

## CHAPTER 7

### CONCLUSIONS

The *Nirbhaya* case epitomized the brutal nature of violence perpetrated against women in the Indian society. In the past, brutal forms of violence led to civil society protests which in turn have resulted in progressive legislative reforms. Unfortunately, these legislations have fallen short of achieving the objectives that they set out to achieve. Primarily, unlike other countries India has not evolved a multi-sectoral approach to gender based violence. The complex nature of gender relations in the society requires an approach which takes into consideration the multiple roles of women and men. In the absence of a coherent understanding of gender based violence in the Indian feminist movement women's predicament is unlikely to undergo a positive change.

One has to analyze with caution the trend of increase in reported crime against women which has led to a generalizations related to qualitative improvements in the Indian criminal justice system. The analysis presented in this study found that between the years 2000-2013, the year 2013 witnessed massive rise of total crime against women (26.7 percent) particularly in crimes which are usually underreported like rape (35.2 percent), molestation (56 percent) and kidnapping and abduction (35.2 percent) over 2012. In general the trends from 2000-2013 indicates a rise in incidents of crimes against women with an exception of 2001 and 2002 which was actually marked by a decline in crimes against women. Similarly, between the years 2004 and 2007 also witnessed a marked increase in the incidents of crimes against women.

Various social factors might have influenced increased reporting of crimes in 2013 such as media focus on crimes against women along with the presence of social media such as Twitter and Facebook. Increased awareness might have led to women gaining the confidence to lodge complaints with the police. The culture of silence surrounding sexual violence might have been challenged with openness in which the people could debate about sexual violence in public forums. The highest reporting of

crime happened in New Delhi which was the site of *Nirbhaya* rape case and also the civil society mobilizations.

The New Criminal Law Amendment Act, advisories by Ministry of Home Affairs to States / UTs on compulsory registration of FIR, improvements in women representation in the police, setting up of women/children help desk in police stations and other specific women centric interventions at the State level might have empowered more women to report cases of gender based violence. Because of these affirmative steps on part of Government of India and debates and discourse in media and awareness, education and greater advocacy efforts by civil societies, the cases which would have gone unnoticed hitherto are now coming to fore and this is getting reflected in the statistics collected by the National Crime Records Bureau (NCRB).

As indicated earlier the greatest improvements in crime reporting were in New Delhi which draws attention to the need to dwell deeper into how sociological factors shape reporting of crime by citizens. Some of plausible factors that could influence reporting of crime include that presence of media savvy, highly educated citizens along with relatively better trained police officers. It does not really reflect the reality of the rural areas or remote conflict regions of the country where the relationship between the armed forces and people is one of suspicion and distrust. Underreporting of sexual crimes is not only a question of better policing or addressing the lacunas in the judiciary system. It is essentially a reflection of subordinate role of women vis-à-vis men in a patriarchal society wherein a woman's role is subsumed within her marital and reproductive identity. The potent form of social control exercised on women is through stigma and discrimination for transgressing predominant social norms of silence and submissiveness. In this study the specific causative factors influencing the increase in reporting of crime cannot be isolated. It appears that increased reporting of crime and actual incidents of criminal violence are largely influence by an array of factors which are largely intertwined with each other. Some of these factors include cultural, economic, political, societal, familial, property, increased opulence which has led to enhanced reporting of crimes against women. Increasing incidence of crime may also be due to the changing

demographics: high proportion of males in age group 18-35 who are statistically most likely to commit crime due to their superior social position. The adverse sex ratio of women is also marked by large increase in kidnapping, trafficking and abduction cases of women and girls for marriage purposes, illicit sex and molestation cases; economic change such as unemployment and changing sexual mores of elites also shape attitudes towards women. Other factors propelling could be rising inequalities across classes, rapid social change due to modernization, urbanization, rural flight to cities leading to anomie, wrong use of technology like mobile phones and internet, increasing economic expectations and most importantly the adverse status of women and girl child in Indian society.

This study has highlighted that the most commonly reported crime against women is cruelty by husbands and relatives. Furthermore, it highlighted that offenders in more than 90 percent rape cases are persons known to the victims. This finding clearly points to the Connell (1987) and Walby (1990) that private and public patriarchy reinforces each other. Violence within homes is clearly manifested in terms of traditional, inferior and peripheral roles ascribed to women with homes which are largely unremunerated. It is further aggravated by poor political representation in political institutions such as the national Parliament, state legislative assemblies and *panchayat raj institutions*. In the absence of opportunities for economic emancipation through equal property rights, jobs in the organized sector and right to housing leave women with little bargaining capabilities. The lack of women representation is another manifestation of women's exclusion from decisions which could possibly change the existing gender relations in the society. Unequal distribution of power in higher echelons of the society is also reflected in a weak police and judicial infrastructure which does not really take a pro-woman stance. The practical barriers in the implementation of the law are an outcome of a gender discriminatory institution ethos.

*Nirbhayacase* brought forth the glaring inadequacies of the criminal justice system in addressing violence against women. The reality is biting that in spite of the democratic ethos of the country the women continue as second class citizens constantly

fearing sexual violence as a means of punishing them. Efforts are directed towards improving the justice system but fundamental inadequacy remains as in general police who are the first stakeholders to directly help victims are usually indifferent and insensitive towards women. Sensitization efforts have been carried out with policeman however that would address the questions of infrastructural issues such as inadequate police force or lack of women officials. An attitudinal change along with structural changes in core biases towards women. The biases are also reflected in huge delays in trials and poor convictions rates against perpetrators of crimes.

India is a signatory to several multi-lateral conventions such as the CEDAW which is congruent to the constitutional provisions of India. Similarly, commitments made by Beijing Summit and Millennium Development Goals (MDG) has resulted in many targeted interventions in the form of legislations, creation of a separate ministry of Women and Child with huge budgetary allocation, enunciation of national policy on empowerment of women, constitution of national and State level institutions like National and State Women Commission and Human Rights Commission. These interventions have provided legal protection against several forms of violence, including female infanticide, child marriage, family and intimate partner violence. However, there is still a long way to go in terms of empowering women.

#### **RECOMMENDATION/STRATEGIES TO PREVENT AND ELIMINATE CRIMES AGAINST WOMEN: WAY FORWARD**

Violence against women is a complex problem which is rooted in the patriarchal organization of the society. It poses a great challenge to societal development. It is necessary to take a departure from the existing paradigms of viewing crime as isolated incidents. We should contextualize crime as an outcome of the existing social arrangements which deprive women of livelihood opportunities. The crime consists of four dimensions: (a) the law (b) the offender (c) the target, and (d) environment which further consists of actual spaces like city or rural India but also gets created by and influenced by general socio-economic, cultural and political factors. All of these have

essentially to be integrated into understanding of crimes against women and sustained intervention is needed on all fronts which should not be hindered by occurrence of extreme events.

Crime against women should be recognized as a serious public issue which impacts both women and men. The public acknowledgement of crimes against women by leading public personalities remains rhetorical unless backed by clearly defined actions that will lead to tangible results. Citizenships should be aware of their rights and responsibilities. The rule of law can be established only with the cooperation of the citizens.

*More specific recommendations are as below:* Many of these recommendations have also been part of discussion and reports of many committees.

*Good quality investigations:* the acquittal rates are higher than reported crimes which call for review of the procedural lacunas and systemic failures. Lacunas arise due to deployment of ill-trained general investigators, already burdened with law and order duties to investigate these cases. Special crime investigative unit envisaged and proposed by Ministry of Home Affairs may prove to be very a critical intervention.

*Increasing the overall representation of women:* in police forces and Judiciary is the most urgent need of the day with the introduction of a large number of women centric legislations like the recently amended Criminal Law (Amendment) Act 2013, procedural change in Cr. PC, the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal and the very fact that women constitute 48.5% of the country's total population. The very presence of women personnel in police stations could create a congenial environment for women who unfortunately become victims of crime or those who are from weaker sections of society to access police stations without inhibition. This aspect has been emphasized in various recommendations of various committees including CEDAW and advisories and it's high time that the Union and State Governments take all possible steps in coordination to ensure enhanced representation. The same is true for

enhancing judicial representation. This may be through special recruitment drive. The Central government may help the State in this regard with some Scheme. There is need for more recruitment in general of both police men and women to improve police citizen ratio as the ratio of the civil police vis-à-vis the population of the country is highly unsatisfactory. It is much lower than even most of the Asian countries. Similarly the representation of women in all walks of life and various professions like in transportation sector, should be increased substantially to address the specific needs of women in the fast changing society

*Enhancing Capacity Building and Police Infrastructure:* The setting up of exclusive 'Crime against Women and Children' help desk with women personnel in each police station to improve gender sensitivity of police stations. Many States/UTs have reported about establishing such desks in police stations, still more need to be done in this area in enhancing their capacities and awareness about them so as more women come forward to register cases of crimes and to ensure no delay in registration of FIRs

*Women Helplines:* Some advances have been made in terms of initiating women helplines in some States as standalone system and not a part of integrated response systems. There are no evaluation studies of these helplines therefore it might be premature to comment on these helplines.

*Comprehensive Emergency Response System:* An Emergency Response Agency where the police are able to reach the distress women within minutes of the call to be developed under *Nirbhaya* fund should be implemented expeditiously. Better police patrolling having women police personnel in mobile police vans are also required to prevent incidences of eve teasing and molestation.

*Community Policing:* It aims to provide for improved community support for the maintenance and enforcement of law and order in the community by maintaining a close liaison through the beat officer system. Some of the objectives achieved by involving the community are: obtaining assistance of the community by assisting in patrolling at night

in crime prone areas, educating the public about crime prevention strategies and basic steps for their safety and security to ensure timely flow of crime related intelligence from the community to the police and set the law into motion in the case of unreported crimes, assistance in locating and reporting to the police strangers in the locality and other persons of doubtful character, assist police in launching drives for tenant verification, servant verification etc. Community policing can be effective tool in creating awareness against crime and atrocities on women and children

*Awareness on crimes committed by relatives/known persons:* It is seen in the analysis of crime that as per information with NCRB, offenders were known to the victims in as many as in around ninety percent cases over all these years. So it is necessary that we educate and make the parents aware of this fact either by publicity in the press or media and through programs in the schools, so that they become aware of this fact and educate the girls and make them cautious of this. Moreover young girls should be made aware in the difference of appropriate and perverted gestures and good touch and bad touch .This can help in preventing sexual crimes and abuse of minors.

*Clampdown on obscene publishing and depiction of women in media:* The publishing of obscene and nude/ semi-nude photographs of women are an offence under Section 3 of the Indecent Representation of Women (Prohibition) Act, 1986 and provisions of the act should be stringently enforced. There is lot of obscenity in films in the form of item songs and other depictions. The 2014 study by UN women has also mentioned of highly sexualized depiction of women in Indian films.

*Monitoring Pornographic websites:* *Appropriate action should be taken under the IT Act to prevent the proliferation of these web-sites.*

*Appointment and capacity building of Domestic Violence Protection Officers and service providers.*

Protocols for police and investigative agencies, medical functionaries, legal aid agencies. Health Ministry had already come out with SOP. It needs to be better implemented

*Conviction Rate:* Low disposal of cases by courts and low conviction rate are major barriers in justice delivery and needs immediate intervention. Conviction rate should be increased through methodical and systematic investigation of cases followed up with time bound judicial action resulting in conviction. Justice should not only be done but also should be seen as delivered in quickest possible time so as to serve as a deterrent. High visibility of deterrent punishments and Higher Penalties in heinous cases will prevent commission of offences.

*Fast Track Courts:* The Union Government had requested the Chief Justices of High Courts and the Chief Ministers of the States to constitute Fast Track Courts for speedy trial of pending rape cases In District / Subordinate Courts having high pendency and to monitor the cases to ensure their timely disposal. After Delhi Rape cases more fast track courts have been set up by States and some announced judgment in record time but there is need for more fast track courts and sustained efforts for expeditious disposal of the cases.

*Nari Adalats:* Can be setup under family courts. This enables an independent alternate dispute redressal system to secure justice for poor women.

*Appointment of Women Prosecutors:* Prosecutor should be a woman as far as possible for trial of crimes against women to give the victim the confidence of a fair trial and more understanding of the concern.

*Reduction in adjournments:* Trial of crimes against women should take place u/s 309 of the Cr.P.C on a day-to-day basis to ensure its completion within the stipulated 60 days. The trial judge should record the number and nature of adjournments and mention in the judgments to identify the delays at all levels.

*Legal Aid, Legal literacy and Legal Awareness:* The availability of legal aid and improving the utilization of legal aid can improve women's access to justice.

*Strengthening of Institutions:* Institutions such as National Commission of Women and its state counterparts should be strengthened to work across sectors that are directly related to women's lives. They could improve awareness, sensitization of communities to gender justice and also act as a bridge in facilitating justice between vulnerable women and law enforcement machinery and courts.

*Forensic Medico Legal Services:* should be strengthened at the District and the State/Central level, with adequate training facilities at the State/Central level for the experts doing medico legal work. The State Governments must prescribe time frame for submission of medico legal reports. A mechanism for coordination among investigators, forensic experts and prosecutors at the State and District level for effective investigations and prosecutions should be devised.

*Sensitization and Awareness:* Sensitization and awareness are the primary preventive measures that are needed to counter the growing incidences of crimes against women, children and other vulnerable sections of the society. These measures must be two pronged, one targeted towards Police, Judiciary, Administrative Machinery and all levels of political functionaries, other towards increasing public awareness.

*Public:* The continued prevalence of violence against women is rooted in the patriarchal ethos of the society. It is critical to engage public, communities, *panchayat raj institutions*, students right from schools and in college and universities, civil society at large and non-governmental organization (NGOs) to spread awareness regarding treating women and girls with dignity and respect and for improving general awareness on legislations, mechanisms in place for safety and protection of women by taking following steps as advised in Advisory by Ministry of Home Affairs on Crime against women :

- (i) Create awareness through print and electronic media;
- (ii) Develop a community monitoring system to check cases of violence, abuse and exploitation and take necessary steps to curb the same;
- (iii) Involving the Community at large in creating and spreading such awareness; and
- (iv) Organize legal literacy and legal awareness camps.

*Partnership with NGOs:* The activism of NGOs and women's movement has played a crucial role in highlighting the issue and passing of many women centric legislations. Citizens groups and NGOs should be encouraged to increase awareness about gender issues in society and help bring to light violence against women and also assist the police in the investigation of crime against women. Close coordination between the police and the NGOs dealing with the interests of women will also be beneficial.

*The World Bank Study on Violence against Women in South Asia* has recommended that men and boys should be more systematically engaged at all levels and across all forms of violence as active participants. A range of interventions addressing child marriage and notions of masculinity and femininity among young girls and boys attest to the importance of it in early stages before biased gender norms are internalized. The study also recommends need for interventions to engage key household members and address key risks within the household that have been inadequately addressed thus far. It says that interventions should systematically work with household members who may perpetrate violence or offer support, such as parents, in-laws, and siblings. Also mentions important risk factors on which more focused attention is critical, such as alcohol abuse, parent-child inter-action, and inter-generational transmission of violence. These recommendations need serious consideration in view of fact that large share of violence is by husband, in-laws, family members and relatives.

*Mainstreaming of Gender Issues:* by allocating resources/ better implementation of gender budgeting and economic empowerment of women by grant of property rights and their effective implementation are long term solutions. The amendments in acts need to translate into reality. Empowerment of Women which include interventions for

economic, political and social empowerment on continuous and sustained basis and root causes of vulnerabilities to be tackled firmly for long term solutions. Availability of swift compensation and rehabilitation schemes for victims under victim compensation scheme. Improving skewed sex ratio is of utmost urgency as skewed sex ratio is not only indicator of violent of right to life but it gives rise other forms of crimes against women.

*Instituting Monitoring and Evaluation of Mechanisms:* The Government of India and state governments should set up specialized mechanisms for the monitoring and evaluation of laws in the country.

*Use of technology innovations* by planners and law agencies under Nirbhaya Fund and other schemes.

*Economic and social deprivation* will also need to be addressed as the chronic poverty, lack of intervention in family planning, lack of opportunity to develop a healthy and productive life, the cognitive development to make informed decision are critical factors in preventing crime against women. Social, economic profile of offenders involved in Delhi Gang rape case and in many other heinous rape cases is a pointer for intervention in this area more so because India has a very young population (more young boys due to skewed sex ratio).

*Changing Mindsets and Deep rooted Biases:* Large research shows that violence or crime is used for subordination to establish and perpetuate unequal power relations, much of violence is socially sanctioned and threat of crime is used to deter women to strive for equality. People and police implicitly hold women accountable for men's violence against them. Understanding the Mindset of Violence in Society and taking measures to change deep rooted biases and stereotypes through debates, discourse and awareness in Society through interventions by the Education Departments for the introduction of gender sensitivity into the general curriculum, using Media, Positive Role Models and Brand Ambassadors will be helpful.

Improving skewed sex ratio is of utmost urgency as skewed sex ratio is not only indicator of violent of right to life but it gives rise other forms of crimes against women. Flagship programme of government like *Beti Bachao Beti Padhao* is implemented in true spirit so as to bring social transformation.

*Creating Safe Public Spaces:* Women themselves perceive to be at risk from male violence in public space in spite of the fact that they are more prone to assaults at home. Women develop certain notions of fear from men who are strangers men attacking, mostly in dark alleys, although assaults in public spaces are crimes of opportunity due to urban built environment (Valentine 1992). Most of the women do not perceive the cities safe anymore. Delhi has been described as rape capital in many reports in media but many high profile brute cases including Shakti Mill have also indented the image of Bombay as safe city for women. Reports of abuse of girls in many schools in Bangalore and attacks on women in name of moral policing have raised question mark on city of Bangalore. Toronto's Exemplary women-friendly safety audits is a learning exercise and can be emulated by agencies of cities in India as there is huge need of developing ways and means of promoting women's safety in public places and transport as more girls and women are coming out of homes to pursue education and to participate in workforce.

*Providing Toilet Facilities:* Moreover, the gang-rape and hanging of two teenage girls in Badaun (UP) epitomizes the need for improved access to household toilet facilities. This incident is far from an isolated occurrence. Indeed, it has been calculated that round 400 women could have avoided rape if there was a toilet in their home. Prime Minister assured the nation that every household in India would have a toilet within the next four years. He additionally promised separate toilet facilities for girls in public schools. All these announcements need to translate into actions for ensuring dignity to women and girls of this vast country

## Other Measures

- (i) Improved infrastructure at bus stops, metro stations and subways: Enhanced lighting, electronic signage and audio announcements at major bus stops.
- (ii) Clear written and audio announcement of helpline numbers at important public places and in means of transportation.
- (iii) Electronic messaging on women's safety inside buses and at bus stops, as well as billboards outside buses.
- (iv) Visible police presence: Increased visible presence of marshals or police personnel at busy bus stops and metro stations, supplemented by plainclothes policemen and women. PCR vans to be parked near busy public transit points, especially during rush hours, and at night.

*Autos and taxis:* Making the display of auto and taxi drivers' identification, service standards and helpline numbers mandatory, with random checks by mobile teams.

In conclusion, the study provides important insights into the trends of reporting of crime across the Indian states. The increase of crimes reported by women is an encouraging sign. The trends of reported crimes should be analyzed on a yearly basis to ensure that this marked increase of crime reporting in the year 2013 is not a one off event but a sustained trend which is reflecting qualitative changes in Indian criminal justice system. One of the key concerns relates to conviction rates against the accused continue to remain poor. Therefore, further research should be directed to addressing administrative and judicial lacunas and also social and economic factors shaping criminal justice system.