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## STUDY OF WOMEN'S RIGHTS AFTER JUSTICE VERMA COMMITTEE REPORT

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### ABSTRACT

*The study is an attempt to understand the plight of women and the present legal provisions to protect women rights. This also focuses on the changes that have taken place after the implementation of Nirbhaya Act and the formation of Verma committee. The hindrances that still prevail in the criminal justice system, the reforms that were made to protect women, the attempt to make safe work place for women, the amendments in the laws, and the change in the attitude of the society are some of the key areas of the study in this article. This paper does a depth analysis of the prevailing legal system and highlights the failures as well as the success of the existing legal system in protecting women rights and focuses on the policies and the reforms that were suggested by the Supreme Court and various committees on women rights and the method to implement those policies and reform.*

### INTRODUCTION

***“If you teach a man, you teach a man. But if you teach a woman, you teach a generation.”***

Women, a mother, a sister, a wife, a daughter, are revered as Goddess in certain section of the Indian society. As Swami Vivekananda had said “That country and that nation that do not respect women have never become great, nor ever be in future”. But, the irony gives a hideous smile when the same woman is treated as a slave, as an object and as a means of satisfaction. The greatest paradox is that they are humiliated, left to feed by themselves, subject to male chauvinism, large scale exploitation and oppression by the society. They are in perpetual chain of male hegemony which has become invincible in our society. When we try to analyse these perspectives through the Indian context, the situation is graver and more disturbing. The sex ratio of our country is

abysmally low at 943 females per 1000 males.<sup>1</sup> Women are victims of some heinous crimes like rape, eve teasing, dowry, domestic violence, female infanticide, acid attacks, child marriage, immoral trafficking, mental cruelties etc.<sup>2</sup> In fact, in many of the households they are allowed to live beneath the shoes of their husbands and fathers.<sup>3</sup> The biggest threat to women is widespread rape cases which increases the tension of safety for them. After the wake of Delhi rape case in 2012, the SC directed a formation of a special committee which recommended several things which can change the course of thinking and working of the law for the benefit of women.<sup>4</sup>

### LEGAL STATUS OF WOMEN

The Constitution guaranteed safeguards to women. It guaranteed women equality (Art. 14), no discrimination by the State (Art. 15(1)), equality of opportunity for everyone in country (Art. 16) and through DPSP equal pay for equal work (Art. 39(d)). Apart from this, the founding fathers of our Constitution also gave some special rights for women which can help them to come on par with men. It allows special provision to be made by the State in favour of women and children (Art. 15(3)). These special provisions can be revisited from time to time and can be moulded according to need of women. Beside all these constitutional provisions, women are also provided with the legal security to secure their overall development starting from economic lives to social and cultural lives. There are various efforts which have been initiated by the government in the interest of women's safety. For example, Dowry Prohibition Act 1961, National Commission for Women Act 1990, Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1999, Protection of Women from Domestic Violence Act 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act 2013 etc. Taking the example of recent development under present government The Maternity (Amendment) Bill 2017, an amendment to the Maternity Benefit Act, 1961 received an assent from President of India on March 27, 2017.<sup>5</sup> It

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<sup>1</sup> Sex ratio is used to describe the number of females per 1000 of males. <https://www.census2011.co.in/sexratio.php>, last retrieved on 15:45 IST, 22-05-2017

<sup>2</sup><http://www.azadindia.org/social-issues/crime-against-women-in-india.html>, last retrieved on 12:34 IST, 23-05-2018.

<sup>3</sup>Legal status and rights of women in... (PDF Download Available). Available from: [https://www.researchgate.net/publication/290691292\\_Legal\\_status\\_and\\_rights\\_of\\_women\\_in\\_Indian\\_constitution](https://www.researchgate.net/publication/290691292_Legal_status_and_rights_of_women_in_Indian_constitution), last retrieved on 10:52 IST, 23-05-2017.

<sup>4</sup><file:///C:/Users/Asus/Documents/js%20verma%20committe%20report.pdf>, last retrived on 16:33 IST, 22-05-2018.

<sup>5</sup>"Maternity Benefit (Amendment) Bill, 2016 passed in the Parliament". pib.nic.in. last retrieved on 12:20 IST, 23-05-2017.

increased the duration of paid maternity leave available for women employees to 26 weeks from 12 weeks.

Apart from this, there are also certain provisions in IPC<sup>6</sup> which extensively talks about the rights of women. The definition of Rape and its punishment has been defined from section 375 to 377.<sup>7</sup> Kidnapping and abduction has been defined from section 359 to 373. Section 354 talks about outraging the modesty of women. These are few of the provisions which outline the rights of women.

Despite, all these provisions there is a widespread violence against women in our society. Objectification of women is still done through movies, pornography etc. which ultimately leads to trapping of women in the vicious cycle of male patriarchy and male chauvinism. The greatest concern for us today is the safety of women and the rape crimes, which happen almost every hour in our country. The spine chilling incident on the night of 16 Dec. 2012<sup>8</sup> left the country in utter disbelief and shock.<sup>9</sup> The government then realized the need to amend certain provision and thus paved the way for the formation of Justice Verma Committee<sup>10</sup> to suggest certain recommendations in this regard.<sup>11</sup>

### **VERMA COMMITTEE RECOMMENDATIONS**

This committee was constituted to recommend amendments to the Criminal law prevailing in our country and to fasten the judicial process related to women. This committee submitted its report on 23<sup>rd</sup> January 2013. The committee recommended a wide range of issues. For example, rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms.

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<sup>6</sup>Gaur KD, 'A Textbook on Indian Penal Code', Universal Law Publishing Co.: Lucknow; 2011.

<sup>7</sup>PSA Pillai, KI Vibhuti, 'Criminal law', 10th edition, Nagpur: Lexis Nexis Butterworth Wadhwa;(2008).

<sup>8</sup>"Delhi gangrape: Chronology of events". The Hindu. New Delhi. 31 August 2013.

<sup>9</sup>Mandhana, Nikarika; Trivedi, Anjani (18 December 2012). "Indians Outraged by Account of Gang Rape on a Bus". The New York Times.

<sup>10</sup>"Government constitutes task force to look into women's safety issues". Zee News. 2 January 2013

<sup>11</sup>AartiDhar (26 December 2012). "Commission to suggest steps to make Delhi safe for women".The Hindu. Chennai, India.

The committee adopted a multidimensional approach in interpreting the sexual crime against women:

It said that any non-consensual penetration of sexual nature should be included in the ambit of rape. Also, it castigated the marital rape and said that any relationship should not be used as a disguise to protect the accused. The punishment under the new definition of rape was made stern; it recommended minimum 7 years of rigorous imprisonment to life. The recommendation for the rape convicts should not be less than 20 years of rigorous imprisonment if the rape causes the death of the victim or “persistent vegetative state”

**Sexual assault:** The committee widens the definition of sexual assault and recommended that non-penetrative sexual contact to be regarded as sexual assault. The panel recommended all forms of non-consensual and non-penetrative sexual contact as sexual assault and the offence should be determined based on prevailing circumstances.

**Verbal sexual assault:** The committee recommended the use of word, gestures, or an act which creates an unwelcome threat of sexual nature must come under the ambit of sexual assault. It could be punishable for 1 year of imprisonment or fine or both.

**Sexual Harassment:** The committee recommended the following recommendations on sexual harassment at work place.

**Internal Committee:** The sexual harassment bill has a provision of establishing internal sexual committee, the committee should have three members from the organization and the fourth member should be a member from any reputed NGO who is committed to women cause. The Verma committee was against the in house dealing of the sexual complaint which might dissuade women from filling complaint and suggested of having employment a separate Employment tribunal outside the organization to receive complaint of sexual harassment.

**Requirement for Conciliation:** The committee was against any kind of conciliation and believed the conciliation in any sexual harassment case is an attempt to comprise the dignity of women.

This also violates the Supreme Court's judgment on (Vaisakha vs. State of Rajasthan)<sup>12</sup> which aimed at having a safe work place for women.

Pendency of the case: The committee suggested that till the disposal of the case the complainant and the respondent should be compelled to work together. This was included to safeguard the victims from the hostile environment in the work place.

False complaints: The bill and the committee have difference of opinion on the provision of false complaint, the bill has a provision of penalizing false and malicious complaint as per the rules of the service, on the other hand the committee has an opinion that this could be an attempt to abuse the genuine complainant.<sup>13</sup> It may discourage the genuine victims to file complaint against sexual harassment.

Acid Attacks: The committee took cognizance of the victims of acid attacks and the sufferings of the acid attack survivors, it suggested to consider acid attack as a separate offence and not to be included under the provision of grievous hurt which is punishable only for 7 years of imprisonment, the committee suggested to have minimum 10 years of imprisonment for acid attack and central or state corpus to compensate the victim.<sup>14</sup>

Offences against women in conflict areas: The committee was of the opinion to revise one of the most controversial and sensitive law 'AFSPA' It suggested to revisit the law in the conflict areas and was of the opinion to exclude the sanction of central government to prosecute armed forces personnel in sexual violence cases. Special commissioner must be appointed in conflict areas to prosecute for sexual offences so that the law AFSPA should become a safety wall for sexual crime and the women living in the conflict areas can be taken into confidence through the purview of law.

Trafficking: The committee noted the provision of immoral trafficking, it recommended criminalizing trafficking by threat, force and inducement and the employment of trafficked person.

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<sup>12</sup><http://www.prsindia.org/parliamenttrack/report-summaries/justice-verma-committee-report-summary-2628/>

<sup>13</sup>kidwai, ayesha. "Sexual Harassment in the Workplace: the Verma Committee and After:" *Economic and Political Weekly*, 8 Feb. 2013.

<sup>14</sup>Joshi, S. (2016, June 12). Verma Committee moots severe punishment for voyeurs, stalkers, *The Hindu*. New Delhi.

The committee proposed to have legal guardianship of High Court on women protective homes and juvenile homes and steps to be taken to integrate victims to the society.

Child sexual abuse: The committee has recommended amending the ‘harm’ and ‘health’ term under juvenile justice act 2000 to include physical harm and mental health. This widens the scope of the law and takes the special note of the children who are victims of sexual crime.

Medical examination of a rape victim: The committee strongly objected to the two-finger test and rejected the previous sexual experience to determine the consent and the quality of consent. The committee referred to various judgments of Supreme Court which held the two-finger test to determine rape cases should be discontinued and the modern forensic instruments to be included to determine rape cases.

Reforms in management of causes related to crime against women:

The committee made additional provision to curb the crime against the women this includes the using of modern technologies, the various reforms in the criminal justice system, the online FIRs, the installations of CCTVs cameras in public places and victim friendly police stations.

Electoral Reform: The Representation of people Act, 1951. The committee was of the opinion to disqualify the candidate to contest for the election if the crime of sexual violence against candidate is cognized by the court.

Educational Reform: The committee recommended having education system which is more gender sensitive and the adult literacy should be a part of education system to have gender empowerment.<sup>15</sup>

### **ANALYSIS OF SEXUAL VIOLENCE BEFORE AND AFTERMATH OF VERMA COMMITTEE**

The below figure clearly indicates that there is a sharp rise in the reporting of rape cases after the Verma Committee recommendation in 2012. This could be interpreted that the survivors are more willing to report to the authorities and the confidence level of the survivor is given a boost and the

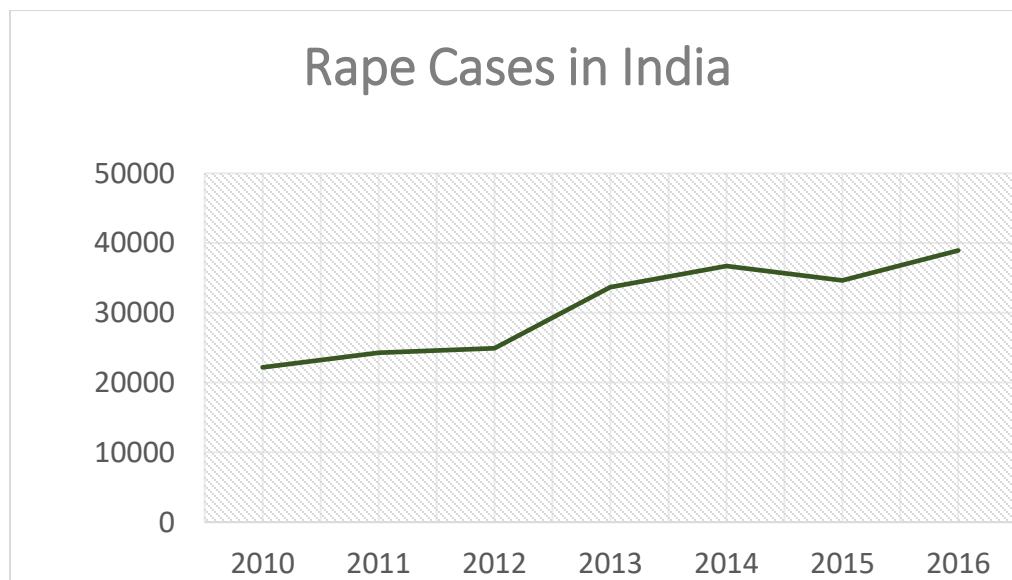
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<sup>15</sup> <http://www.prsindia.org/parliamenttrack/report-summaries/justice-verma-committee-report-summary-2628/>

survivor is comparatively less hostile to police and the criminal justice system. The strict vigilance of social media and the outrage of public against the sexual violence compel the police to register the cases of rape. The advisories of Supreme Court and the Government also add to the propensity of the police to register cases of rape.

The attitude of society has changed aftermath of Verma Committee, people are more vocal and the social media and the social organization such as NGOs gives the survivors the platform to report against perpetrators. The police seem to be more sensitive and the involvement of women police station in reporting the sexual crime emboldens the victim to report the crime to the authorities.

The establishment of internal committee against the sexual harassment cases under the provision of Vishaka guidelines by the Supreme Court gives confidence to the women to report sexual harassment cases to the authorities.

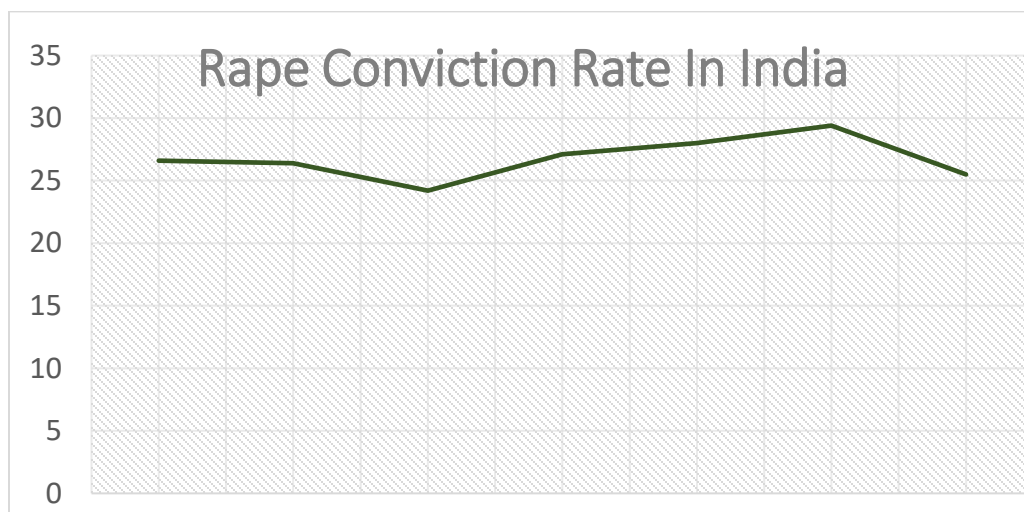


Source: NCRB<sup>16</sup>

The initiatives of the police personnel such as ‘Operation Nirbheek’<sup>16</sup>,Awaz UthaoAbhiyan<sup>17</sup> are some of the initiatives which encourage women to report sexual crime to the police,this also makes the victim less hostile in the police station as it used to happen earlier.

Conviction Rate in the Rape cases before and aftermath of Verma committee:

Though aftermath of Verma Committee the reporting of crime has shown a considerable increase but still the conviction is not so satisfactory. The shoddy investigation police and the pitiable condition of criminal justice system have failed to raise the conviction rate in rape cases.



Source: NCRB<sup>18</sup>

### ISSUES RELATED TO LOW CONVICTION RATE

Over-burdened police force apart from crime investigation police must maintain law and order traffic management, disaster rescue etc. This affects the core functioning of policing and

<sup>16</sup>Singh, K. P. (2015, October 14). Police launch ‘Operation Nirbheek’ to fight sex crimes in Delhi. Hindustan times.

<sup>17</sup>Iqbal, M. (2015, June 30). Steps taken to curb crimes against women’.The Hindu.

<sup>18</sup> National Crime Record Bureau



investigation and the efficiency of the investigation is becomes shoddy this leads to low conviction rate.<sup>19</sup> The police personnel are considerably low than the sanctioned police personnel<sup>20</sup>

The poor quality of investigation is one of the reasons behind the low conviction rate the police lack adequate legal as well professional knowledge to carry out proper investigation. The lack of proper forensic and cyber infrastructure also responsible for the low conviction rate<sup>21</sup>

The prolonged legal battle in rapes cases makes the victim fatigue and this sometimes leads to the gaps in the investigation and the legal process in the court of law and the turning of witness hostile leads to low rate of conviction in rape cases.

The lack of coordination between the investigating officers and the public persecutor is one of the reasons of low conviction rate the evidence. This includes the arguments of the prosecutor in the court of law and the grounded evidence collected by the investigating officer mismatch this gives a fair chance to the accused to go scot free.<sup>22</sup>

### **CONCLUSION**

The condition of women is pitiable and there is considerable increase of crime against women according to the NCRB data. Though there is a considerable increase of reporting of crime against women after the formation of Verma committee but the conviction rape still unsatisfactory. The shoddy investigation police and the lack of infrastructure leads low conviction rate. The recommendation of the Verma committee must implement efficiently, proper funds should be allocated to modernize the police infrastructure and investigation process and the government should put its effort to change the attitude of the society through awareness and educational program. Not only the government but the society must act to bring in the society and the sexual crime against the crime against the women must stop. The law alone cannot help to curb the sexual crimes but it's the responsible of the society to strengthen its value system, focus on the

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<sup>19</sup>“Data on Police Organisations”, Bureau of Police Research and Development, 2016, <http://bprd.nic.in/WriteReadData/userfiles/file/201701090303068737739DATABOOK2016FINALSMALL09-01-2017.pdf>.

<sup>20</sup> “Public Order”, Second Administrative Reforms Commission, 2007, <http://arc.gov.in/5th%20REPORT.pdf>.

<sup>21</sup>“Report No. 239: Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities”, Law Commission of India, March 2012, <http://lawcommissionofindia.nic.in/reports/report239.pdf>.

<sup>22</sup>Banerjee, K. (2018, April 16). Will Kathua, Unnao rapists be convicted? Here is what stats tell us. India Today

degradation of values in the society, the society must be empathetic to the victims of the sexual crime, the survivors of sexual violence, rapes victims and the acid victims must be given a ray of hope to lead a safe and meaningful life and each one of us is responsible for this.

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