



Chapter - 1

INDIAN SOCIETY

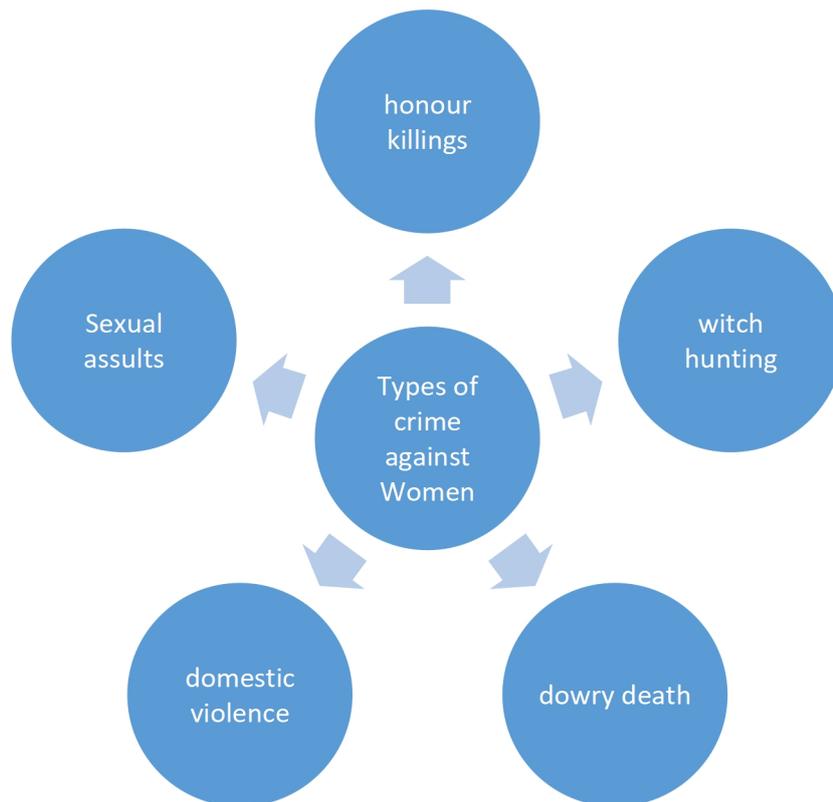
Crime against women

Nirbhaya rape incident in the national capital of Republic of India, mass molestation on the eve of new year party in Bangalore - the most technically sound city of India , recent incident rape of Dalit minor in Delhi are just few of the incidents that highlights that crime against women is independent of age ,class , caste , region and religion .

In this chapter we will discuss in details the crime against women- causes, initiatives taken and what more can be done to remove this new kind of apartheid.



INTRODUCION



The status of women mirrors the social, economic and political development of the country, women are facing a life cycle of violence right from their birth to old age with varying degrees of prevalence and forms. The atrocities perpetrated upon women at present have many manifestations, which include sexual assaults, domestic violence, caste-based discrimination, dowry-related deaths, honour killing, witch-hunting, sexual harassment, violence against sexual minorities, trafficking, and forced and/or early marriages. Besides, there are multiple concerns about the violence faced by women with disabilities, lack of access to sexual and reproductive rights, sex selection practices, among others.

The *United Nations Declaration on Violence against Women* provides a basis for defining gender-based violence. As per Article 1 of the Declaration, violence against women is to be understood as: "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 deprivations of liberty, whether occurring in public or private life".

LEVELS OF GENDER-BASED VIOLENCE:

There are three levels of gender-based violence. These are the home or family level, the community level and the state level.

Violence within the Home: Domestic violence is the most prevalent form of gender-based violence. It typically occurs when a man beats his female partner. Psychological abuse always accompanies physical abuse and majority of women abused by their partners are

abused many times. Physical, sexual and psychological violence against women within a couple and in the family, consists of sexual abuse, female genital mutilation and other traditional practices harmful to women and girls, marital rape, dowry-related violence, incest, non-spousal violence like a son's violence against his mother and violence related to exploitation and deprivation of freedom. Despite these available data on gender-based violence, there is no accurate information on gender-based violence in some countries. A culture of silence surrounds cases of violence against women in most countries like Nigeria, making it difficult to get a true picture of its extent. Some of the reasons why it is difficult to get an accurate account is that most of the gender-based violence occur in the private sphere – within families, inside homes, and out of sight.

Violence Against Women within the General

Community: Physical, sexual and psychological violence occurring within the general community include rape, sexual assault, sexual harassment and intimidation in school or work, forced treatments and abusive medication, the exploitation and commercialization of women's bodies which is mainly a result of unbridled

economic liberalism. These types of violence occurring within the general community also include contraception imposed on women by constraints or force, forced sterilization or abortions, selective abortion of female fetuses and female infanticide which are mostly ignored in society.

Violence Against Women Perpetrated by the State:

Physical, sexual and psychological violence are too often perpetrated or tolerated by states that prioritize custom or tradition over the respect of fundamental freedom. In some countries, the rise of religious fundamentalism is extremely disturbing about women's right to their economic autonomy and their freedom of choice. The social exclusion of women is so great that it constitutes a new form of apartheid.

Reasons for Atrocities and Crimes against Women



The Bureau for Police Research and Development (BPR&D) that functions under the administrative domain of the Ministry of Home Affairs conducted a Research Study on "National Survey on Status of Crime against Women in India". In its research, BPR&D studied different types of crimes against women, quantified incidences of crimes in different region/areas (Urban and Rural), identified factors for non-reporting and non-registration of crimes, profiled victims and offenders, identified structural weaknesses (law and society) contributing to the commission of crimes against women. The BPR&D identified the gaps in the enforcement system and gave a Recommendation on likely remedial action. Some of the key findings of the study included:-

- (i) Unmet expectations based upon rigidly defined gender roles were found to be the primary factor for domestic violence.
- (ii) Men use beating to “discipline” women not meeting their demands and expectations.
- (iii) Long-standing customs put considerable pressure on women to accept abuse.
- (iv) In most sexual assault cases, the perpetrators are persons known to the victim and could be from the neighborhoods or nearby places.
- (v) In many cases, the victims do not offer resistance as the victim may be badly traumatized. In 32% of the cases surveyed, victims had lost consciousness due to the administering of drugs.
- (vi) Despite the legal provisions and awareness, molestation and sexual harassment are not considered a serious offences. The cases are increasing even in Universities due to this reason, and that most of these incidents go unreported.
- (vii) Main public places where harassment occurs are bus-stops, spaces outside girls’ colleges and schools, and areas where coaching institutions are frequented by girls.

(viii) Kidnappings of women occur for various reasons depending on the region and include abductions for ransom and kidnapping for sexual exploitation.

The All India Women's Conference (AIWC) States that the main reasons for increasing atrocities and crimes against women are-

- ✓ Lack of awareness, education, employment opportunity and no fear of law.
- ✓ The situation has also aggravated due to shifting of population from rural to urban areas,
- ✓ Police apathy and delay in getting justice,
- ✓ Poverty,
- ✓ Changing family pattern of nuclear families,
- ✓ Patriarchal mindset, unequal power,
- ✓ Traditions & customs derogatory to women
- ✓ Resistance to change

a) Crime Against Women

Crime Incidence			Crime Rate			Percentage Variation	
2016	2017	2018	2016	2017	2018	2016 -2017	2017 - 2018
3,38,954	3,59,849	3,78,277	55.2	57.9	58.8	6.2%	5.1%

(Source: NCRB)

Higher incidence of crime was reported in the following heads:

Crime Head	Total Cases Reported
Cruelty by husband or his relatives	1,03,272
Assault on women with intent to outrage her modesty	89,097
Kidnapping & Abduction	72,751
Rape	33,356

crime against women - source - NCRB

State/UT-wise Cases Registered (CR) under Crime against Women during 2015- 2019

SL	State/UT	2015	2016	2017	2018	2019
1.	Andhra Pradesh	15967	16362	17909	16438	17746
2.	Arunachal Pradesh	384	367	337	368	317
3.	Assam	23365	20869	23082	27687	30025
4.	Bihar	13904	13400	14711	16920	18587
5.	Chhattisgarh	5783	5947	7996	8587	7689
6.	Goa	392	371	369	362	329
7.	Gujarat	7777	8532	8133	8329	8799
8.	Haryana	9511	9839	11370	14326	14683
9.	Himachal Pradesh	1295	1222	1246	1633	1636
10.	Jammu & Kashmir	3366	2850	3129	3437	3069
11.	Jharkhand	6568	5453	5911	7083	8760
12.	Karnataka	12775	14131	14078	13514	13828
13.	Kerala	9767	10034	11057	10461	11462
14.	Madhya Pradesh	24231	26604	29788	28942	27560
15.	Maharashtra	31216	31388	31979	35497	37144
16.	Manipur	266	253	236	271	266
17.	Meghalaya	337	372	567	571	558
18.	Mizoram	158	120	301	249	170
19.	Nagaland	91	105	79	75	43
20.	Odisha	17200	17837	20098	20274	23183
21.	Punjab	5340	5105	4620	5302	5886
22.	Rajasthan	28224	27422	25993	27866	41550
23.	Sikkim	53	153	163	172	125
24.	Tamil Nadu	5919	4463	5397	5822	5934
25.	Telangana	15425	15374	17521	16027	18394
26.	Tripura	1267	1013	972	907	1070
27.	Uttar Pradesh	35908	49262	56011	59445	59853
28.	Uttarakhand	1465	1588	1944	2817	2541
29.	West Bengal	33318	32513	30992	30394	30394
	TOTAL STATE(S)	311272	322949	345989	363776	391601
30.	A&N Islands	136	108	132	147	135
31.	Chandigarh	468	414	453	442	515
32.	D&N Haveli	25	28	20	38	49
33.	Daman & Diu	29	41	26	16	33
34.	Delhi	17222	15310	13076	13640	13395
35.	Lakshadweep	9	9	6	11	38
36.	Puducherry	82	95	147	166	95
	TOTAL UT(S)	17971	16005	13860	14460	14260
	TOTAL (ALL INDIA)	329243	338954	359849	378236	405861
	Source: Crimes in India					

Crime against women (source- Home ministry)

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Issue in Registration of Crimes Against Women

It is a general perception that cases of crimes against women and children are not getting registered at the police station and in time. This not only leads to delay and denial of justice to the victim and family but also encourages the perpetrators to commit crimes in the future.

It is important to give due importance to a complaint by women about sexual harassment or incidences of violence through free and easy registration of FIRs in any Police Station. In cases of delay in lodging an FIR by victim/family members etc., police must seek and record the reasons for the delay in the FIR sheet.

Case study of Rajasthan

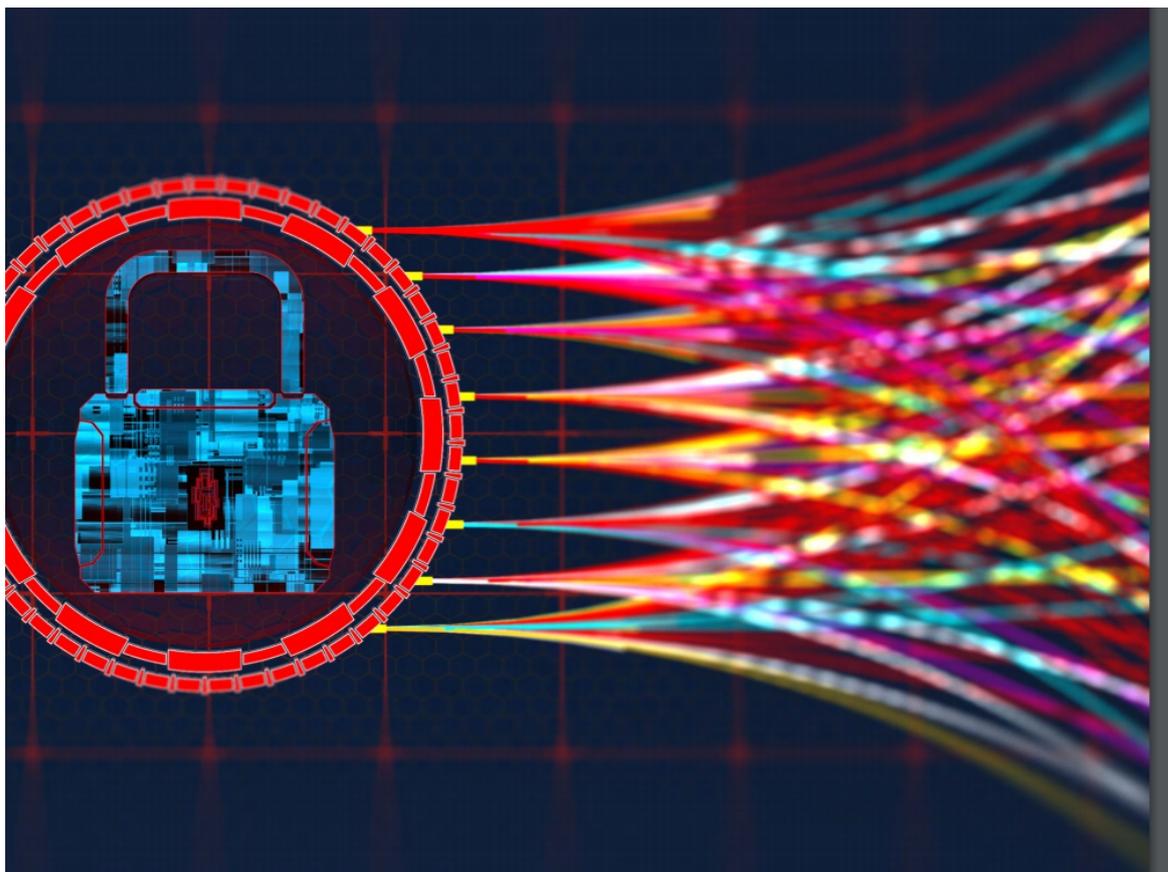
The State Government of Rajasthan has introduced hassle-free filing of FIRs which is also reviewed at the highest level. An administrative order has been issued to all the Superintendents of Police (SP) that in case a victim or a party comes to the office of the SP with a complaint that FIR has not been registered at the SHO level at the Police Station, the SP will register an FIR under Crime and Criminal Tracking Network & System (CCTNS) and send it for further investigation to the concerned Station House Officer (SHO). Further, an Additional Director-General (ADG) rank officer has been posted for looking after the crimes against women. For building confidence and empowering women, a system of reception has been developed in the Police Stations.

Cyber Crimes against Women

Cyber space is a complex environment consisting of interactions between people, software and services, supported by worldwide distribution of Information and Communication Technology (ICT) devices and networks. Regardless of the multiple benefits, it offers, cyber space

has emerged as the most pernicious domain adversely affecting the safety of women and children.

Cyber crimes are fast gaining ground in India. It's now ubiquitous as ICT devices have expanded their frontiers in rural areas making a vast segment of the population vulnerable to these new forms of crimes. The situation gets further worsened due to the prevalence of widespread illiteracy and technological ignorance among people.



Reasons for the increase in cyber crime

With the proliferation of the internet, the traditional ways of committing offenses have undergone a change. The increasing use of the internet, anonymity, availability of many social media platforms and lack of awareness on the safe use of cyber space could be the reasons for the growth of cyber crimes in the country.

Cyber crimes disproportionately affect the weaker sections, especially women and children. Cyber crimes like stalking, online harassment and bullying, sexting, etc., have suddenly acquired wide currency after the cyber space has become more populated and instruments to perpetrate these crimes in the cyber space have become widespread. These crimes are difficult to trace and investigate because they are anonymous.

Legislative provisions for handling cyber crimes in the country

1. *Information Technology Act, 2000*

- (i) Section 66E: Punishment for violation of privacy.
- (ii) Section 67: Punishment for publishing or transmitting obscene material in electronic form.
- (iii) Section 67A: Punishment for publishing or transmitting of material containing the sexually explicit act, etc., in electronic form.
- (iv) Section 67B: Punishment for publishing or transmitting of material depicting children in the sexually explicit act, etc., in electronic form.
- (v) Section 75: Act to apply for offense or contravention committed outside India.

2. The Protection of Children from Sexual Offences (POCSO) Act, 2012 as amended in 2019

- (i) Section 14 (1) Punishment for using a child for pornographic purposes.
- (ii) Section 15 (1) Punishment for storage of pornographic material involving a child.

3. Indian Penal Code, 1860

- (i) Section 354A - Sexual harassment and punishment for sexual harassment.
- (ii) Section 354C- Voyeurism.
- (iii) Section 354D –Stalking.

(iv) Section 509-Word, gesture, or act intended to insult the modesty of a woman.

Constitutional Provisions for women

- ✓ Article 14, confers on men and women equal rights and opportunities in political, economic and social sphere.
 - ✓ Article 15, prohibits, discrimination against any citizen on grounds of religion, race, caste, sex etc.
 - ✓ Article 16, provides for equality of opportunities matters relating to employment or appointment to any office under the state.
 - ✓ Article 39(a)(d), mentions policy security of state equality for both men and women the right to a means of livelihood and equal pay for equal work for both men and women.
 - ✓ 42, Direct the State to make provision for ensuring just and humane conditions of work and maternity relief.
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Various initiatives by Government-

Initiatives of the Ministry of Home Affairs

To facilitate States/Union Territories in the prevention of crime, timely action by law enforcement agencies in cases, especially in crimes against women, the Ministry of Home Affairs has undertaken the following initiatives in recent years:

- (i) Investigation Tracking System for Sexual Offences (ITSSO)- It is an online analytical tool, which has been launched to monitor and track police investigations in two months in sexual offenses as per the Criminal Law (Amendment) Act, 2018. The matter is being reviewed with the States/UTs periodically, including in the Inter-State Zonal Council meeting based on ITSSO data.

- (ii) National Database of Sexual Offenders (NDSO) - The NDSO has stored data of nearly 9 lakh sexual offenders in the country. The Police officers in the process of investigation can use this database to identify repeat offenders and receive alerts on sex offenders. Employers can request the Police for verification of their employees working in vulnerable areas, like educational institutions, hotels, public transportation, etc.

(iii) Adjourment Alert module- The alert mechanism module has been developed as a step towards facilitating States/UTs to ensure timeliness in the disposal of criminal cases. As per the new feature, whenever a Government Prosecutor seeks an adjourment in a criminal case more than twice, the system has a provision to send an alert to senior officers to prevent unavoidable delays.

(iv) Cri-MAC (Crime Multi-Agency Center)- The Cri-MAC facility was introduced on 12th March, 2020, for police stations and higher offices in all States/UTs to share information on heinous crimes and other issues related to coordination in cases of inter-state crimes. It can be used to spread alerts /information on crimes and inter-state criminals to the States/UTs through email and SMS.

(v) Modus Operandi (MO) module- It has been made available online for investigating officers across the country. This feature can act as a vital investigative aid for police officers. States and UTs have been asked to use this facility and trainings have also been undertaken by the National Crime Records Bureau (NCRB).

(vi) Emergency Response Support System (ERSS) - It is a pan-India, single, internationally recognized number, i.e. 112 based system for various emergencies, with the computer-aided dispatch of field resources to the location of distress. In addition to this, two National level Automatic Alert Services have been launched that generate and send alerts to concerned police stations on missing & found the person and missing & found vehicle matches.

(vii) Cyber Crime Prevention against Women and Children (CCPWC) scheme- It has been initiated for the prevention of cyber crimes across the country. The Scheme promoted the dissemination of messages on cyber crime awareness through SMS, Twitter handle @Cyber Dost, Radio campaign & publishing of Handbook for Adolescents / Students, etc.

Apart from the above, the Ministry of Home Affairs has also approved and allocated funds for setting up and strengthening of Women Help Desks in Police Stations, including Police Stations in rural areas, setting-up Anti-

Human Trafficking Units (AHTU) in all districts, the establishment of State Forensic Science Laboratories (FSLs) in States.

Role of the Ministry of Women & Child Development

The Ministry of Women & Child Development (MOW&CD) is the nodal Ministry for the advancement of women and children. It formulates plans, policies/programmes, guides and coordinates the efforts of both governmental and non-governmental organizations for the safety of women and children.

Apart from the IPC and CrPC, there are Special and Local Laws (SLL) which are administered by the Ministry of Women & Child Development which include:

(i) The Immoral Traffic (Prevention) Act, 1956 The Act is the premier legislation for the prevention of trafficking for commercial sexual exploitation.

(ii) The Dowry Prohibition Act, 1961 The Act was enacted recognizing the need to address the social evil of dowry. The Act defines dowry and penalizes

the giving, taking or abetting the giving and taking of dowry.

(iii) The Protection of Women from Domestic Violence Act (PWDVA), 2005 The Act recognizes the right of all women to live free from violence occurring within the private sphere of the home.

(iv) The Prohibition of Child Marriage Act (PCMA), 2006 The Act was enacted to prohibit the solemnization of child marriages where a person who is a female has not completed 18 years of age and if a male has not completed 21 years of age.

(v) The Sexual Harassment of Women at the Workplace (Prevention, Protection and Redressal) Act (the SH Act), 2013 The Act was enacted to provide a safe and secure environment to women at the workplace.

(vi) Protection of Children from Sexual Offences Act (POCSO), 2012 The Act was enacted as a special law for the protection of children from the offense of sexual assault, sexual harassment and pornography while safeguarding the interest of the child at every stage of

the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offenses through designated Special Courts to protect children from sexual abuse and exploitation. It has been amended in 2019 to make it more effective in dealing with cases of child sexual abuse in the country.

(vii) Juvenile Justice (Care and Protection of Children) Act, 2015 The Act was enacted to consolidate and amend the law relating to alleged children found to be in conflict with the law. It also covers the need for care and protection of children by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children. The law also caters to their rehabilitation through the process provided, institutions and bodies established.

Other initiatives

To facilitate proper monitoring and implementation of the laws relating to children, the **National Commission for Protection of Child Rights (NCPCR)** has been set up as a statutory body under the administrative control of the Ministry of Women & Child Development. The Commission's mandate is to ensure that all laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child.

The **National Commission for Women (NCW)** - The NCW investigates and examines all matters relating to constitutional safeguards for women; looks into complaints of non-compliance of policy decisions, guidelines, or instructions aimed at mitigating hardship and ensuring welfare and relief to women. It also takes suo-moto notice of matters relating to deprivation of women's rights and has a 24x7 online complaint portal for crimes committed against women. The Commission has also been working with different State Commissions and investigating the complaints throughout the country

Beti Bachao Beti Padhao (BBBP)-It aims to prevent gender-biased sex selective elimination, to ensure the survival and protection of the girl child, to ensure her education, with an overall aim of increasing the child sex ratio and to address issues of disempowerment of women over a life-cycle continuum.



One-Stop Centres (OSCs)- It has been established across the country to strengthen mechanisms for addressing concerns of women affected by violence, facilitate access to an integrated range of services including medical aid, police assistance, legal aid/case management, psychosocial counseling, and temporary support services to women affected by violence.

Universalization of Women Helpline (WHL) Scheme-

It is being implemented since 1st April, 2015 to provide an immediate and 24-hour emergency and non-emergency response to women affected by violence across the country by referral service.

Swadhar Greh Scheme- It envisions an institutional framework for supporting widows, destitute women and aged women.

Ujjawala Scheme- It has been launched to prevent trafficking of women and children for commercial sexual exploitation, to facilitate the rescue of victims and for placing them in safe custody, to provide rehabilitation services by providing basic amenities/needs, to facilitate the reintegration of victims into the family and society, and to facilitate the repatriation of cross border victims.

Sexual Harassment Electronic Box (SHe-Box, www.shebox.nic.in) -It is an online portal developed to enable women to file complaints related to sexual

harassment at the workplace irrespective of their work status.

National Cyber Crime Reporting Portal- It has been developed by the Ministry of Home Affairs to facilitate online reporting of complaints pertaining to online Child Pornography/ Child Sexual Abuse Material or sexually explicit content such as Rape/Gang Rape content.



Nirbhaya Fund

The Government of India has set up a dedicated fund called Nirbhaya Fund for the implementation of initiatives aimed at enhancing the safety and security of women in the country. Under the Nirbhaya Fund, the proposed projects should have the features like a direct impact on safety and security concerns of women, optimum use of existing infrastructure, innovative use of technology, no duplication of existing government schemes/programmes, provision for real-time intervention as far as possible. The Central Ministries/Departments, States/UTs, Autonomous and other government bodies can submit proposals as per the prescribed procedure. The Ministry of Women and Child Development is the nodal authority .

Role of the State Governments

As per the Seventh Schedule to the Constitution of India 'Police and Public Order' are State subjects, so, the primary responsibility of prevention, detection, registration, investigation and prosecution of crime lies with the State Governments/ UT Administrations. The States are also making legislative and schematic interventions for the protection, welfare, safety and security of women & children. Therefore, the State

Role of the Non-Governmental Organizations

The Non- Governmental Organizations (NGOs) are supplementing the efforts of the Government at the Centre and State levels and playing important role in curbing atrocities and crimes against women & children. They are working at the grass-roots level towards empowering women by helping them in getting education and health services, skill development, financial support, raising awareness, etc. The NGOs are also working for the rehabilitation of victims of violence by providing shelter, legal assistance, medical aid, counseling services to help them to live with dignity and bring back into the social fabric.

Governments are important stakeholders in preventing atrocities and crimes against women & children.

The Indian Penal Code, 1860 (IPC) - Summary

Section in IPC	Provision
Sec 166A	Public servant disobeying direction under law
Sec 166B	Punishment for non-treatment of victim
Sec 228A	Disclosure of identity of the victim of certain offences, etc
Sec 304B	Dowry death
Sec 313	Causing miscarriage without woman's consent
Sec 314	Death caused by act done with intent to cause Miscarriage. if act done without woman's consent
Sec 326A	Voluntarily causing grievous hurt by use of acid, etc
Sec 326B	Voluntarily throwing or attempting to throw acid
Section 354	Assault of criminal force to woman with intent to outrage her modesty
Section 354A	Sexual harassment and punishment for sexual harassment
Section 354B	Assault or use of criminal force to woman with intent to disrobe
Section 354C	Voyeurism
Section 354D	Stalking.
Section 366	Kidnapping, abducting or inducing woman to compel her marriage, etc
Section366A	Procuration of minor girl
Section 366B	Importation of girl from foreign country

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Section 166A	Public servant disobeying direction under law

WAY FORWARD

Violence against women in the country is getting more frequent and alarmingly with huge sound. It is creating pressure and heavy responsibility over the shoulders of every citizens. However, there is urgent need for women to be empowered and responsible to themselves to understand all the rights and take benefits.

Following recommendations have been given by various committees in order to curb crime against women and these recommendations must be implemented without any delay-

- ✓ Developing and promoting online registration of FIR for different categories of complaints . MHA should issue a detailed advisory to all the States/UTs

- ✓ Police must seek and record the reasons for the delay in the FIR sheet. The MHA should introduce Zero-FIR in all the States and Union Territories.
- ✓ Those individuals who register false cases must not get off scot-free. The MHA should advise States to take strict actions against the Police personnel and individuals who have registered false cases. The MHA may take up the matter with the Ministry of Law and Justice and if need be, laws should be amended to add stringent provisions against false cases.
- ✓ The media should focus more on publicizing the penalty/punishment imposed on the culprits than the incidents of crime. This will certainly not only create fear of law but will also act as a deterrence. The MHA should take up the matter with the concerned Ministries to ensure non-disclosure of identities of victims and provide protection to the victims and families which has also been the observation of the Hon^{ble} Supreme Court of India.

- ✓ There is a strong requirement for establishing a network of forensic laboratories in the country as the forensic evidence are of crucial importance in the investigation and filing of charge sheets leading to the presentation of a higher number of cases before the Courts. At least one forensic laboratory in every State capital in the country, on priority.

- ✓ The MHA should also work out a mechanism for gathering information on reasons for the delay in the investigation in criminal cases .

- ✓ The adequate representation of women (at least 33%) in Police forces must be ensured.

- ✓ There is need to publicize and promote the use of helpline numbers notified by them in respective States in an aggressive and continuous manner. This should compulsorily be done in regional and local languages through mainstream print, electronic and digital media, public transports, advertisements, TV channels, social media, cover page of school books, etc.

- ✓ There has been a large number of cases under the POCSO Act where the age of the juveniles has been below the threshold age for applicability of the law. Therefore, it is very important to re look at these provisions because more and more juveniles are getting involved in such crimes.

- ✓ Creation of Internal and Local Committee to provide redressal in cases of sexual harassment against women employed in both formal and informal sectors.

- ✓ The district administration may conduct surveys of different workplaces and types of work that women in their districts are involved and constitute local committees accordingly. The women working in informal sectors are poor and migrant workers and are uneducated, unaware of the laws and whom to approach in case atrocities and crimes are committed against them.

- ✓ States must sensitize their employees by organizing orientation and awareness programmes at regular intervals about the legal provisions, Sexual Harassment Electronic Box Portal and helpline numbers dealing with violence against women.

Model questions-

1. The phenomenon of violence against women within the family in India is complex and deeply embedded. Discuss.
2. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles..Elaborate
3. Despite various safeguards crime against women has shown upward trend.Explain the causes for the same.

Think -

1. Child abuse
2. Beti padhao and beti Bachhao
3. Domestic violence