on human rights of which woman’s personal dignity is a sacred component”.

The legislature also, with intent to curb such offences, has through different amendments in the Indian Penal Code, 1860, Indian Evidence Act, 1872, Criminal Procedure Code, 1973 and by various legislations has tried to curb such menace. However, despite such efforts, the statistics reveal that the incidents of rape are on the increase.

Death penalty, as often suggested by various politicians for the offence of rape, has been severely criticized from many corners. Culprits no longer fear punishment since most rape case trials take years and years before they are finally decided and most often than not they end up in acquittal. Never-ending trials have also led to a scenario where the complainant is forced to compromise with the victim outside the court secretly due to the social pressure, thereby frustrating the whole purpose of law. What is the use of increasing the punishment when the chance of conviction itself is a rarity? Therefore, it is the surety of conviction in case where accused is guilty, which would make a difference and not the increase in punishment. Rape accused should not go scot free.

Another reason for increase in rape cases, according to various police officials, is the problem caused in investigation due to the delay in filing of F.I.R. Delay in filing of F.I.R. may be due to various reasons. Since it is a
sexual offence there might be an initial hesitation in the mind of the victim to report the matter to the police as she might fear that the same might affect her and her family’s reputation. The hesitation may also be that by disclosing it, it may cast a stigma on her for rest of her life. The problem faced by investigation authorities in cases of delay is that it becomes difficult for them to procure evidence against the accused. Since it is an offence against body, medical evidence plays an important role. With the passing of time, physical injuries get healed up, destroying evidence and resulting in acquittal.

According to various social organisations, a woman should avoid going out after eight O’clock in the night and should also not go alone at secluded or dark places. This suggestion sounds somewhat hypocritical. Why can’t woman move free from all tensions and fear of her being deprived of her dignity? Avoiding problem is not a solution to a problem. Since we have been trying to avoid the problem for many years now, the problem of rape incidents have blown out of proportion. Now even public places have become unsafe for women. Many cases have been reported where a woman has been picked up and raped in the public places, such as parking lots, market areas, University Complex, etc.

In the final analysis, we come to a perspective that gender violence is a violation of human rights that needs to be combated by both men and women who believe in justice for all citizens irrespective of their class, caste, racial, religious and ethnic backgrounds.

On the basis of above discussion, it is clear that crimes against women are on the rise. Hence, it becomes necessary to suggest some measures to prevent woman’s abuse and exploitation in our society, for tackling various crimes against women, and for dealing with female depersonalization trauma. For our convenience, the suggested measures may fall into five main categories:

1. socially redefining patriarchal norms and removing gender bias
2. *change in women's values and their parents' thinking*
3. *strengthening women organizations*
4. *adopting humanistic approach to victims and*
5. *changing criminal justice system.*

1. **Socially Redefining Patriarchal Norms and Removing Gender Bias**

   The first and most important task is to redefine the social concept of 'violence against women'. This means seeing crimes like rape, abduction, wife-beating, dowry-death and murder as "acts of violence motivated by power and authority against the weaker sex". This means making people realize that violent acts against women may occur in circumstances where people normally will not acknowledge them. For example, rape can be committed by a person very well known to the victim, a bride can be burnt when she brings dowry worth thousands and lakhs of rupees but fails to bring a few additional thousands demanded by her greedy in-laws, a wife can be beaten when she works all through the day but refuses to obey an irrational command of her husband, abduction can occur when the victim initially accompanies the offender willingly and a woman can be murdered because she asks her husband not to have illicit relations with another woman. The misuse of traditional patriarchal norm working against women has to be brought to the notice of the people—both men and women—by women's organizations. Women have now to say things publicly against gender discrimination and against women's humiliation and exploitation which they did not dare earlier. The masses have to be awakened by holding conferences, pressurizing legislatures, demonstrating before police stations, and in many other ways to make them realize and accept the need for changing old patriarchal norms. Only collective acceptance of new norms can help in understanding victimization of innocent women.

2. **Changing Victims' and their Parents' Thinking**

   There is a great need for change in the attitude of victims' parents. When we focus our attention on cases of domestic violence, an important question arises: Why should parents be not blamed for the plight of their daughters? Why
do they at all seek matches for their girls where to solemnize marriage they have to borrow money or spend all their life savings? Why do they decide to marry their daughters in dowry-greedy families? Why do they not ask their daughters to leave their husbands' /in-laws' house when they come to know of their daughters' harassment? Why are they so concerned about social stigma and decide to send back their daughters to their husbands/in-laws whenever their daughters are beaten and tortured by their husbands and parents-in-law? Why do they accept the demands of their daughters' in-laws? Why do they sacrifice their daughters at the cost of a bad marriage?

There is also the question as to why girls submit to oppression? Why do they not realize that a divorce is better than continuing with a marriage where money is the be-all and end-all of all relations? Why do they not walk out of their marriage and try to stand on their own feet? Why do they not realize that by committing suicide, they are creating problems for their children and an emotional trauma for their younger sisters and parents?

Suffering violence is so deep-rooted in our cultural milieu that not only illiterate, less educated and economically dependent women but also sophisticated, highly educated and economically independent women do not seek legal or police protection. This fact is necessary to be kept in view while pondering over measures to control women's abuse in our society and for dealing with female depersonalization trauma.

3. Strengthening Women's Organizations

The voice of an individual woman perhaps carries no weight. In most cases, she is even accused of being unduly outspoken if she expresses her radical views on some social issues in order to provide herself an outlet for her frustrations. However, if a number of women of like-minded views join hands, form an organization and raise their voice against women's suffering, they can make their presence felt and make an impact. It is thus through these organizations alone that women can attack outdated social norms and values which need to be discarded or overhauled. It is, therefore, necessary that more
and more women's organizations be developed to create awareness among
women to fight against their oppression.

4. Adopting a Humanistic Approach to Victims

It is necessary to develop a humanistic approach towards women who
are victims of crimes. For protecting the rights of victims and providing
benefits to them, an evaluation of organizational procedures of police, courts,
rescue homes, etc. by university scholars and by 'outside' individuals (not
belonging to the organizations themselves) is necessary from time to time. One
cannot expect people from within an organization to find fault with their own
system. Review and planning must be structured into systems both by assigning
this duty to a particular position within the organization and giving it specific
time to do it, as well as assigning this duty to outsiders. What is thus needed is
concern for the victim rather than concern for the convenience of an
organization.

5. Changing Criminal Justice System

Three changes in this context may be suggested:

(a) change in the attitudes and values of judicial officials,
(b) establishment of women courts, and
(c) change in the police attitude.

(a) Change in the Attitudes of Judicial Officials

Magistrates and judges are human beings and can make mistakes. What
is important is the necessity of changing the rigid and traditional approaches on
which their decisions are based. Reorientation courses for magistrates should
be organized by institutes and universities so as to bring to their notice the
findings of empirical works undertaken by scholars on crimes, criminals,
victims, police, prisons, and rescue homes, etc. Instead of raising technical
points and acquitting the accused of committing cruelties against women,
particularly in cases of domestic violence, sexual violence and dowry deaths,
magistrates should give primary importance to circumstantial evidence. Before
the public loses faith in the judiciary, as it has lost faith in the police, before the
judicial judgments have a dampening and demoralizing effect on the people, magistrates have to learn to depend on sociological interpretation of law rather than continue to rigidly stick to legal precedents. It is also suggested that as far as possible, sexual assault cases be tried by women judges. Lastly, the courts should avoid disclosing the name of the victim in their order to save embarrassment to the victims.

(b) Establishing Mahila (Women's) Courts

The rationale behind the setting up of these courts is: (i) to lend a sympathetic ear (of female judges) to women victims who are unable to depose truthfully and fearlessly before male judges; and (ii) to deliver speedy trials to women as Mahila Courts are to deal with cases pertaining to women only. What is needed along with Mahila Courts is: (1) curbing loopholes in the trial process; (2) curbing corruption; (3) providing for speedy disposal of cases; and (4) interrogation of a female victim by a woman police officer, preferably in the presence of her relatives and under camera surveillance.

(c) Change in the Police Attitude

A separate cell for women may be created in the police department headed by a Superintendent of Police with a staff of inspectors, sub-inspectors, head constables and constables. This cell may be called “Offences against Women Cell”. It should cover all crimes such as rape, kidnapping, dowry-death, murder, wife beating, eve-teasing or sexual harassment etc.

Let us hope that with the incorporation of above stated suggestions, the high degree of violence against women in our society would become a thing of past in this new millennium because –

"The stark reality is that the future development of society lies in the future of women equally with men. Never has it been more apparent that women’s issue can not be compartmentalized and isolated as secondary issues in development".