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A SHORT NOTE ON GENDER-BASED VIOLENCE

AUTHORED BY - AJAY SINGH & SHIVANGI PANDEY

We have been hearing about numerous socio- legal issues all over the world but here there would only be the information residing in India i.e. gender-based violence. In spite of introduction of several laws against this type of violence, the violence subsists in one or the other form whether it is physical, mental, psychological, and sexual and even more which we cannot examine.

It has been our history that and even known to all that India is a patriarchal based country. It has its roots deep beneath. We know that everything needs balance whether the case be this. From earlier times women or girls have been considered to be a material and they need to be pardanashin. Irrespective of the caste or place of birth, it subsists.

So, if we go by the dictionary meaning of the word "violence", it means a threatening behaviour which can cause harm to someone physically. So, violence against women means the act of physically assaulting woman or girls due to the category of sex they belong to.

Violence Against women has been defined by the UN Declaration of Violence Against Women, 1993 as "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 deprivation of liberty, whether occurring in public or in private life."

Article-2 of the UN Declaration of Violence Against Women has listed out some forms of violence. But with the increase in crime, the violence has also increased and has taken different forms whether it be rape, dowry death, sexual harassment & many.

As per a report, 42 women are raped daily, approx 18 cases occur relating to dowry death and many go unheard. Per hour 5 women face cruelty, 4 face molestation. Whether it be an infant girl child or be it a woman of 80 years, no age group has been left unraped.

If we take a statistical data of violence against women from 2015-2023, there has been 51.6% femicide, 27.4% family violence, 9.7% sexual assault, 9.7% physical assault and 1.6% torture.

To protect them several women- specific Acts have been formulated. Few of them are-

- 1) Indian Penal Code, 1860
- 2) Indian Evidence Act, 1872
- 3) The Sexual Harassment of women at Workplace (Prevention, Prohibition & Redressal) Act, 2013
- 4) The Commission of Sati (Prevention) Act, 1987.
- 5) Protection of Women from Domestic Violence Act, 2005 , and many more.

FEW IMPORTANT CASES RELATED TO WOMEN

VIOLENCE

1. Mukesh v. State for NCT of Delhi and Ors.,¹

The case commonly known as the Nirbhaya Case. This case revolves around both rape and murder of a 23 years old girl who was returning by the public bus with her friend. The bus had 6 men who gang-raped her brutally and inserted an iron rod inside private parts and threw her friend out of the bus. The girl died after being taken to the hospital. This is a case which occurred in 2012 but the judgment delivered took a long time. The girls's entire internal organs were torn off.

Out of the six, four of them were punished with the rarest of the rare punishment i.e. death punishment, one was sent to the reformatory house and one died. Though the decision was taken in 2020, still, the Nirbhaya case brought a huge amount of change in the laws relating to the safety of the women and the violence done against her.

2. Vishakha v. State of Rajasthan and Ors.²

In this case there was a woman named Bhanwari Devi who worked for the welfare of the women under a project run by the Government of India in 1985. She raised her voice against the rape committed on her neighbour. Once it happened that she raised her voice against an infant marriage

¹ (2017) 6 SCC 1

² (1997) 6 SCC 241 for further inquiry visit "[Sexual harassment at workplace](#)". *The Indian Express*. 26 January 2010.

which was being performed by the infant girl's family. She reached the place where marriage ceremony was being held and tried to stop the marriage but all went in vain. Even the police officers did not support her in stopping the marriage.

After few months five members of the same family attacked Bhanwari Devi's husband and mercilessly gang-raped her. After that the police officer denied filing an F.I.R. for atleast 52 hours due to which all evidences relating to the rape committed got destroyed.

Later a women's right group named Vishakha filed a PIL. The Apex Court said that women needs to be safe from harassment and sexual abuse at her workplace and thus made an Act containing guidelines for the protection, prevention and redressal of any harassment against women at their workplace. The Act was named as "The Sexual Harassment of women at Workplace (Prevention, Prohibition & Redressal) Act, 2013".

3. Shraddha Murder Case

Another heart threatening case occurred in 2022 where a girl named Shraddha Walkar, 27 years old, was living with her boyfriend named Aaftab Poonawala in live-in-relationship. They were living together for past two to three years where Aaftab numerous times assaulted Shraddha and in May 2022 he murdered her mysteriously and cut her body into 35 pieces and kept it in refrigerator for 6 months and disposed it piece by piece at night in the forest. Later, after six months he got caught and got arrested by the Delhi Police on dated 22 November 2022. Shraddha's father after that demanded death penalty for Aaftab.

This incident shook everyone and left everyone questioning the decision of Shraddha of not leaving Aaftab after being assaulted by him several times.

4. Aruna Shanbaug v. Union of India³

This case is a very important case relating to euthanasia. In this case it happened that Aruna who was a nurse in the hospital was changing her dress in the basement of the hospital where a sweeper entered

³ (2011) 4 SCC 454

For further inquiry visit news.biharprabha.com. 18 May 2015.

the basement. He put a dog chain over her neck and inter carnally raped her as she was going through menstruation. This choking stopped the passage of oxygen in her brain as a result of which she suffered from coma, cervical cord injury and even more injuries. The next morning she was found lying on the ground.

She remained for forty-two years in the persistent vegetative stage. Her friend appealed in court for giving Aruna passive euthanasia because there was no chance of her returning in normal stage and only Aruna was the one who was suffering a lot. Though the Court did not grant her the permission of passive euthanasia but after this case Right to Die was granted to an individual. Later, after 42 years she died due to pneumonia.

There are uncountable cases where we can easily see how society has reacted and treated women with violence. Even now while we are writing this article 6 out of 10 women or girls must be facing violence.

REMEDIES.

There can be no exact remedy to cure this socio- legal issue but with our immense approach towards changing the mentality of society, may bring reforms to a large extent. For that, the important things we need to do are:

1) Reducing the patriarchal and gender stereotype based mentality- No child is born with this type of mindset. It develops due to the environment in which they are brought up. A girl is given a kitchen set to play with which symbolises that her life is just to be involved in the daily households, taking care of her family and feeding them and on the same place a boy is given toys like robots, heroes and many more to play with due to which this gender stereotype mindset develops from childhood which needs to be prevented.

This society demands equality & balance between men and women. According to Article-14 of the Indian Constitution, every individual in India shall have equal rights before law. According to Article-15 of the Indian Constitution, no discrimination shall be made on the basis of sex, caste, creed, place of birth or race.

2) Education- Lack of education is one of the main reasons in of any violence in our country. We know that till date India has not obtained 100%. literacy rate. India is struggling for it. Even today there are many places in india where women are not sent to schools even just to have the primary education. Lack of education bars them from knowing their rights to take the violence to be their fate. Here, even sex-education plays a majou role. Sex education can bridge the gap of inequality between men and women. Lack of education brings superiority or masculinity in men and inferiority in women. Article-21 A of the Indian Constitution speaks about the Right to education to all.

3) Dowry System - A thing which has been a part of India since time unknown; a major reason to consider women a burden leading to violence against them. This violence can be in the form of discrimination towards her health, her studies, her food and many.

There is Dowry Prohibition Act, 1961.

Sec-304 of IPC too penalises dowry death, still it continues.

4) Religious Practices - The best example of this is Sati Pratha i.e. a system in which wife of a deceased old man had to be burnt alive in the funeral of her dead husband.

Other example is devdasi system, where in the name of God, girls get raped by the pujaris of temples. If these systems continue to prevail then, violence against women cannot be stopped.

CONCLUSION

Women are not object who has to be kept in a museum. She too is a human who can breath, can feel. She needs to be set free from the cage. If this violence subsists, then one day, there will only be men and not women all over the world. As much as the world needs a man that much the world needs a woman. If there is no women that means there is no life. Life continues in this universe only till there subsists women. If there are Tridevas as per Hindu mythology, there also is the presence of Tridevis as per the same Hindu mythology.

Beyonce once said "I want to build a community where women of all races can communicate and continue to support and take care of each other. I want to give women a space to feel their own strength and tell their stories. That is power."