

CHAPTER – 3

OVERVIEW OF LEGISLATIVE, JUDICIAL AND ADMINISTRATIVE INTERVENTIONS TO PREVENT AND COMBAT CRIME AGAINST WOMEN

This chapter provides an analysis of information compiled from Ministry of Home Affairs and Ministry of Women and Child Development, Ministry of Health and Family Welfare, Ministry of Law, Ministry of Rural Development, Panchayat Raj, CEDAW Reports and Reports of Parliamentary Standing Committee on Women. In the pre-independence India some of the most notable legislative developments related to women include: the Abolition of Sati 1829 and Enabling of Widow Remarriage 1856. The elite urban men favored colonial interventions and conservatives resisted it. The nationalists were against colonial interventions as they were regarded as anti-traditional and anti-national. The institution of marriage formed the basis of male control over females. Unlike the upper castes the lower castes accepted marriage as a sacrament as opposed to a contract as per the Islamic law. Hindu Widow Remarriage Act (1856) stipulated that a Hindu woman who remarried forfeited all claims to the property of her first (dead) husband (Kapadia, 2002). A small group of elite women benefitted the most from colonial modernity and gained access to education and employment and aspired to political leadership. A profound misunderstanding of the pre-colonial system led the British to believe that religious and scriptural tradition was the basis of all custom, morality, and jurisprudence. Accordingly, from the 1770s the British concentrated on codifying Hindu and Islamic laws (drawing on scriptures) and administering these in court with the aid of *pundits* and *maulavis* (Hindu and Muslim scholars and priests). In the end British personal laws were substantively different from those of pre-colonial legal and judicial systems.

3.1 CONSTITUTIONAL PROVISIONS AND INTERNATIONAL OBLIGATIONS

Gender equality is enshrined in the Indian Constitution in its Preamble through the Articles 14, 15, 16 and 21 which are the fundamental rights that are enforceable by the court of law. The Articles 39 (a) (d) and 42 of the Directive Principles that indicate state commitment to good governance. One of the notable examples of laws promoting gender equality includes: Trafficking in Human Beings or Persons is prohibited under the Constitution of India. The specific provisions in Article 23 defines 'trafficking in human beings, beggar and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law'. Another important provision in the Constitution of India includes empowerment of the State to adopt measures of affirmative action in favor of women to address the historical disadvantages suffered by women in the patriarchal society. These measures are aimed at bringing about qualitative improvements in women's economic, political and social participation. In addition, these measures facilitate in the realization of Indian constitution cherished goals of substantive equality. These laws provide the normative foundations of gender equality in India.

The World Conference on Human Rights in Vienna (United Nations Human Rights, 1993) accepted that the rights of women and girls are 'an inalienable, integral and indivisible part of universal human rights'. Since then, many international bodies and conferences such as the Fourth World Conference on Women in Beijing (1995), Convention on Elimination of All Forms of Discrimination against Women (CEDAW) International Bill of Women's Rights have emphasized on developing strategies to control violence against women and thus protects the human rights of women and girls. The CEDAW convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life, as well as education, health and employment. India has ratified CEDAW on 9th July, 1993 with declaration. The declaration states: With regard to Article 16(1) of the Convention on the

Discrimination of all forms of Violence against Women, the Government of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent'.

3.2 LEGAL INTERVENTIONS FOR GENDER EQUALITY IN INDEPENDENT INDIA

The Indian Penal Code contains the provisions that stipulate the punishments for various offences that are perpetrated against women. In addition, there are specific legislations that have been enacted for addressing certain offences. These laws are reviewed, amended, changed on a periodic basis and new laws are introduced to address the changing circumstances of the society. Since independence a number of legislations have been put in place for the protection of women. Some of these are entitled below:

Dowry Prohibition Act, 1961: the Dowry Prohibition Act (1961) was enacted in 1961 to address the problem of Dowry. The Act defines "dowry" and penalizes the giving, taking or abetting the giving and taking of dowry with imprisonment for a term which shall not be less than five years, and with a fine which shall not be less than fifteen thousand rupees. It also mandates the appointment of Dowry Prohibition Officers to ensure effective and efficacious enforcement of the law.

Immoral Traffic (Prevention) Act, 1956: the Immoral Traffic (Prevention) Act of 1956 as amended and renamed in 1986 to make the sexual exploitation of male or female, a cognizable offence.

The Medical Termination of Pregnancy Act of 1971: this Act legalizes medical termination of pregnancies. The Act safeguards women from unnecessary and compulsory abortions.

INDIAN INSTITUTE OF PUBLIC ADMINISTRATION

INDIAN INSTITUTE OF PUBLIC ADMINISTRATION
ACC. No. 9R 19934
Date 15.6.15
INDIAN INSTITUTE OF PUBLIC ADMINISTRATION

The Hindu Succession (Amendment) Act, 2005: this law provides legal stipulations for facilitating equal inheritance rights between women and men.

Indecent Representation of Women (Prohibition) Act, 1986: was enacted with the specific objective of prohibiting the indecent representation of women through advertisement, publication, writing, and painting or in any other manner. It prohibits such representation in any form in any advertisement, publication etc. and also prohibits selling, distribution, circulation of any books, pamphlets, and such other material containing indecent representation of women.

Information Technology Act (2000): Section 67 of the IT Act, 2000, the display of lascivious photographs/films on computer through internet, etc.

Protection of Women from Domestic Violence Act (PWDVA) 2005: the Ministry of Women and Child Development (MWCD) has piloted this act to address violence against women within households. This Act came into force on 26th October, 2006. The rules under the Act were also notified. The PWDVA is a civil law which seeks to provide emergency relief to women in the form of protection orders, residence orders, and monetary relief and compensation orders. It also provides for an inbuilt mechanism to facilitate the entire system of access to justice. It identifies specific functionaries such as the Protection Officers and Services Providers whose primary duty is to assist women in accessing relief provided under the law. All the State Governments/UT Administrations have appointed Protection Officers under the Act. All the State Governments/UT Administrations have been impressed upon to notify service providers, medical facilities etc. for effective implementation of the Act.

Prohibition of Child Marriage Act 2006: came into effect on 1st November 2007. The primary objective of this legislation includes the prohibition of child marriages and stipulates punishments to those individuals who are involved in promoting, performing and abetting child marriages. Actually, this law repealed the Child Marriage Restraint Act of 1929 which had been instituted in the pre-independence

era. Along with the progressive provisions of this Act additional efforts have been made to improve awareness on the adverse impacts of child marriage. Several schemes including conditional cash transfers have been implemented by the State Governments to encourage the delay in the legal age of marriage.

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act): the Government of India has specifically formulated 'The Protection of Children from Sexual Offences Act, 2012' (POCSO Act) in order to effectively address the heinous crimes of sexual abuse and sexual exploitation of children. The Act is gender-neutral and defines a child as any person below the age of eighteen years. It provides precise definitions for different forms of sexual abuse, including penetrative and non-penetrative sexual assault, sexual harassment and pornography. The Act provides for stringent punishment graded as per the brevity of the offence, with a maximum term of rigorous imprisonment for life for certain offences, and fine.

In keeping with the best international child protection standards, the Act provides for mandatory reporting of sexual offences. It also prescribes punishment for a person if he provides false information with the intention to defame any person, including a child. Most importantly, the Act provides for child-friendly procedures for reporting of offences, recording of evidence, investigation and trial. It defines different forms of sexual abuse, including penetrative and non-penetrative assault, as under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-a-vis the child, like a family member, police officer, teacher, or doctor. People who traffic children for sexual purposes are also punishable under the provisions described as abetment in the Act. The Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: the Act came into force with effect from 9th December 2013. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and

Redressal) Rules, 2013 was notified on 9th December, 2013. The Act seeks to provide a safe and secure environment to women at the workplace, the Sexual Harassment cover all women, irrespective of their age or employment status and protect them against sexual harassment at all workplaces both in public and private sector, whether organized or unorganized and creates an effective complaints and redressal mechanism in the form of an Internal/Local Complaints Committee. Women who are employed as well as those who enter the workplace as clients, customers or apprentices besides the students and research scholars in colleges and universities and patients in hospitals are sought to be covered under the proposed legislation.

The Act envisages mechanisms in the form of Internal Complaints Committee (ICC) and Local Complaints Committee (LCC). All workplaces employing 10 or more than 10 workers are mandated under the Act to constitute an ICC. Complaints from workplaces employing less than 10 workers or when the complaint is against the employer will be looked into by the LCC. The Act casts a responsibility on every employer to create an environment which is free from sexual harassment. Under it employers are required to organize workshops and awareness programs at regular intervals for sensitizing the employees about the provision of this legislation.

Provisions in Indian Penal Code, Cr.Pc and Criminal Amendment Act (2013)

Provisions in Indian Penal Code 1860: The provisions providing punishment for various offences against women are:

Section 354 IPC which deals with assault or criminal force to woman with the intent to outrage her modesty;

Section 375, 376 which deals with rape and custodial rape, Section 304B which deals with dowry death;

Section 498A Husband or relative of husband of a woman subjecting her to cruelty;

Section 509 Word, gesture or act intended to insult the modesty of a woman,
Section 366A IPC: Procuring a minor girl;

Section 372 & 373 IPC — Selling/Buying or hiring/obtaining a minor for
prostitution.

The main amendments in the Code of Criminal Procedure (Amendment) Act 2005
towards empowerment of women:

- (i) A new sub-section (4) was added to section 46 Cr.P.C to prohibit arrest of a woman after sunset and before sunrise except in unavoidable circumstances.
- (ii) A new section 164-A in the Code was inserted to provide for a medical examination of the victim of a rape by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner by any other registered medical practitioner.
- (iii) Section 176 Cr.P.C was amended to provide that in the case of death or disappearance of a person, or rape of a woman while in the custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty-four hours of death.
- (iv) A new section 53A Cr.P.C to provide for a detailed medical examination of a person accused of an offence of rape or an attempt to commit rape by the registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner by any other registered medical practitioner.

The main amendments in the Code of Criminal Procedure (Amendment) Act, 2008 (5
of 2009), for protection of women:

- (i) All rape cases shall be tried in the court of a woman judge as far as practicable (section 26).
- (ii) Investigation in child rape cases to be completed within three months (section 173).
- (iii) In camera trial of sexual offence cases shall be conducted as far as practicable by a woman judge (section 327).
- (iv) Female accused not to be touched by male police officers (section 46).
- (v) In order to prevent trials in rape cases from being unduly delayed, by providing that the inquiry or trial in such cases shall, as far as possible, to be completed within a period of two months from the date of commencement of the examination of witness (section 309).
- (vi) In an offence of rape, the recording of the statement of the victim shall be conducted at the residence of the victim or in place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality (section 157).
- (vii) If a woman sentenced to death is found to be pregnant, the High Court shall commute the sentence to imprisonment for life mandatorily (section 416).

The Criminal Law Amendment Act 2013

The Ministry of Home Affairs has recently amended the Criminal Law (Amendment) Act, 2013 which has made significant changes in the extant women related provisions of the Indian Penal Code (IPC), Criminal Procedure Code (Cr. P.C.) and the Indian Evidence Act to make the law more stringent and be a deterrent for offenders.

Salient Features of the Criminal Law Amendment Act 2013

- (i) The definition of rape has been widened, gang-rape defined and provision for capital punishments for rapist who causes death to the victims or leaves the woman in a permanent vegetative state.
- (ii) The Act also defines and provides for punishment for offences which were earlier not included in the Indian Penal Code such as acid attack, stalking, voyeurism, forcible disrobing of a women and sexual harassment.
- (iii) Section 326A and 326B has been inserted in the Indian Penal Code (IPC) for making acid attack a specific offence. It penalizes the act of intentionally causing damage to the body of a person, or burning or maiming a person by throwing acid with imprisonment for minimum of 10 years that may extend up to life imprisonment and with fine. It penalizes the attempt to cause harm by throwing acid with minimum of five and maximum of seven years of imprisonment.
- (iv) Sexual Harassment as amended vide Insertion of Section 354 – A of IPC, attracts five years of rigorous imprisonment.
- (v) Disrobing a woman would be a non-bailable offence under Section 354B of IPC with jail term of up to seven years.
- (vi) Stalking and Voyeurism has been recognized as crimes vide insertion of Sections 354C and 354D of IPC with punishments up to seven years. Both the offences would be bailable for first-time offenders. However, repeat offenders would be denied bail and punishment extended to a maximum of five years in jail.
- (vii) Section 370 of the IPC has been substituted with Section 370 and 370A of IPC which provide for comprehensive measures to counter the menace of human trafficking including trafficking of children for exploitation in any

form including physical exploitation or any form of sexual exploitation, slavery, servitude, or the forced removal of organs with very stringent punishment.

- (viii) An FIR should be filed immediately in cases of crime against women, failing which, the police officer would be punished under Section 166 A (non-registration FIR) of IPC.
- (ix) Section 357C of Cr. PC has been amended whereby it has been mandatory for Hospitals both public and private to immediate treatment, free of cost to victims of acid attack and rape and shall immediately inform the police of such incident.
- (x) 154 of Cr. PC has been amended whereby it has been mandatory that in cases of acid attack, sexual harassment and rape of female victims the information shall be recorded by a woman police officer or any woman officer.
- (xi) Changes have been made in the procedure to be followed during criminal investigation and trials so as to make the procedure more sensitive and victim friendly. FIRs in cases relating to crimes against women have to be registered by women police officers or women government officers and in case the victim is disabled physically or mentally then the officer will record the same at her home and the whole process would be video graphed and if a statement to a magistrate is to be made by a disabled person then the same process would be followed. In case a victim of rape or sexual offence is below 18 years of age then the Court will take appropriate measures to ensure that the offender does not confront the victim during trial.
- (xii) Enabling Provision in section 357A, in Sections 357B and 357C of the Criminal Procedure Code: Section 357A has been inserted in the Code of Criminal Procedure 1973 through the Code of Criminal Procedure (Amendment) Act, 2008 and it says that "Every State Government in co-ordination with the Central Government shall prepare a scheme for providing

funds for the purpose of compensation to the victim or dependents who have suffered loss or injury as a result of the crime and who requires rehabilitation.

- (xiii) 357B of the Criminal Procedure Code states that the compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.
- (xiv) 357C of the Criminal Procedure Code states that all hospitals, public or private whether run by the Central Government, the State Government, local bodies or any other person shall immediately provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376A-D or section 376e of the IPC and shall immediately inform the police of such incident.

3.3 JUDICIAL INTERVENTIONS

3.3.1 Judgments on Rape

In the 1980s, the women's movement had two main demands for reform of rape law. These were shifting the burden of proof of lack of consent from the victim to the accused, and excluding anything related to the victim's past sexual character from the purview of evidence. These demands were articulated in the strong nationwide campaign protesting against the Supreme Court's judgment in the Mathura rape case (reported as *State vs Tukaram* 1979 2 SCC 143). The Supreme Court had exonerated two police men accused of raping a 15-year-old tribal girl in the premises of the police station. The two-judge bench found that her failure to raise an alarm meant consent and that it was not a case of rape. The regressive judgment moved prominent legal professors, including Lotika Sarkar and Upendra Bakshi, then the Dean of the Law Faculty in Delhi University, to write an open letter to the Supreme Court. Nationwide protests followed, and while the accused got away, two important amendments were introduced in criminal law in 1983. For one, the concept of

custodial violence was introduced through Section 376 (2) of the Indian Penal Code, with respect to sexual violence. For the first time, a crucial link was made between state authority, control, exercise of power and sexual violence. Second, in certain cases, a mere accusation of rape created a rebuttable presumption against the accused, changing the burden of proof of the allegation. Third, publicly disclosing the name of the victim/ prosecuterix without her/ her family's consent was made a punishable offence.

The next important case that sought to tackle the inherent biases in gendered crimes against women was the 2004 Sakshi case, where in Court made directions for *in camera* trials relating to child sexual assault and although the judges refused to amend the statutory definition of rape from forcible penile-vaginal penetration, they called upon the legislation to amend it. In State of Punjab versus Gurmit Singh judgment, the court criticized the practice of disbelieving the victims allegations, and going in her past character and said "The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable.

3.3.2 Judgment on Victim Compensation Scheme

According to the new section 357A of Cr. PC (2008 Amendment) "Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or dependents who have suffered loss or injury as a result of the crime and who requires rehabilitation. The Hon'ble High Court of Punjab and Haryana at Chandigarh, in CWP No. 6319/2008, had directed vide its order dated 12-07-2010, that the States of Punjab, Haryana and the UT of Chandigarh to frame a VCS in co-ordination with Central Government and implement the VCS in their respective States .

3.3.3 Interventions in crime of Acid Attacks

Recent Supreme Court Directions on acid attack cases: The Honorable Supreme Court while hearing the case Laxmi Minor vs. Union of India {WP (Crl) 129 of 2006} has directed the following in July 2013:

The Union Government is to circulate to all States / UTs the recently formulated "The Poisons Possession and Sale Rules, 2013" for consideration. The States which have not yet framed rules will make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.

The Centre and States / Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.

In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:

Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.

- (i) All sellers shall sell acid only after the buyer has shown:
- i. A photo ID issued by the Government which also has the address of the person.
 - ii. Specifies the reason/purpose for procuring acid.
 - iii. All stocks of acid must be declared by the seller with the concerned Sub Divisional Magistrate (SDM) within 15 days. No acid shall be sold to any person who is below 18 years of age.
 - iv. In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-.
 - v. The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.
 - vi. The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines.
 - vii. A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.
 - viii. A person shall be made accountable for possession and safe keeping of acid in their premises.
 - ix. The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.

The Honorable Supreme Court has also directed that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard.

The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.

The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into vernacular and publicize the same appropriately for the information of public at large.

3.3.4 Judgments on Honour Killing

There is no definition of the expression 'honour killing/crime' in any of the laws in force till date. The crimes are dealt with under the provisions of the Indian Penal Code and are investigated as 'murder' and prosecuted as offences under the IPC/Cr.P.C. There have been many reports in media of couples being persecuted or girl has been assaulted or killed.

Ministry of Home Affairs sent a detailed advisory on Crime against Women dated 4th September, 2009 to all States /UTs. In the aforesaid advisory, Para XXX of the advisory specifically advises to take Special steps should also be taken to curb the 'Violation of Women's Rights by so called Honour Killings, to prevent forced marriage in some northern States, and other forms of Violence'

The Honourable Supreme Court has delivered several judgments condemning Khap Panchayats and Honour Killings. These are:

Supreme Court in its Judgment in Arumugam Servai versus State of Tamil Nadu (Criminal Appeal No. 958 of 2011) dated 19th April 2011 has ordered :

"We direct the administrative and police officials to take strong measures to prevent such atrocious acts. If any such incidents happen, apart from instituting criminal proceedings against those responsible for such atrocities, the State Government is directed to immediately suspend the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned and charge-sheet them and proceed against them departmentally if they do not

- (i) prevent the incident if it has not already occurred but they have knowledge of it in advance, or
 - (ii) if it has occurred, they do not promptly apprehend the culprits and others involved and institute criminal proceedings against them, as in our opinion they will be deemed to be directly or indirectly accountable in this connection.
- A copy of this judgment be sent to the Registrar Generals/Registrars of all the High Courts who shall circulate the same to all Judges of the Courts. The Registrar General/Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/Additional Sessions Judges in the State/Union Territories. Copies of the judgment shall also be sent to all the Chief Secretaries/Home Secretaries/Director Generals of Police of all States/Union Territories in the country. The Home Secretaries and Director

Generals of Police to circulate the sam to all S.S.Ps/S.Ps in the States/Union Territories for information". MHA circulated the Hon'ble Supreme Court's judgment to all the State Govts. / UT Administrations vide a letter (no. 24013/34/2011-SC/ST-W) dated 20th April, 2011.

In another judgment, Hon'ble Supreme Court in Criminal Appeal No. 1117 of 2011 @ SLP (Crl)No. 1208 of 2011 dated 9th May 2011 in the case of Bhagwan Dass Vs State (NCT) of Delhi observed that 'honour' killings have become common place in many parts of the country, particularly in Haryana, western Uttar Pradesh, and Rajasthan. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in Lata Singh's case (supra) that there is nothing 'honourable' in 'honour' killings, and they are nothing but barbaric and brutal murders by bigoted, persons with feudal minds. In our opinion honour killings, for whatever reason, come within the category of rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilized behavior. All persons who are planning to perpetrate 'honour' killings should know that the gallows await them.

Honorable Supreme Court in Writ Petition (Criminal) 208 of 2004 in Lata Singh's case (supra) has directed that: "the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."

3.3.5 Compulsory Filing of FIR in Case of Cognizable Offence

The Constitution Bench of the Supreme Court in W.P. (Cri.) No. 68 of 2008 in *Lalita Kumar Vs Government of U.P. and others* on 12-11-2013 had held that registration of FIR either on the basis of the information furnished by the informant when it makes out a cognizable offence u/s 154(I) of the Cr. P.C. or otherwise u/s 157 (I) of the Cr. P.C. is obligatory.

3.3.6 Fixing Responsibility of Errant Officials in Case of Acquittal

The Supreme Court while adjudicating Criminal Appeal No. 1485 of 2008, *State of Gujarat versus Kishanbhai etc.* on 7th January, 2014 has directed all States/UTs to formulate a procedure for fixing responsibility on erring officials in case of criminal investigation leading to acquittal of the accused due to faulty investigation process.

3.3.7 Mandatory Filing of FIR in Case of Missing Children

Honorable Supreme Court while hearing a Writ Petition (Civil) no. 75 of 2012, on 10.05.2013, *Bachpan Bachao Andolan versus Union of India* has directed the following:

- (i) In case of complaint with regard to any missing children; made in a police station, the same should be reduced into a First Information Report and appropriate steps should be taken to see that follow up investigation is taken up immediately thereafter.
- (ii) In case of every missing child reported; there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is proved otherwise.

3.4 ADMINISTRATIVE MEASURES BY MINISTRY OF HOME AFFAIRS

- (i) *Conference of Chief Secretaries and Director Generals of Police:* The Ministry of Home Affairs had convened a Conference of Chief Secretaries and Director Generals of Police at New Delhi on 4th January, 2013 after Nirbhaya case to deliberate on the issues regarding effective control on cases of crimes against women and other vulnerable citizens of the country. The meeting was presided over by the Hon'ble Home Minister. The suggestions / recommendations submitted by the Delegates during the course of discussion are compiled. These after examination were circulated and being implemented by various Ministries / Departments / Divisions of MHA. Another meeting with representatives of all States/UTs was held on 21.02.2014 to discuss on various aspects of crimes against women and reviewing implementation of earlier decisions and mechanism in place to prevent and combat crimes against women in States/ UTs.
- (ii) *Conference of Chief Ministers:* Ministry of Home Affairs also convened a Conference of Chief Ministers on 5th June, 2013, wherein various issues were deliberated upon including policing related to crime against women, anti-human trafficking and crime against children. Detailed discussions were held on various measures of crime prevention, women safety, changes required in law, organizational issue of police, investigation processes and provision of expeditious trials by fast track courts to improve safety and security of women and children.
- (iii) *Committee of Secretaries:* A Committee of Secretaries under the chairmanship of Cabinet Secretary is actively monitoring the implementation of various measures that have been formulated to prevent crimes against women. The Committee has already convened series of meetings to check the status of implementation.

(iv) *Parliamentary Standing Committee on Empowerment of Women*: important monitoring machinery to oversee women's empowerment in India. It was set up by Parliament in March 1997. The Parliamentary Committee on Empowerment of Women had held several round of meetings with the Ministry of Home Affairs, Ministry of Law and Justice and Ministry of Women and Children on the issues of crimes against women. The Committee made several recommendations. Few are detailed below:

- i. Overhauling the policing system in the country with a view to giving them a human face so that women, in distress, could approach them for redressal of their grievance.
- ii. Realistic assessment of State-wise number of police personnel required in the country to meet the new challenges in the form of increased crimes against women.
- iii. States should set up at least 2-3 Women Police Stations in each District.
- iv. Enhancing representation of women in police.
- v. Expeditious disposal of court cases.
- vi. Improving conviction rate.
- vii. In case the acquittal of charge-sheeted person(s) is due to shoddy police investigation, the investigating Officer should be held accountable for the lapse and stern disciplinary action should be initiated against the derelict police official(s) in such cases.

3.4.1 Police Reforms

The Home Ministry of Government of India has engaged with the States/UTs for bringing in police reforms so as to improve the working conditions of the police, transparency in their functioning as well as bring in more accountability. National Police Commissions have been appointed since 1977 and their recommendations have been circulated to the States for implementation. Status of the forty nine of the crucial

recommendations has been monitored. The status of six of the recommendations is being monitored by the Supreme Court in the PIL Prakash Singh vs Union of India (2006). The Home Ministry through the Soli Sorabjee Committee has developed the Model Police Act to replace the colonial Police Act 1861 and the status regarding its implementation in the form of State Police Acts is being monitored. The Home Ministry through its flagship Modernization of Police (MPF) Scheme has intervened in meeting the infrastructural needs of police since 1969. Justice Malimath Committee was appointed to review the criminal-justice system of the country. The Committee has made extensive suggestions covering a wide range of areas, many recommendations have been implemented, some are yet to be implemented. The Home Ministry had also set up the Prof N R Madhava Menon Committee to draft a National Police on Criminal Justice. The Commission on Centre-State Relations or the Justice Punchi Commission had also gone into the issues related to police reforms, criminal justice system, central law enforcement agency etc. in the 5th Volume of the Report. The 2nd Administrative Reforms Commission in its 5th Volume has addressed issues relating to public order and national security. All these recommendation are monitored through various coordination and review meetings with States like Chief Ministers Conference, and Chief Secretary and DGPs Conference.

3.4.2 Advisories to States/ UTs

'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India and, therefore, the State Governments and UT administrations are primarily responsible for maintenance of law and order and crime prevention.

Apart from the above, the Union Government has been advising all the State Governments / UT Administrations from time to time to give more focused attention to the administration of criminal justice system with emphasis on prevention and control of crime against women. In this regard, detailed advisories have been circulated to all State Governments / UTs

Advisory on Crime against Women – Measures needed to curb –regarding dated 04.09.2009.

The important steps enumerated in the advisory issued in consultation with the Ministry of Women and Child Development are as follows:

Vigorously enforce the existing legislation relating to Crime against Women and Children, i.e., Dowry Prohibition Act, 1961, Child Marriage Prohibition Act, 2006, Immoral Traffic (Prevention) Act, 1956, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act, 1987 and Violence against Women (Prevention) Act, 2005, Section 67 of the IT Act, 2000, the display of lascivious photographs/films on computer through internet, etc.

The administration and police should play a more proactive role in detection and investigation of crime against women and ensuring that there is no under reporting.

- (i) Increasing the overall representation of women in police forces.
- (ii) Sensitizing the law enforcement machinery towards crime against women.
- (iii) For improving general awareness on legislations, mechanisms in place for safety and protection of women.
- (iv) Set up exclusive 'Crime Against Women and Children' desk in each police station and the Special Women police cells in the police stations and all women police *thana* as needed.

3.4.3 Advisory on Registration of FIR irrespective of territorial Jurisdiction

Police shall register an FIR upon receipt of information of the commission of a cognizable offence. Further, if after registration of FIR, upon investigation, it is found that the subject matter relates to the jurisdiction of some other police station,

the FIR may be appropriately transferred to the police station in which the case falls. Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register a 'Zero' FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the Cr.P.C. Failure to comply with the instruction of registering an FIR on receipt of information about the cognizable offence will invite prosecution of the police officer u/s 166A of the IPC for an offence specified u/s 166A or departmental action or both

3.4.4 Advisory on increasing women representation in Police

Affirmative actions should be taken by all the States / UTs to ensure availability of women to 33% of the police force. Each police station should have at least 3 women sub-inspectors and 10 women police constables, so that a women help desk is manned round the clock. The objective should be to reach a level of thirty percent of strength of civil police being comprised of women (excluding the armed battalion)

3.4.5 Women in Police

Ministry of Home Affairs has as through advisories and DG conferences has engaged with States in conveying and persuading that atleast 33% of the police force should be from women as this is the threshold at which the presence of women would have a beneficial impact on the overall police force. The Ministry also supports the National Conference for Women in Police and the NCWP has held five conferences so far since the first one in 2002. Issues concerning women in police are deliberated upon and the findings are advocated strongly in the annual Conference of DGPs. These recommendations have been circulated to all State/Union Territories and their action taken reports are discussed in meetings with Director Generals of Police. Because of this engagement and monitoring there has been steady increase in number of women police although nowhere to desirable 33%. As per the Bureau of Police Research and Development publication (BPR&D), "Data on Police Organizations in

India” as on 1st January 2014, number of women in police is 105,325. States like Maharashtra, TamilNadu, Rajasthan, Bihar and Orissa have made reservations for recruitment in police. The current women police strength is still inadequate around 6 percent and at the present growth rate it will take many years to reach the goal of 33 percent.

3.4.6 All Women Police Stations

As per the BPR&D publication, “Data on Police Organizations in India” as on 1st January 2014, the total number of women police stations are 529 of which TN alone had the highest number of 196 and some states like Arunachal, Bihar, Himachal Pradesh, Maharashtra, Mizoram, Nagaland, Sikkim, Uttarakhand, W Bengal, A&N, Chandigarh, Daman &Diu, Delhi and Lakshadweep did not have any women police stations. The issue was deliberated in the last DGPs Conference 2012 and a number of issues were raised. Issues, like the lack of proximity of the women police stations, familiarity with existing police stations, reluctance on the part of the women to travel long distances to lodge complaints, and even lack of adequate gender sensitivity among the women police were raised.

3.4.7 Police-Population Ratio

The existing police population ratio per lakh of population as on 1/1/2014 based on the statistics given in the BPR&D publication “Data on Police Organizations in India” is 141 per lakh of population which is still much below the UN recommended 450.

3.4.8 Establishment of Anti-Human Trafficking Units

A Comprehensive Scheme “Strengthening law enforcement response in India against Trafficking in Persons through Training and Capacity Building, wherein it was decided to establish 330 Anti Human Trafficking Units (AHTUs) throughout the country and impart training to 10,000 police officers through Training of Trainers

(TOT) has been implemented to prevent and combat crime of trafficking of women and children. To enhance the capacity building of law enforcement agencies and generate awareness among them, various Training of Trainers (TOT) workshops on “Combating Trafficking in Human Beings for Police officers and for Prosecutors at Regional level, State level and District level were held throughout the country. Funds were also provided for immediate victim support with AHTUs.

3.4.9. Megacity Policing and Crime against Women

Mega City Policing (MCP) has been included as a sub-component of the overall Scheme of Modernization of State Police Forces (MPF). Apart from technological up scaling, measures for development of a citizen friendly police, involvement of students in appreciation of safety and security, expansion of Dial 100 system, integrated emergency communication and response system, Aerial Surveillance, soft skills and attitudinal changes in policemen, recruitment of larger numbers of women in police are its components which will help Mega Cities to develop an effective policing system and better handle emergencies.

3.4.10 Gender Sensitization

Training of personnel of administrative machinery, police, legislative and judiciary are being imparted through their respective academies and training to promote sensitization and awareness to gender issues and women’s human rights.

3.4.11 Victim Compensation Scheme (VCS)

Central Government in co-ordination with States to formulate and implement the VCS in their respective States under section 357 A of Cr. PC. Ministry of Home Affairs circulated an advisory to all States/UTs on 07th September, 2010 requesting them to prepare a Victim Compensation Scheme in accordance with the amendment in Criminal Procedure (Amendment) Act 2008. Ministry of Home Affairs has played a crucial role by constantly pursuing and monitoring the States / UTs through video-

conferences, seminar/conferences to expedite notification of Victim Compensation Scheme. In this connection several co-ordination meeting through. As of now, 25 States, all seven UTs have notified the Victim Compensation Scheme, while the remaining States are on the verge of notifying it (a complete list is given in Annexure D). The crimes that are compensated by the States are: Rape, Loss of injury causing, Severe mental agony, Loss of Life, Grievous Hurt, Loss of Limb, Rape of Minor, Rehabilitation, Simple Loss.

3.4.12 Eligibility Criteria for Victim Compensation Scheme

The States / UTs have adopted the Haryana Model of Victim Compensation Scheme albeit with some variations. Broadly, victims will be eligible for compensation under the following conditions:

- (i) A recommendation is made by the Court under sub-sections (2) and (3) of the Section 357A of Cr.P.C. or the offender is not traced or identified, but the victim is identified and where no trial takes place, such victims may also apply grant of compensation under sub-section (4) of the Section 357A of Cr.P.C.
- (ii) The income of the family should not exceed Rs. 4.5 lakh per annum.
- (iii) The Crime on account of which the compensation which to be paid under this scheme should have been occurred within the jurisdiction of the state.
- (iv) The employees of Central / State Governments Boards, Corporations and Public Undertakings and income tax payers shall not be eligible under this scheme.

The Procedure for grant of Compensation: With minor variations, Haryana Model has been accepted. The procedure as stated in Haryana Victim Compensation Scheme is as below: Whenever a recommendation is made by the Court under sub-section (2) of 357A of the Act or an application is made by any victim or his dependent under sub-section (4) of the 357A of the Act to the District Legal Service Authority, the District Legal Service Authority shall examine the case and verify the contents of the claim with regard to the loss of injury caused to the victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After the verifying the claim and by conducting due enquiry, the District Legal Service Authority shall award compensation within two months, in accordance with the provisions of the scheme.

- (i) Compensation under this scheme shall be paid subject to the condition that if the trial court while passing judgment at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of Sec. 357 of the Act, the victim shall remit an amount equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of the Section 357 of the Act, whichever is less. An undertaking to this effect shall be given by the victim-claimant before the disbursement of the compensation amount.
- (ii) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. the compensation may vary from case to case depending on fact of each case.
- (iii) The quantum of compensation to be awarded to the victim or his dependents shall be as per Schedule.

- (iv) The amount of compensation decided under the Scheme shall be disbursed to the victim or his dependents as the case may be, from the fund.
- (v) Compensation received by the victim from the State in relation to the crime in question namely insurance ex-gratia and / or payment received under any other Act or *Rajiv Gandhi Pariwar Bima Yojana* or any other State-run Scheme shall be considered as part of the compensation amount from collateral sources mentioned above shall be deemed to be compensated under this scheme and shall not be entitled to separate compensation under this scheme. If the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of fund.
- (vi) The cases covered under the Motor Vehicle Act 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal shall not be covered under the Scheme.
- (vii) The District Legal Services Authority to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate to be made available free of cost on the certificate of the Police Officer not below the rank of the Officer-in-Charge of the Police Station or Magistrate of the area concerned, or any other interim relief as it may deem fit

Nirbhaya Fund: In the Budget speech on 28.2.2013, the Union Finance Minister had announced that the Government will set-up a Fund called the Nirbhaya Fund and contribute Rs.1000 crore to the Fund. The amount of Rs.1000 crore could be transferred only during the first Supplementary Demands for Grants. The Ministries/Departments concerned were requested to formulate proposals to utilize the resources in the Fund with a view to enhance the safety and security of women in the country. After several rounds of consultations, three proposals from the Ministry of Home Affairs, Ministry of Road Transport and Highways and Ministry of

Railways have been approved in-principle by the Ministry of Finance. The proposals are as follows:

The Ministry of Home Affairs has proposed "Establishment of an Integrated Computer Aided Dispatch (CAD) platform for supporting Geographical Information System (GIS) Based Call Taking and Geographical Positioning System (GPS) based Police vehicle dispatch to respond to women and other distress calls and ensure speedy assistance to them". The proposed system is to be implemented in the 114 identified cities as identified by the Ministry of Women and Child Development which includes 71 cities having a population of more than a million or which are headquarters of the State/UT as well as headquarters of 41 highly crime prone districts. The project is under initial stage of implementation.

Key Objectives and Features of the Initiative:

- (i) Providing 24 Hours and 7 Days (24X7) helpline service to women in distress and an efficient and effective response system to attend to their call as well as for alarms related to other emergency services such as medical and disaster (fire etc.) by other responders in an integrated manner.
- (ii) Training of staff that are trained to assist Women / Children and other Vulnerable Sections of Society in distress.
- (iii) Usage of special technology to effectively assist women with hearing and other disabilities.
- (iv) Usage of mass media to spread the awareness of the helpline number.
- (v) Speedy assistance for helpless women / children of the defined area, who are facing any form of violence such as eve teasing, dowry, sexual assault, molestation or any other abuses either in public or at home.
- (vi) Usage of Mobile platform for incident reporting and tracking.

- (vii) Integration with existing Dial 100 system for seamless operation and coordination between both the systems
- (viii) An integrated 'Public Emergency Response System' is also suggested in The Justice (Retd.) Verma Committee Report. The proposed system can subsequently be migrated to the recommended single central Emergency Response number.
- (ix) Capabilities of state / Police department has already been considered for hosting of the servers etc. for this initiative.

The Ministry of Road Transport and Highways proposed setting up of a unified system at the National Level (National Vehicle Security and Tracking System) and State level (City Command and Control Centre) for GPS tracking of the location of, emergency buttons in and video recording of incidents in public transport vehicles. In the first phase, 32 cities of 13 States in the country with a population of 1 million or more will be covered.

Total estimated cost of the project is Rs. 1404.68 crore and the project is to be implemented within a period of two years. The proposal has already been approved by the Union Cabinet in January 2014.

- i. Ministry of Railways proposed pilot scheme of setting up an SOS alert system in trains in select zones. On October 25, 2013, the work was awarded to CRIS (Center for Railway Information Systems) with a completion period of 13 months for conducting pilot projects at Central Railway and Western Railway.

3.4.13 Proposal for creating Investigating Unit

In order to augment the capacity of States in the domain of investigation of heinous crimes against women, the Ministry of Home Affairs is proposing to set up 150 Investigative Units for Crime against Women in most crime prone districts on a 50:50 cost sharing basis with the States. The objective of the proposal is three fold : to augment the investigative machinery of the States in relation to the heinous crimes against women, to instill confidence and encourage women to come forward and lodge their complaint and to improve the gender ratio in the State Police forces which is adversely impacting effective implementation of the legislations relating to women.

3.4.14 Up-gradation of Forensic Facilities

The Government of India, has allocated Rs. 700 crores to Directorate of Forensic Science Services (DFSS) and its outlying Units under XII Five Year Plan to strengthen the forensic science services in the country. Department of Forensic Science Services is establishing three new Hi-Tech Central Forensic Science Institutes at Pune, Bhopal and Guwahati to enhance the capacity and capability of forensic services, including DNA. At present there is no DNA Database available in the country, however, DFSS has proposed a Plan Scheme of DNA Database under XII Five Year for unidentified dead bodies and missing persons.

3.5 RECENT INTERVENTIONS BY DELHI POLICE FOR SAFETY OF WOMEN

As per reply given to parliamentary standing committee, the various initiatives taken by the Delhi Police to promote safety and security of Women areas:

- (i) *The increase in women police personnel:* creation of 1950 posts (2-Women/Sub-Inspector and 8-Women/Constable each for 161 territorial police stations, 1 Woman/Sub-Inspector & 3 Women/Constable each for 15 Police

Stations of IGIA, Crime & Railway including Metro, and 1 Woman/Sub-Inspector & 2 Women/Constable each for 4 units- Crime, SPUW&C and Special Cell- declared as Police stations has already been approved and is in process of implementation.

- (ii) *Strengthening of the PCR fleet in the Capital City*, induction of 370 additional PCR Vans has also been initiated. Patrolling by PCR vans and on specific routes was intensified. GPS enabled PCR van pushed into service so as to locate their position for better response to emergency.
- (iii) *Parivartan*: it is a campaign which unleashes the cumulative energies of law enforcement agencies, academics, social workers, NGOs, community, educational institutions and responsible citizens on the perpetrators of violence against women to bring about a cognitive difference in their value system. It is a pioneering effort in the history of Indian Police through which women police officers patrol the beats to combat and prevent crime against members of their own sex. In the last 2 years, Parivartan has conducted various awareness building exercises in the selected 33 beats in the north-west district of Delhi along with the help of some civil society which have given enough confidence to women to report any case of violence against them.
- (iv) Crime against Women Cell and Special Police Unit (Women and Children)

The Delhi Police has created Crime against Women Cell in each of the 11 Districts, which deal with women related crimes like cruelty, harassment on account of dowry demand etc. In Addition to the District's Crime against Women Cell, there is a Central Crime against Women Cell, which has been renamed as Special Police Unit (Women & Children) Nanakpura, New Delhi, headed by a Jt. Commissioner of Police. All these Cells also provide counseling facility to the women victim. The service provided by SPU W&C are:

- i. 24 hrs Duty Officer (D.O) (b) Counseling wing and social workers' services (10 am to 6 pm) Mediation Cell (c) Legal aid: Facilitating

legal aid with the help of Delhi Legal Services Authority (DLSA) (Wednesday-2.00pm – 6.00pm) (d) Investigation Unit (e) Nodal Unit on juvenile issue (f) Police Station (Crime Women Cell) (g) Self Defense Training Unit.

3.6 GENDER SENSITIZATION FOR DELHI POLICE PERSONNEL

Considering the need to educate and sensitize police personnel on gender and related issues including legal provisions so that women do not face apathy and callousness while approaching police in situations of distress, an interactive training program was developed in association with NGOs, and started at Police Station and Subdivision level at various Districts of Delhi with modifications as per requirement, involving NGOs working in the field of gender sensitization and women development. Apart from police station sensitization program, a number of other programs for sensitization and better understanding and handling of women issues have been organized at SPUW&C, Nanakpura as well as training institutes like NIPCCD, DLSA, *Mahila Panchayat* Network etc.

Workshop on Investigation of Cases (498-A/406 IPC) : SPUW&C, Nanakpura has started workshop to improve the quality of the cases u/s 498-A/406 IPC and also to make aware the investigation officer about existing legal provision and latest ruling of Hon'ble High Courts including Delhi High Court and Supreme Court of India etc. with regards to registration of cases under section 498-a/406 IPC, it has been considered expedient to organize the workshop on investigation of cases u/s 498-A/406 IPC for the investigation officers posted in Police Station and handling investigation of such cases.

- (i) *Women Help Line*: Recognizing the needs of women in situations of distress, 24x7 Women Helpline by DIAL-1091 along with 'Police Women Mobile Team' was started to reach out to the women, in distress, at their door-steps. The staffs manning the Helpline and the Mobile Police Team is specially trained in counseling and providing support services necessary to handle

situations being faced by women in distress. In addition, Women Helpline arranges to provide professional help necessary for victims of rape, sexual assault etc. through Rape Crisis Intervention Centers (RCIC). It is evident that the wider use of Women Helpline is on account of awareness and recognition of useful service rendered by the Helpline.

- (ii) *Rape Crisis Intervention Center (RCIC)*: RCIC set up to help victim of rape & sexual abuse have come a long way, since its inception in the year 1999. Delhi Police, through an integrated partnership with Delhi Commission for Women and identified NGOs run these Crisis Intervention Centers to achieve the desired objectives and rehabilitation support of traumatized victims of crime. The experience of the Women Cell has shown that involving professionals has been of great help in eliciting information from both sides and also making them to sit together and solve the problem for themselves under the auspices of the Cell.
- (iii) *Counseling and Meditation*: The facility of Counseling and Mediation is also available with this Unit by the help of professional Counselors & Mediators.
- (iv) *Women Help Lines*: Three dedicated help lines have been set up and extensive publicity campaign has been launched.
- (v) *Anti-Obscene Calls Cell*: Any women receiving anti-obscene calls can register their complaint in these numbers 1096, Ph: 27894455 Fax: 27292523 SMS: 9911135446.
- (vi) *Anti Stalking Cell*: Any women being stalked can register their complaint in these numbers 1096, Ph: 27894455 Fax: 27292523 SMS: 9911135446

Parivartan Helpline: For women in distress, 24x7 Women Helpline by DIAL-1091 along with 'Police Women Mobile Team' was started to reach out to the women, in distress, at their door-steps.

It was also informed to committee that Delhi police is taking action and issued order on following as well.

- i. Order have been issued to BPOs to drop their women employees escorted at their residence.
- ii. Action against tinted glasses and curtains in all vehicles and violators vehicle to be impounded.
- iii. All commercial vehicles / buses has been directed to keep their lights on during the night while plying on the roads of Delhi.
- iv. All off duty buses must be parked with owner and not with driver / staff
- v. Permits to be cancelled for commercial vehicles violating contract carriage conditions.
- vi. Verification of Staff / Drivers
- vii. Driver's license and all details along with Photo to be compulsorily displayed in all public vehicles

3.7 LEGAL SERVICES AUTHORITY ACT AND THE NATIONAL LEGAL SERVICE AUTHORITY

Poor women are entitled to receive free legal aid under the Legal Services Authority Act and that the National Legal Service Authority has strived to enhance legal literacy for women and provide access to justice, but the quality and scope of the free legal services provided and the access of this facility to women in rural and tribal areas is still a challenge.

3.7.1 Fast Track Courts

Fast Track Courts were set up on the recommendations of the 11th Finance Commission for expeditious disposal of long pending sessions cases and the cases involving under trial prisoners for a period of 5 years first from 2000 to 2005. The Finance Commission had recommended creation of 1734 new additional courts against which 1192 Fast Track Courts were set up. The period was extended by 5 years from 2005-2010 and further extended by one more year i.e. 2010-11 by Central Government. The Central Government has provided financial assistance to the State Governments for Fast Track Courts as per the norms of the approved scheme for the full period from 2000-01 to 2010-11. The scheme has been discontinued, w.e.f. 31/03/2011. However, the State Governments can continue the Fast Track Courts from their own funds. In the 13th Finance Commission Award for Judiciary, Rs.2500 crore is allocated for setting up of morning/evening /shift/holiday courts. No funds have been earmarked for the setting up of FTCs. Only one FTC has been set up by the Mumbai High Court for the trial of the anti-human trafficking cases. After Nirbhaya case many States have set up fast track courts.

3.7.2 Immediate Steps taken after 16th December Gang Rape Incident

A committee of jurists headed by former Chief Justice of India J.S.Verma along with Justice (retired) Leila Seth, former Chief Justice of Himachal Pradesh High Court and Gopal Subramanian, former Solicitor General of India was set up on 24th December, 2012 to give recommendations on amending laws to provide speedy justice and enhanced punishment in sexual assault cases. The committee decided to widen its terms of reference to also review the existing conditions of "gender justice and respect towards womanhood" in the country. The panel held the view that the entire effort of having stronger laws for protection of women would remain incomplete without plugging loopholes in the legal system, which lacks "gender sensitivity and respect for women rights."

The Union Cabinet has also constituted another judicial commission over the brutal gang rape of the 23-year-old girl to be headed by Justice (Retd.) Usha Mehra

look into various aspects of the horrendous incident to find out the lapses and fix responsibility of officials.

National Database of Rapists is to be formed. The national database of rapists will be shared on the website of the National Crime Records Bureau. It will contain the photos, names and addresses of the convicted rapists with the intention to publicly shame them and also provide a database to potential employers to check the antecedents before employing them in service.

The Government of Delhi launched a round the clock Helpline '181' to facilitate women in distress. The helpline to operate from the Chief Minister's office in Delhi Secretariat will be connected with all the 185 police stations across the city. The number '181' can be dialed from landline and mobile phones.

The Home Minister has also directed the Delhi Police authorities that atleast one Women Police Officer be posted at each Delhi Police Station and has also directed them to recruit more women police. A proposal for the recruitment of 418 women Sub-Inspectors and 2088 Mahila constables for Delhi Police was been approved.

The Ministry of Home Affairs convened a conference of the Chief Secretaries and the DGPs of States / UTs to discuss measures and interventions needed to combat and prevent crime against women and vulnerable sections of the society on 04th January, 2013.

3.8 STEPS TAKEN BY MINISTRY OF WOMEN AND CHILD DEVELOPMENT ON CRIMES AGAINST WOMEN

3.8.1 National Policy for Empowerment of Women 2001

The National Policy for Empowerment of Women 2001 has as its goal bringing about advancement, development and empowerment of women in all spheres of life through creation of a more responsive judicial and legal system sensitive to women and mainstreaming a gender perspective in the development process. The strengthening and formation of relevant institutional mechanisms and

implementation of international obligations/ commitments and co-operation at the international, regional and sub-regional level was another commitment

Some of specific objectives of this Policy are:

- (i) Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential
- (ii) The *de-jure* and *de-facto* enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil
- (iii) Equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.
- (iv) Strengthening legal systems aimed at elimination of all forms of discrimination against women
- (v) Changing societal attitudes and community practices by active participation and involvement of both men and women.
- (vi) Mainstreaming a gender perspective in the development process.
- (vii) Elimination of discrimination and all forms of violence against women and the girl child etc

3.8.2 One Stop Crisis Centers: These centers will be opened in all districts. These will function as One Stop Centers where medical, legal, and police aid will be provided to women who are victims of rape and sexual assault. These will provide short stay for the women in need, and will be equipped with ambulance services which will reach women who need help. These will have trained staff which will function with sensitivity and discipline. Funds have already been allocated for the project. These help centers will be run by the central government. Protocols for the staff attending to victims in these centers are in process of formulation.

3.8.3 National Commission for (NCW): The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. The NCW takes up the matter with the concerned authorities including State Governments. NCW also constitutes Inquiry Committees on some specific incidences of grave injustice or deprivation of women's rights including on the reported cases of alleged rape/gang rape. The recommendations of the Inquiry Committees after approval of the Commission are then forwarded to the concerned State Governments to take appropriate action and follow up in the matter.

3.8.4 Institutional Mechanisms: The Support Services, in place, to victims of violence are Short Stay Homes, *Swadhar*, Help lines for women in distress, Legal Literacy and Legal Awareness Camps, earmarking of one Fast Track Court in a district, (where there are two) to deal exclusively with cases of violence against women, Women's Cells in Police Stations, Family Courts, Mahila Courts, Counselling Centers, Legal Aid Centers and Nyaya Panchayats.

3.8.5 Gender Budgeting

Gender Budgeting is a powerful tool for achieving gender mainstreaming so as to ensure that benefits of development reach women as much as men. It is not an accounting exercise but an ongoing process of keeping a gender perspective in policy/program formulation, its implementation and review. The rationale for gender budgeting arises from recognition of the fact that national budgets impact men and women differently through the pattern of resource allocation. Women, constitute 48% of India's population, but they lag behind men on many social indicators like health, education, economic opportunities, etc. Hence, they warrant special attention due to their vulnerability and lack of access to resources. The way Government budgets allocate resources, has the potential to transform these gender inequalities. In view of this, Gender Budgeting, as a tool for achieving gender mainstreaming, has been adopted by government. For the first time special reference was made by the Finance Minister in his Budget Speech of 2001 now there are Gender Budgeting Cell in nearly

all major central ministries and State Governments are also implementing concept of Gender Budgeting. The National Budget had women component plan.

3.8.6 *BetiBachaoBetiPadhao*

A flagship initiative to address issues that affect women, and also reverse the trend of an adverse and declining Child Sex Ratio. The Prime Minister has launched the programme at Panipat on 22nd January, 2015. The goal of initiative is to Improve Child Sex Ratio in 100 Gender Critical Districts

3.9 Interventions by Ministry of Health

3.9.1 Advisory by Ministry of Health in Providing free medical treatment to acid attack victims regarding dt. 2/5/2013 some important points:

- (i) Attention is drawn to the Criminal Law (Amendment) Act 2013 (No. 13 of 2013), which came into force on 3rd February, 2013 and has been gazette on 2nd April, 2013. As per the section 357-C inserted in Code of Criminal Procedure, 1973 by the amendment, it has been provided that "All Hospitals, public or private whether run by the Central Government, the State Government, Local Bodies or any other person shall immediately, provide the first aid or medical treatment, free of cost, to the victims of any offence covered under section 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code and shall immediately inform the police of such incident.
- (ii) Section 326A provides that "Whosoever causes permanent or partial damage or deformity to, or burns or maims, disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause any such injury or hurt, shall be punished with imprisonment of either description for a

term which shall not be less than ten years but which may extend to imprisonment for life, and with fine :

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim: This issue was discussed in a meeting held under Home Secretary recently. It has been decided that all the State Governments / UTs may be requested to ensure free medical treatment to the victims of any offence covered under 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code. Further the fines imposed and collected would meet the medical expenses of treatment of the victim and shall be paid to the victim. Since Health is state subject, it is responsibility of State Government / UT administration to provide adequate medical treatment and rehabilitation of the acid attack victims. Against the above background, the States Governments / UT Administrations are requested to issue necessary instructions to all concerned such as State/UT officials, all hospitals irrespective of run by Government, autonomous institutions, private institutions etc. for compliance of the above said provisions in right earnest manner.

3.9.2 Guidelines and Protocols -Medico-legal care for survivors/victims of Sexual Violence

The guidelines are essentially aimed at doctors who might one day be called upon to handle female victims of sexual assault / rape in the course of their duty whether in a government hospital or even a private one. Sexual assault victims cannot be denied treatment in either of these hospitals when they approach them as denial has been made a cognizable criminal offence punishable with appropriate jail terms or fines or both. Through these guidelines the aim is to ensure a sensitive and humane approach to rape victims, their proper treatment apart from attending or treating

doctors responsibility and duty in recording and documenting the medical aspects in order that such cases when they come up before the criminal justice system are not found wanting in the quality of evidence produced by the prosecution during trial

3.10 Other Interventions

3.10.1 *The Tenth Five Year Plan(2002-07)* called for the three pronged strategy of social empowerment, economic empowerment and providing gender justice to create an enabling environment of positive economic and social policies for women and eliminating all forms of discrimination against them and thus advance gender equality goals. The vision of the Eleventh Five Year Plan is to end the multifaceted exclusions and discriminations faced by women and children; to ensure that every woman and child in the country is able to develop her full potential and share the benefits of economic growth and prosperity. In the Eleventh Plan, for the first time, women are recognized not just as equal citizens but as agents of economic and social growth. The approach to gender equity is based on the recognition that interventions in favor of women must be multi-pronged and they must: (i) provide women with basic entitlements, (ii) address the reality of globalization and its impact on women by prioritizing economic empowerment, (iii) ensure an environment free from all forms of violence against women (VAW)—physical , economic, social, psychological etc., (iv) ensure the participation and adequate representation of women at the highest policy levels, particularly in Parliament and State assemblies, and (v) strengthen existing institutional mechanisms and create new ones for gender main-streaming and effective policy implementation

3.10.2 *Mahatama Gandhi National Rural employment Guarantee (MNREGA):* National Rural Employment Guarantee Act, (NREGA) was notified on September 7, 2005. The objective of the Act is to enhance livelihood security in rural areas by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. At least one-third beneficiaries shall be women who have registered and requested work

under the scheme. Mechanisms have been put in place for effective implementation of the scheme. In current budget also huge allocation has been made under this scheme and rural women are major beneficiaries and by providing them employment in their own village and setting it protects women from violent situations and crimes like trafficking and empowers them economically

3.10.3 *National Rural Livelihood Mission* was launched by the Ministry of Rural Development (MoRD), Government of India in June 2011. Aided in part through investment support by the World Bank, the Mission aims at creating efficient and effective institutional platforms of the rural poor enabling them to increase household income through sustainable livelihood enhancements and improved access to financial services. The National Rural Livelihoods Mission (NRLM) is considered the largest poverty reduction initiative for women, in the world with its goal of reaching nearly 70 million rural households. NRLM will focus on the poverty of rural households, and it will reduce that poverty by mobilizing them into representative and self-managed institutions at the grassroots level—women’s self-help groups (SHGs). Working exclusively through rural women and their organizations, NRLM can have a tremendous impact on gender issues and could be a game changer in terms of achieving the MDGs on nutrition, gender and poverty.

3.10.4 Panchayat Raj Institutions

The 73rd and 74th Amendments (1993) to the Indian Constitution have served as a breakthrough towards ensuring equal access and increased participation in political power structure for women. The PRIs are playing a central role in the process of enhancing women’s participation in public life. The PRIs and the local self Governments are actively involved in the implementation and execution of the National Policy for Women at the grassroots level

3.10.5 Women Reservation Bill

Government has introduced a Bill in Parliament to reserve one-third of the seats in the Parliament and in the State Legislative Assemblies.

In conclusion, as it is evident that the Government of India has made significant forays in terms of introducing and implementing progressive legislations for advancing women's rights. These legislations are a result of consistent realization of inherent importance of gender equality to the realization of the commitment of substantive equality in India. However, the true essence of these laws can be achieved only through systematic change in modes of thinking of various stakeholders.