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# ASSISTANCE FOR VICTIMS OF CRIME IN INDIA: FOCUSING ON VICTIMS OF GENDER – BASED CRIMES

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# 1. A BRIEF INTRODUCTION

- Globally, Gender- Based Crime refers to any crime committed against individuals or group of individuals on the basis of their gender.
- Sexual violence, domestic violence, trafficking, forced/ early marriage, harmful traditional practices (for example, female genital mutilation) and so on are considered as Gender- Based Crimes.
- In India, Gender- Based Crimes include **rape, sexual harassment, domestic violence, outrage to the modesty of women, dowry deaths, acid attacks, stalking** and so on.

## 2. SCOPE OF THE PRESENTATION

Though there is a long list of crimes under Gender – Based Victimization, for the purpose of this presentation, Victimization due to the following crimes are considered Gender – Based Crimes and are included under the scope of the presentation.

- **Rape** (Section 376)
- **Assault to woman with intent to outrage her modesty** (Section 354)
- **Insult to the modesty of women** (Section 509)

### 3. STATISTICAL OVERVIEW OF GENDER – BASED VICTIMIZATION

In order to understand the prevalence of Gender – Based victimization in India, the following table presents:

- Data regarding the incidence of crime against women (inclusive of all offences mentioned under the **Indian Penal Code (IPC) of 1860** and the **Special and Local Laws** that apply to women);
- The incidence of **Rape** (under Section 376 of IPC), **Assault to woman with intent to outrage her modesty** (under Section 354 of IPC) and **Insult the modesty of women** (under Section 509 of IPC) over a period of 5 years, i.e. from 2017 to 2021 is taken for analysis.
- The data is compiled from the Crime in India, published by the National Crime Records Bureau annually.

## a) INCIDENCE OF CRIME AGAINST WOMEN (IPC+SLL) AND THE GENDER – BASED CRIMES FOR THE PERIOD 2017-2021

S. No.	Year	Crime against Women (All India)	Rape (376 IPC)	Assault to women with intent to outrage her modesty (354 IPC)	Insult to the modesty of women (509 IPC)
1.	2017	3,59,849	32,559	86,001	7,541
2.	2018	3,78,236	33,356	89,097	6,992
3.	2019	4,05,861	32,033	88,367	6,939
4.	2020	3,71,503	28,046	35,392	7,065
5.	2021	4,28,278	31,677	89,200	7,788

**b) CRIME RATE AND CONVICTION RATE FOR RAPE, ASSAULT TO WOMAN WITH INTENT TO OUTRAGE HER MODESTY AND INSULT TO THE MODESTY OF WOMEN:**

S. No.	Year	Rape			Assault to women with intent to outrage her modesty			Insult to the modesty of women		
		Incidence reported	Rate of Crime	Rate of Conviction	Incidence reported	Rate of Crime	Rate of Conviction	Incidence reported	Rate of Crime	Rate of Conviction
1.	2017	32559	5.2	31.5	86001	13.8	27.8	7541	1.2	22.6
2.	2018	33356	5.2	25.6	89097	13.8	26.4	6992	1.1	17.1
3.	2019	32033	4.9	25.6	88367	13.6	26.9	6939	1.1	21.8
4.	2020	28046	4.3	35.6	85392	13.0	27.9	7065	1.1	27.7
5.	2021	31677	4.8	28.2	89200	13.4	31.5	7788	1.2	23.5

## 4. LEGAL PROVISIONS RELATING TO GENDER – BASED CRIMES

- The gender-based crimes in India are dealt with both the major penal laws, The India Penal Code, 1860 and the other Special and Local laws.
- The Indian Penal Code, 1860 lays down the provisions to penalize the criminals for the heinous offences against women.
  1. **Rape** (Section 376)
  2. **Assault to woman with intent to outrage her modesty** (Section 354)
  3. **Insult to the modesty of woman** (Section 509)



## 4. LEGAL PROVISIONS RELATING TO GENDER – BASED CRIMES

The other women - specific legislations include:

1. *Immoral Traffic (Prevention) Act, 1956*
2. *The Dowry Prohibition Act, 1961*
3. *Protection of Women from Domestic Violence Act, 2005*
4. *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*
5. *Indecent Representation of Women (Prohibition) Act, 1986.*

# 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

## *A. Victim Centric Laws:*

- As for victim assistance, in India, the existing legal provisions, both the Substantive criminal law and the Procedural criminal law, aim at only the monetary compensation to the victims of gender-based crimes and do not focus on providing physical and emotional assistance to the victims.
- Moreover, no separate laws for the victims of crime; only a few provisions in the Code of Criminal Procedure, 1973 dealing with restitution.
- In all these provisions, the term compensation is used to refer to restitution.
- The Courts have used the term compensation both for restitution to victims of crime by the offenders and for compensation to victims by the state.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

**Section 357 of the Code of Criminal Procedure, 1973 states:**

- “When a court imposes a sentence of fine or a sentence (including a sentence of the death of which fine forms a part) the court may when passing judgment order the whole or any part of the fine recovered to be applied:
  - a) in defraying the expenses properly incurred in the prosecution
  - b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the court, recoverable by such person in a civil court.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### Subsection (3) of section 357:

- “When a court imposes a sentence, of which fine does not form a part, the court may, when passing judgement order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced”.

### Subsection (5) of section 357:

- “At the time of awarding compensation (restitution) in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation (restitution) under this section”.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

**Section 358 of the Code of Criminal Procedure, 1973 states:**

- “Whenever any person causes a police officer to arrest another person if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation (restitution), not exceeding one hundred rupees to be paid by person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter as the Magistrate thinks fit”.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

*Section 359 of the Code of Criminal Procedure, 1973 states:*

- “Whenever any complaint of non-cognizable offences is made to a court, if it convicts the accused, may in addition to the penalty imposed on him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution and may further order that in default of payment the accused shall suffer simple imprisonment for a period not exceeding thirty days and such cost may include any expenses incurred in respect of process fees, witnesses and pleaders fees which the court may consider reasonable”.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### *The Criminal Procedure Code (Amendment) Act, 2005*

#### **Insertion of new Section 265 (B) Application for plea bargaining:**

4. (a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time to the Public Prosecutor or the complainant of the case, as the case may be, and the accused to work out a mutually satisfactory disposition of the case which may include **giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case.**

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### The Criminal Procedure Code (Amendment) Act, 2008

#### Insertion of new Section 357 (A) - Victim Compensation Scheme:

(1) 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 his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.**

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).



## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### The Criminal Procedure Code (Amendment) Act, 2008

#### Insertion of new Section 357 (A) - Victim Compensation Scheme:

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or **where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.**

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the **State or the District Legal Services Authority** for award of compensation.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### The Criminal Procedure Code (Amendment) Act, 2013

Insertion of Section 326 A in the Indian Penal Code defining **Acid Attack** and punishment as:

A term which shall not be less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupees; Provided that **any fine imposed under this section shall be given to the person on whom acid was thrown or to whom acid was administered.**

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### The Criminal Procedure Code (Amendment) Act, 2013

Insertion of Section 376 D in the Indian Penal Code defining **Gang Rape** and punishment as:

“rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and **shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim.**”

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### *B. Schemes/Programs of the Government:*

The Government of India has set up a dedicated fund called '**Nirbhaya Fund**' for implementation of initiatives aimed at enhancing the safety and security for women in the country. Under the Nirbhaya Fund, one of the schemes, namely, "One Stop Centre (OSC) Scheme" is implemented across the country since 1<sup>st</sup> April 2015. OSCs aim to facilitate women affected by violence with a range of integrated services under one roof such as:

- Police facilitation
- Medical aid
- Providing legal support
- Psycho-social counselling
- Temporary shelter

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### *C. Victim Assistance by NGOs*

Apart from the assistance by the Government, various Non-Governmental Organizations also focus on providing assistance to the victims of Gender – Based crimes such as:

- The **International Foundation for Crime Prevention and Victim Care** (PCVC) provides services to help female victims of assault.
- **Majlis**: An all-women team of lawyers and social activists that provide legal representation and social support to victims (women and children) of domestic and sexual violence from marginalized sections of society across caste, class and religion.

## 5. ASSISTANCE FOR VICTIMS OF GENDER – BASED VICTIMIZATION

### *C. Victim Assistance by NGOs*

- **Sakhya:** works to change the preconceptions that encourage gender discrimination through a variety of interventions and their macro-level involvement in social work and women's empowerment.

## 6. VICTIM ASSISTANCE AS A FORM OF SOCIAL CAPITAL

- A comprehensive victim assistance program would form a social capital for the Gender-based crimes, both to cope with the impact of victimization and to prevent further victimization.
- **Pierre Bourdieu** (a French Sociologist) considered social capital as a property of the individual, rather than the collective, and it is derived primarily from one's social position and status.
- Social capital is not about having a large social network but having social position that creates the potential for advantage from one's social network.
- Hence, an effective and comprehensive victim assistance programs would enable the victim to attain an appropriate social position.



Thank You