

## CHAPTER – 1

### INTRODUCTION

Violence against women remains one of the vexing problems faced by Indian women. It includes a range of violent acts such as rape, sexual and physical assault, emotional abuse which culminates into homicide or other physical infirmities and adverse mental health outcomes. A range of terms have been used to denote violence against women. The terms such as “women abuse”, “violence against women”, and “male-to-female violence” are specifically used to reflect on women’s greater vulnerability to violence as opposed to men. Gender neutral terms such as “family violence” or “intimate partner violence” (IPV) are often used to denote gender parity in violence between women and men (DeKeseredy and Schwartz, 2011). In general, due to the social and economic status of women it is generally accepted that the depth and extent of violence against women is much graver than violence against men by women.

There are nuanced debates on the difference between violence and crimes against women. The United States National Violence against Women Survey (NVAWS) introduced crime and personal safety survey, which included behaviors which are not included in law (DeKeseredy and Schwartz, 2011). It resulted in low incidence of women reporting violence (DeKeseredy and Schwartz, 2011). In India, Crimes against Women (CAW) refers to legal definitions of according to the Indian Penal Code and Criminal Procedure Code and other special laws.

The Convention on the Elimination of All Forms of Discrimination against Women (1979) did not mention violence against women, but the committee monitoring the convention developed an initial recommendation against violence in 1989 and in 1992 formulated a broader recommendation that defined gender based violence as a form of discrimination. The 1992 statement placed violence against women squarely within the rubric of human rights and fundamental freedoms and made it clear that States are obliged to eliminate violence perpetrated by public authorities and by private persons. It

stated that if assault or murder is prosecuted less avidly when it occurs against women in intimate relationships than under other circumstances, a State has discriminated on the basis of gender (Engel Merry, 2006).

The Commission on the Status of Women developed the Declaration on the Elimination of Violence against Women in 1993. Violence against women “is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women’s full advancement” (UN Women United Nations Entity for Gender Equality and the Empowerment of Women, 1995). According to Article 1 of the declaration, violence against women includes: Any act of gender-based violence that results in or is likely to result in physical, sexual or mental harm or suffering to women including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life (United Nations, 1993).

The definition was further amended in Article 2 to include:

- (i) Physical, sexual and psychological violence that occurs in the family, including battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation;
- (ii) Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution;
- (iii) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs (United Nations General Assembly, 1993).

The 1995 Platform for Action of the Fourth World Conference on Women in Beijing included a section on gender based violence. The text reads, “Violence against women, both violates and impairs or nullifies the enjoyment by women of their human

rights and fundamental freedoms. The long standing failure to protect and promote these rights and freedoms in the case of violence against women is a matter of all States and should be addressed” (UN Women United Nations Entity for Gender Equality and the Empowerment of Women, 1995).

The United Nations Population Fund, 1998 further expanded the definition as follows:

Gender-based violence is violence involving men and women, in which the female is usually the victim and which is derived from unequal power relationships between men and women. Violence is directed specifically against a woman because she is a woman, or affects women disproportionately. It includes, but is not limited to, physical, sexual and psychological harm (including intimidation, suffering, coercion, and/or deprivation of liberty within the family or within the general community). It also includes that violence which is perpetrated or condoned by the State (United Nations Population Fund, 1998).

New terms such as “femicide” or “feminicide” have been used recently to define the gender-related killing of women, which itself can take many forms. For example, honour killings, dowry-related killings, as well as witchcraft or sorcery-related killings, are direct forms of gender related homicide that almost exclusively target women, whereas more indirect forms include other types of killings that may not be counted as homicides (United Nations General Assembly, 2012).

There are multiple challenges to measuring all forms of violence against women because of its complexity, the high “dark figure” that affects data based on victim reports to authorities (law enforcement and public health), the different means and criteria for collecting data on victimization which may not be comparable, and the difficulty of accurately measuring certain types of violence (UNODC United Nations Office on Drugs and Crime, 2013).

## 1.1 UNDERSTANDING GENDER RELATIONS

The term “sex” refers to biological differences between women and men whereas “gender” is a distinctly sociological concept which explicates the social implications of different roles of women and men not only within the household but also its intersections with other institutions such as politics, economy, education and culture. Robert Connell writes “gender concerns the way human society deals with human bodies and their continuity and the many consequences of that dealing in our personal lives and our collective fate (Connell, 2009: page 11). Sexual division of labor” was first used by Marxist feminists to establish linkages between sexual differences between women and men, their reproductive roles and its impact on “ideological and material ordering of roles, rights and values in the family, the workplace and the society” (Moghadam, 2003: 15). Sylvia Walby in *Theorizing Patriarchy* (Walby, 1990: 20) defines “patriarchy as a system of social structures and practices in which men dominate, oppress and exploit women”. For Walby (1990) patriarchy exists at several layers of abstractions and she identifies six main structures:

- (i) Patriarchal production relations within the household that involves the use of women unpaid labor by the husbands.
- (ii) Patriarchal relations within paid work as often women are excluded from highly paid and highly skilled jobs.
- (iii) Patriarchal state perpetuates systematic bias against women.
- (iv) Male violence which is usually condoned by the state and is further legitimated by the refusal to intervene except in few cases.
- (v) Patriarchal relations in sexuality that includes heterosexuality and sexual double standards.

- (vi) Patriarchal cultural institutions which reinforce women's sub-ordination through complex representations in religion, education and the media (page 21).

Connell (1987) has described the "gender" as a "social structure" that shapes our social practices. Based on this he has identified three dominant structures which constitute the "gender order" of the contemporary society:

- (i) Labor the division of labor between women and men is viewed as a structure which is embedded in the capitalist production, consumption and distribution.
- (ii) Power goes beyond individual acts of violence or oppression and is related to the structures of power that ensure the permanence of existing relationships between women and men. For example: rape is not merely an act of deviance but is a dominant mode of social control that ensures male supremacy in the society.
- (iii) *Cathexis* the emotional and erotic dimensions of all social relationships still are controlled by men.

Gender inequality and discrimination are root causes of violence against women, influenced by the historical and structural power imbalances between women and men which exist in varying degrees across all communities in the world. Violence against women and girls is related to their lack of power and control, as well as to the social norms that prescribe men and women's roles in society and condone abuse. Inequalities between men and women cut across public and private spheres of life, and across social, economic, cultural, and political rights; and are manifested in restrictions and limitations on women's freedoms, choices and opportunities. These inequalities can increase women's and girls' risks of abuse, violent relationships and exploitation, for example, due to economic dependency and limited survival and income-earning options, or discrimination under the law as it relates to marriage, divorce, and child custody rights.

## Box 1: Risk and Protective Factors

A variety of factors at the individual, relationship, community and society (including the institutional/state) levels intersect to increase the risk of violence for women and girls. These factors, represented in the ecological model, include:

1. Witnessing or experiencing abuse as a child (associated with future perpetration of violence for boys and experiencing violence for girls)
  2. Substance and alcohol abuse
  3. Low levels of education (for boys associated with perpetrating violence in the future and for girls, experiencing violence);
  4. Limited economic opportunities (an aggravating factor for unemployed or underemployed men associated with perpetrating violence; and as a risk factor for women and girls, including of domestic abuse, child and forced marriage, and sexual exploitation and trafficking)
  5. The presence of economic, educational and employment disparities between men and women in an intimate relationship.
  6. The presence of economic, educational and employment disparities between men and women in an intimate relationship;
  - 7 Conflict and tension within an intimate partner relationship or marriage;
  8. Women's insecure access to and control over property and land rights;
  9. Male control over decision-making and assets;
  - 10 The presence of economic, educational and employment disparities between men and women in an intimate relationship;
  11. Attitudes and practices that reinforce female subordination and tolerate male violence (e.g. dowry, bride price, child marriage);
  12. Lack of safe spaces for women and girls, which can be physical or virtual meeting spaces that allow free expression and communication; a place to develop friendships and social networks, engage with mentors and seek advice from a supportive environment.
  - 13 Normalized use of violence within the family or society to address conflict;
  - 14 Limited legislative and policy framework for preventing and responding to violence;
  - 15 Lack of punishment (impunity) for perpetrators of violence; and low levels of awareness among service providers, law enforcement and judicial actors.
- Source: (Bott, S. Morrison, A. and Ellsberg, M., 2005).

### *Protective Factors:*

1. Completion of secondary education for girls (and boys);
  2. Delaying age of marriage to 18;
  3. Women's economic autonomy and access to skills training, credit and employment;
  4. Social norms that promote gender equality;
  5. Quality response services (judicial, security/protection, social and medical) staffed with knowledgeable, skilled and trained personnel;
  6. Availability of safe spaces or shelters; and access to support groups.
- (World Health Organization, 2005).

## 1.2 STATEMENT OF THE PROBLEM

The 16<sup>th</sup> December 2012 gang rape of a young medical student brought forth crimes against women on the national focus and played a vital role in breaking the culture of silence on the issue. Both print and visual media were replete with reports of sexual violence, kidnapping and abduction, trafficking of women and girls, acid attacks, bride buying and other crimes like cybercrimes giving the impression that crimes against women have increased dramatically in India.

As per the National Crime Records Bureau (NCRB), in 2013, 309,546 cases of crimes against women were reported to the police as compared to 244,270 cases in 2012, showing an increase by 26.7 percent. The crime rate (which means number of crimes against women per one lakh population of women) has been recorded at 52.2 as compared to crime rate at 41.7 in 2012 at national level. Delhi has reported highest rate of crime against women at 146.8 in the year 2013. Despite the stigma and social-economic factors which leads to underreporting sexual violence remains one of the fastest growing crimes against women. Sexual violence includes rape, molestation and crimes such as abduction and kidnapping. One of the startling aspects of sexual violence in India is the sheer brutality which often leads to severe mutilation of a woman's body. This has led to global attention on sexual violence in India.

The general perception of rising crimes adversely impacts on women's participation in the workforce. It restricts their use of the public spaces and transport. Various sectors of the economy including tourism have also been impacted as India is being perceived as very unsafe place for young women. India's standing in the global community has also been tarnished as remarks were made by Secretary General of UN. Crimes against women also figured prominently in the manifesto of major political parties in the run up to 16<sup>th</sup> Lok Sabha Elections and recent Assembly polls in many States, making it as political/governance issue. Reports by NGOs, Civil Society and International Organizations have also raised serious concerns about rising crime against women in the country.

In India, the National Crime Records Bureau (NCRB) remains the sole repository of crime data which is collected from the States/UTs through their State Crime Records Bureau (SCRB). Crime statistics recorded by the NCRB provides a snapshot of the crime prevalence in India. The data is the most authentic information on crimes but suffers the weakness of the systemic failures in recording the data and the fact that there is huge underreporting in some crimes such as sexual violence or child abuse, green crimes or white collar crime etc.

Although women may be victims of any of the general crimes such as 'Murder', 'Robbery', 'Cheating', etc. only the crimes which are directed specifically against women are characterized as 'crimes against women'. These crimes under the India Penal Code (IPC) are: rape u/s 376, kidnapping and abduction for specified purposes u/s 363-373, homicide for dowry u/s 302/304B, torture – mental and physical u/s 498A, molestation, stalking, voyeurism u/s 354, sexual harassment u/s 509, importation of girls u/s 366B. Crimes under special and local laws are: Immoral Traffic (Prevention) Act (ITPA), 1956; Dowry Prevention Act, 1961, Indecent Representation of Women (Prohibition) Act, 1986; Commission of Sati (Prevention) Act, 1987; Pre-natal Diagnostic Techniques Act, 1994 (National Crime Records Bureau, Ministry of Home Affairs, 2013).

Despite issues of under-reporting by citizens and suppression of reported crime by police, crimes against women have been on the rise. This is the cause of deep concern to Government and society. Rise in crimes against women, not only violates their fundamental rights and intensifies the subordination and powerlessness of women, but also sends a message to society that these forms of violence and crimes against women are both acceptable and inevitable. By compromising the health, dignity, security and autonomy of women, it jeopardizes women's lives and psychological integrity and causes immense harm to families, communities and societies. This creates a non-enabling environment for achieving full and equal realization of women's fundamental rights. Moreover by perpetuating male power and control over half human capital, it hampers productivity and undermines economic and social progress of the country. In view of the

importance of this issue, this dissertation analyses the trends in various crimes against women in country in States/UTs to assess enormity of the problem and to evaluate the impact of various legislative and administrative interventions to prevent and combat the crimes.

### **1.3 OBJECTIVES OF THE STUDY**

The present study is designed to analyses the trends in various crimes against women in country in Indian States/UTs in last decade. Furthermore, it evaluates the impact of various legislative and administrative interventions to prevent and combat the crimes. The specific objectives of the study are as follows:

- (i) To examine and analyze the trends in crimes and changing nature of crimes against women over the time period of 2000 to 2013 in India.
- (ii) To examine and analyze the effectiveness of existing legislative, policy and administrative response to prevent and combat crimes against women.
- (iii) To investigate if the “culture of silence “has been broken while reporting cases of sexual violence.

### **1.4 RESEARCH QUESTIONS**

- (i) Have crimes against women increased over the time period of 2000 to 2013?
- (ii) What are explanations for this?
- (iii) Why is the conviction rate for crimes against women lower than for general crimes?
- (iv) What are the policy and implementation inadequacies with regard to crimes against women that need to be addressed?

## **1.5 ORGANIZATION OF THE THESIS**

The thesis is organized into seven chapters. Chapter 1 provides an introduction to the definition of gender based violence, crimes against women and also the major risks and protective factors underlying gender based violence along with statement of problem, objectives of the study and methodology. Chapter 2 reviews existing literature. Chapter 3 reviews interventions in form of legislations and policies. Chapter 4 analyses crimes against women. The Chapter 5 provides analyses of investigations, trials and convictions in crimes against women. The Chapter 6 addresses the lacunas in the implementation of legislations and policies. Conclusions and implications for policies are discussed in Chapter 7.

## **1.6 METHODOLOGY**

This study is based on secondary analysis of data from National Crime Records Bureau (NCRB) data from 2000-2013. It examines and analyses the trends in reported crimes, patterns in the nature of crimes and conviction rates in cases of crimes against women across States and Union Territories (UTs). Furthermore, National Family Health Survey (NFHS) data has also been used along with a detailed review of literature, media and government websites which includes Annual Reports of various Ministries, Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) progress reports, articles in magazines and newspapers and Parliament Standing Committee reports have been used for analysis of information regarding implementation of policies and government orders.