

“Justice”, Are We Getting It In The True Sense? Impact Of Amendments In Criminal Laws And Juvenile Justice

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Introduction

During the Vedic period the status of women was quite high, and they were given lot of respect and honor in the society, but it deteriorated with the passage of time. During the freedom struggle of India, there were many notable women who contributed in the different movements and reached to the top. Women were given equal opportunities like men to develop themselves socially, intellectually and morally. Indian society is a male dominated society and slowly women were treated as man's slaves and with times they became the weaker sex in the society. Still at most of the places in the country, women are ill-treated by the men even after the fast development in the society. Gradually the women got educated and this was the opening up of the new skyline for womanhood in India.

Like in the western countries, in India too women are provided many rights (both legal and constitutional), but because of poor implementation of law we are still lacking behind. One of the important principle of Indian Constitution is gender equality. In order uphold and implement the Constitutional Command, the State has enacted various laws and taken measures intended to ensure equal rights, check social discrimination & various forms of violence and atrocities. Although women may be victims of any of the general crimes such as 'murder', 'robbery', 'cheating', etc. only the crimes which are directly against women i.e. gender specific crimes are characterized as 'Crimes against Women'.

Crimes against women in India²

A total of 3,27,394 cases of crime against women (both under various sections of IPC and SLL) were reported in the country during the year 2015 as compared to 3,37,922 in the year 2014, thus showing a decline of 3.1% during the year 2015. These crimes have continuously increased during 2011 - 2014 with 2,28,650 cases in 2011, which further increased to 2,44,270 cases 2012 and 3,09,546 cases in 2013, to 3,37,922 cases in 2014. It declined to 3,27,394 in 2015. The proportion of IPC crimes committed against

² National Crime Records Bureau 2015

women in total IPC crimes has increased during last 5 years from 9.4% in the year 2011 to 10.7% during the year 2015.

Proportion of crime against women (IPC) towards total IPC crimes

Sr. No.	Year	Total IPC Crimes	Crime Against women (IPC cases)	Percentage to total IPC crimes
1	2011	23,25,575	2,19,142	9.4%
2	2012	23,87,188	2,44,270	10.2%
3	2013	26,47,722	2,95,896	11.2%
4	2014	28,51,563	3,25,327	11.4%
5	2015	29,49,400	3,14,575	10.7%

Source: - National Crime Record 2015

Juveniles in conflict with law

'Juveniles in Conflict with Law' means a person who has not completed 18 year of age and who comes into contact with the justice system as a result of being suspected or accused of committing the crimes. Data on juveniles in conflict with law is based on police recorded First Information Report (FIR) only irrespective of final order. Data are being captured through a prescribed preformat, some information, relating to demographic details of juveniles, might be collected from juveniles' home/special home.

The share of IPC crimes registered against juveniles to total IPC crimes registered in the country during 2005 was at 1.0% which marginally increased to 1.1% in 2006 and remained static in 2007. This share increased marginally to 1.2% in 2008 thereafter decreased to 1.1% in 2009. This share further decreased to 1.0% in 2010 and thereafter marginally increased to 1.1% in 2011. Further, the share increased marginally to 1.2%

in 2012 and remained static at 1.2% in 2013 and 2014. Furthermore, the share has marginally decreased to 1.1% in 2015. ³

Legal Provisions Pertaining to Crimes against Women (Parliament Library & Reference and Information Service, 2013)

Constitutional Provisions:

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.

Article 42, Direct the State to make provision for ensuring just and humane conditions of work and maternity relief.

Legal Provisions:

Factories Act 1948: Under this Act, a woman cannot be forced to work beyond 8 hours and prohibits employment of women except between 6 A.M. and 7 P.M.

Maternity Benefit Act 1961: This Act provides a Woman is entitled 12 weeks maternity leave with full wages.

The Dowry Prohibition Act, 1961: Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.

The Equal Remuneration Act of 1976: This act provides equal wages for equal work: It provides for the payment of equal wages to both men and women workers for the

³ *National Crime Records Bureau 2015*

same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment.

The Child Marriage Restrain Act of 1976: This act rises the age for marriage of a girl to 18 years from 15 years and that of a boy to 21 years.

Indian Penal Code: Section 354 and 509 of this Act safeguards the interests of women.

The Medical Termination of Pregnancy Act of 1971: This Act safeguards women from unnecessary and compulsory abortions.

Amendments in Criminal Law 1983, provides for a punishment of 7 years in ordinary cases and 10 years for custodial rape cases.

Protection of Women from Domestic Violence Act, 2005: This Act protects women from any act/conduct/omission/commission that harms, injures or potential to harm is to be considered as domestic violence. It protects the women from physical, sexual, emotional, verbal, psychological, economic abuse.

Protection of Women against Sexual Harassment at Workplace Act, 2012: This Act aims at protecting the women at workplace not only to women employee but also to female clients, customer, students and research scholars in colleges and universities patients in hospitals.

In spite of several constitutional and legal provisions the position of crimes are unaffected and there is a tremendous increase per day in their commission. Even after the amendment which took place after the famous case of Nirbhaya in reality there is an increase in the commission of crime as the provisions of law fails to have any impact on the offenders.

Review of Literature

Dr. B.K. Das (2016) (Das, 2016) As far as practicable, a child to be rehabilitated and restored to the family. The special court to adopt the doctrine of parent's patria while adjudicating the matter of child in conflict with the law. The article evaluated the JJS in India in the light of constitutional philosophy and International parameters.

Dr. Sameera A. Raees, Dr. Smriti A Pathak (2016) (Dr. Sameera A Raees, 2016) The paper tries to study about the enactments which protect women against crimes, their effective implementation and the success of various enactments in the prevention of crimes against them.

Aditya Parihar, Ms. Nirmala Devi, Amrit Kaur, Shishir Sharma (2015), This paper deals with the issues of crime against women in Indian society. Thus, theme of the present research paper is based on different types of gender crime/violence perpetrated against women in Haryana. The introductory part of the paper throws light on NCRB data on crime against women in Haryana in comparison to India. Second part of the paper will discuss the two types of crimes, one leading to death of a woman and not leading to death of a woman. Third part will deal with reasons for increase in crime against women and its consequences. Finally, the last section will focus on conclusion part of the paper.

Mousumi Dey (2014) (Dey, 2014) This paper starts with describing the evolution of Juvenile Justice Legislation, from pre-independence era to Post-independence India; and specially looks at the guidelines of Juvenile Justice Act, 2000. In spite of the presence of that welfare law for such children, there is a rise in the number of Juvenile offenders across the country. So, a pertinent question peeped in our mind whether Juvenile offenders who commit heinous crimes should be treated as adults. The paper also tries to find out the causes and types of Juvenile Crimes in our society. In the concluding part, some suggestions have been made for preventive measures of Juvenile Crimes.

Ravindra Bhaskar Gooi, Shailesh R. Deshpande (2013), Violence against women has long been a problem, in times of peace and war. This violence ranges from very mild teasing to rape and murder, and takes place at home, in the streets, at work places, jails, in short everywhere. Few crimes against women are reported, fewer still prosecuted, and a negligent number of accused are actually punished. In the absence of detailed studies on incidence, it is difficult to come up with suggestions to reduce if not abolish such violence. There is an urgent need for more studies on this violence so that the psychology of the violators is better understood. Instances of violence

need to be thoroughly investigated, and ways and means devised to reduce their incidence. There is need for quick and severe punishment for the accused, which would act as a deterrent too.

Haveripeth Prakash D. (2013) (D., 2013) The paper focuses on the issue of age determination – possibly the biggest loophole when it comes to misusing the statute that was legislated with the intent of being child friendly and the objective of meeting the requirements of conventions on the rights of the child.

Dr. Madhuker Sharma (2013) (Sharma, 2013) The J.J. Act of 2000 through which the cut-off age for a male juvenile was increased from 16 years to 18 years has proved to be ineffective. The attainment of age of maturity by a male person in our society has decreased in last few decades; now, a male person of 15-16 years of age is considered mature enough to comprehend and understand the consequences of his acts. The issue of settling the cut-off age for a male juvenile in our criminal justice system must be re-examined while taking care of the present day ground realities; and views of those who actually deal with juvenile offenders must be made part of this task.

Megan C. Kurlychek, Brian D. Johnson (2004) (Johnson, 2004) This study uses criminal courts data from the Pennsylvania Commission on Sentencing to investigate the sentencing of juvenile offenders processed in adult criminal court by comparing their sentencing outcomes to those of young adult offenders in similar situations.

Statement of Problem

Is the amendment in Criminal Laws and Juvenile Justice made any change in the reduction of commission of crime?

Are criminals really afraid of punishment provided under the ACT's after amendment?

What is the meaning of justice in true sense?

What are the reasons which contribute to the commission of crimes?

To justify the above problem statement the objectives of the paper are:-

Objectives of the Paper

1. To study the provisions which are present in the Constitution and other laws to prevent crime against women.
2. The impact of amendment in reduction of crimes against women.
3. To suggest the measures which government and other authorities should take that will result in the reduction of crimes?
4. Are victims getting justice in the true sense?
5. Is there any requirement for further laws to be made?

Meaning of justice

The concept of justice is based upon the rights and duties of an individual. Between persons, justice consists in upholding right behavior and the courts can adjudicate between persons. The role of the judicial process is, therefore, the resolution of conflicts. Since the dawn of civilization many attempts has been made to define justice but still it remains a question that what is justice in the true sense. Justice signifies Equality or to be exact a "fair mean." which renders men to do just things. Sometimes it seems as a question of technique: and thereby stood as the problem of what will guide the techniques of constructing social order. At other times it appears as a problem of legitimacy or put another way as an answer to the question of what will provide a rational framework. Justice is judging the adequacy of the regulation of human relations. Justice is social happiness guaranteed by social order. Justice can be taken as fair and equality of opportunity to all. It denotes the rights and duties on individuals which if taken in a proper manner justice can be imparted in effective manner.

Crime and Justice

The society in which we are living is going through many changes every day. When we discuss about the commission of the crime the first question which come to every body's mind is what was the reason an offender has committed the same and why he has committed. Since independence the answer always lies in societal values, culture, economic conditions, poverty and some enmity in the past which result in

crimes. Of course these are the basic reasons for which a person commits a crime but one more reason lies behind the commission and that reason is JUSTICE which a person has not received in some form for which he/she is entitled. It's not only the court which fails to provide the justice to a person but it can be any situation or person who has done something wrong to someone and which led to the commission of crime.

When we talk about justice we think about Indian courts and we believe that they can definitely give us the justice in the true sense. But are they providing justice? When a person gets the justice in a period of 20 years 30 years and even in some cases 48 years⁴ can we say that it is justice in a true sense. As it is rightly said "Justice Delayed is Justice Denied". The policies of the government which are not reaching at the ground level for example a person wants to study and because of the policy guideline he or she is not getting admission anywhere, so on one side we claim that education is the right of an Indian citizen on the other hand we are claiming that the policies are not allowing a person to study anywhere. Crime and society go hand in hand and imparting of justice depends on the working of the judicial system of any country. Whenever if a person don't get justice it will result in the commission of crime. As a human being we have a capacity of tolerance up to a certain limit and after that limit it always result in the involvement of a person in a wrong direction.

Another reason in the increase of commission of crime is that the offenders are not afraid of the punishment provided for the crimes as the delay in imparting gives them the boost that when the court is going to decide the case in 20 to 25 years, who is going to get the justice and penalty. Delay in justice leads to the commission of the crimes and that's the reason which is directly resulting the increase of crime. As the essence of criminal law is to provide justice in time and when the Indian Judicial system is lacking behind it is difficult to prevent crimes in the country. In the recent judgment⁵ given by special CBI Court, the honorable court has taken 15 years to

⁴ *Times of India* September 11, 2017

⁵ *Times of India* August 28, 2017

decide on the guilt of a person and during the said period the crimes continues to happen in the same manner. If the court has imparted its judgment in less amount of time it will not result in the several other crimes in the same area and form. The same happens in Shyam Narayan Chouksey V/S Union of India if in such cases court take a time of 13 years to give the decision then what will happen to the criminal cases and the victims have to wait for 20 to 25 years for the justice. Till now in Nirbhaya's case, death sentence have not been executed in spite honorable Supreme Court announced the judgment and maintain the lower court judgment as it is and considers it as a rarest of the rare case. So where is the justice? Do the victim have it?

Justice in case of Juveniles

Law works in the proper manner only if it is implemented properly. Executives must ensure that the provisions of the JJ Act should be implemented in the true sense which help our judiciary to do justice towards the juveniles and by the process of rehabilitation they can be a part of society.

Lack of proper values and culture sometimes leads to the conversion of several juveniles into offenders. It is also the responsibility of the state to implement such rules which provide facilities to under privilege children so that they can have the opportunity of getting a better future. Today children's in remand homes or observation homes are not safe and there are chances of further abuse. The law should also take care of the administration of remand homes or else it will lead to further crimes if the child will not receive the healthy environment to develop.

Findings and Suggestions

Implementation of Justice in a True Sense

In the present paper we have discussed the provisions provided by law to prevent crimes against women. Law has given numerous provisions to protect the modesty of women but how far they are implemented and taken care of is a big question. The time within which the criminal cases are decided means a lot when we takes justice in the true sense. Some of the measures can be taken while imparting justice by the courts

1. Death Penalty should be made mandatory if the crime is committed repeatedly by the offender and includes exploitation of the victim to a great extent.
2. Separate speedy trials court should be formed so that the trial can be completed in a pre-defined time. Many a times it is found that the dates of the trials are postponed number of times which results in unnecessary delay in justice. Even after the filing of charge sheet the trial takes years to start in many cases.
3. High Courts should be given exclusive jurisdiction in criminal cases against women.
4. The judgment time should be within a period of 6 months to 1 years as in other court cases pertaining to speedy trials.
5. It cannot be admitted with confidence that the investigation done by the officials in collection of evidence is complete and leaves a zero room for the court for erroneous convictions. It will help in the disposal of the cases as such cases keep the victim in mental trauma till the time the case is not decided and the victim gets the justice.
6. The provisions of granting bails should be made more stringent so that they should not be used as a loop holes of law after the commission of the crimes.

Advocates should not be allowed to take more than 5 cases unless they complete the same in a predefined time limit. Nature of punishment should be equivalent to the severity of the crime or else criminals will consider the law provisions as granted and it will be assumed that our legal provisions are not capable to penalize them. The law provides so many if and buts which provide the offenders to come out of the law and enjoy the freedom.

Restriction on Internet Usage

Un-restricted availability of Internet in the country has given more ideas and ways to offenders of committing the crimes and a big cause in the increased number of crimes today.

As far as legal provisions are concerned and the Enactments of Parliament providing security and safety to the citizens, all of them are good on papers, but when it comes to practical scenario of commission of crimes it is well proved by the statistical data of NCRB's that all the legal provisions and enactments are just a myth and have no practical value in eyes of offenders. In the country like India this should be realized by the Government that still the literacy rate and the psychological conditions of the citizen are not so mature that they can judge between right and wrong and if anything given to them in unrestricted manner that will result in crimes only. Government should banned all internet sites by making stringent laws which are available acquiescently to all the citizen and through which either they got the idea or provocation to commit the crimes. When there is an age limit for all other things like right to vote, marriage, driving etc. there should be age limit provided by the government below that the usage of internet is not allowed. In several countries many internet sites are blocked by the government and general public are not allowed to use the same. Such type of immediate actions are required in our country also if we want to minimize the crime rate.

Current Position of Society

If we take the current position of the society it is clear that in today's world no crime is left which is not happening on the daily basis whether is against women, children or adults and the victims are of any age. Criminals are not taking into consideration any specific age against which they are committing crimes and as such the victims can be from 1 year to 90 years. Even recently the crimes have started in schools which are the places of utmost faith and safety⁶. When the intention and courage of criminals are up to such an extent then it's the time to rethink for the government and policy making authorities to provide such methods through which the process can be made simple and justice can be implemented at the earliest. More and more information cells and complaint registration cells should be formed at the village or taluka levels as it's difficult for the people who resides in the interior parts of the

⁶ <http://indiatoday.intoday.in> September 9, 2017, <http://www.thehindu.com> September 10, 2017

country to reach the officials when the crime took place. Today media is playing a vital role in bringing out the crimes at its initial stage of commission still thousands of cases are there which not even reported anywhere because of lack of administration and other irregularities. In imparting justice it's not law which is creating hindrances but it's the process of getting justice and the implementation which is so complicated and time taking that cannot be called as justice in the true sense. The methods, procedures and other administrative formalities should be made simple for the citizens so that they take help of law in case of commission of crime and should not try to decide upon the case themselves.

Separation of Powers and Rule of Law

The most important part of our constitution is separation of powers at three (legislative, executive & judiciary) different levels. It's time to have focus on this principle and all the different powers of the government should work in their own area and should not interfere in each other's boundaries.

Rule of law implies that every person is subject to the law of the land, including people who are lawmakers, law enforcement officials, and judges. But in our country the application of law is on the basis of social and economic position of a person and not on the basis of the crime committed by him. Unless rule of law is followed in its strict sense no one can achieve justice ever and we are not authorized to even speak about justice.

There is so much delay in reporting the crime that ultimately gives the offenders a boost to commit the crimes as they are aware when no one is ready to report the crime who is going to punish us and do the justice.

Timely Justice

The most important issue JUSTICE is still unresolved. Are victims get justice in time? Justice is social happiness guaranteed by social order. Justice relates to the extent of justice, the time of imparting the justice and judgment given by the courts. Criminal Justice is the system of practices and institutions of governments directed at upholding social control, deterring and mitigating crime, or sanctioning those who violate laws with criminal penalties and rehabilitation efforts. One problem is that

attorneys, judges and legislatures often get caught up more in procedure than in achieving justice for the victim. The implementation of law and the procedure is so lengthy that it automatically results in injustice. Now the time has come that the legislature and other law making authorities should think on this issue and try to make the implementation of legal rules more simplified and easy to understand so that the work of courts should be curtailed and justice can be imparted timely to all so as to keep the society in peace and harmony. Unless the rule of law is followed in the true sense the idea of attaining the just society is intensely challenging in today's world.

Unless punishment for the crime is given to offenders within the prescribed time which is not possible in the current legal system, increase in its commission will grow day by day. If one is getting the punishment after 25 years, it will show the flaws and incompetence of laws to provide justice and will keep the same position for next 100 years. Delay in justice makes the offenders not being afraid of law but make them more courageous to commit the crimes and enjoy the freedom.