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FEMALE CRIMINALITY IN INDIA

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INTRODUCTION

Women play a key role in the socio-economic development of the society and have been the foundation stone of a family in particular according to the history of mankind. The role of women has been changing for generations. If we are looking into India, a woman is seen as a preserver of social norms, traditions, customs, morality and family cohesiveness. Woman has taken the responsibility of making a mark of her own to have an identity along with nurturing her family in the present world. Unfortunately a women's achievement is also getting extended towards criminality in the social, cultural, economic and political milieu of India. Even though crime committed against women is increasing day by day, the crimes committed by women are also tremendously increasing. Hence in this present scenario it becomes highly necessary to intrude into the root causes of female criminality.¹

I. FEMALE CRIMINALITY IN INDIA

In India the social environment contributes a lot to the making of women criminals. The female offenders have lost faith in the social system. Across the globe women still face discrimination on the basis of sex and gender. As a result of gender inequality, many problems which affect women would arise such as domestic violence, lower pay compared to that of the men, lack of access to education etc.²

One such very famous example is about a victim turned victimiser, Phoolan Devi. She was just 11 years old when she was married to a brutally violent man in his thirties. After then, the series of assaults began in her life, she was the victim of domestic violence, marital rape, gang rapes and public humiliation. She eventually changed into a dacoit to take her revenge. So here we can clearly understand that, law failed in giving her justice or justice has been denied to her which in turn made her turn into a notorious bandit queen.

¹ Dr. A. Ramesh, Socio-Demographic, Economic and Crime Profile of Women Prisons - A Sociological Study of Chanchalguda Prison, Hyderabad, IJRMPS, Volume 7, Issue 3, 2019.

² P. M. K. Mili and Neethu Susan Cherian, Female Criminality in India: Prevalence, Causes and Preventive Measures, IJCJS, p.65-76 Vol 10 Issue June 2015.

If we are examining the story of Phoolan Devi, the main thing that probably forces women like Phoolan Devi to resort to extreme steps of taking law in their hands includes the desire for economic independence and a reputed position in the society. So here what I personally felt was that, the story of Phoolan Devi suggests that a woman's marital life deserves special attention while studying female criminality.

Today we can see that women are coming forward to the mainstream of society for their rights. One can clearly understand that the rights are first demanded by them, then commanded and later snatched. Also, what I understand is that they resort to extreme violent means in order to achieve all these rights from the society which in turn make them take the laws in their hands by violating or breaking the law and order of the society.

If we are looking into the development and social change we can see the rise in female criminality not only in the developed countries but also in the Third world countries including India. Industrialization, Westernisation and urbanisation has a very important role in the tremendous rise in female criminality. Thus, it is very clear that the social and cultural heritage of the society is drastically being affected due to the rise in the crimes committed by the women and clearly depicts that there exists a gender gap in the male and female ratio of the criminals arrested for the crimes committed.

II. CAUSES OF FEMALE CRIMINALITY IN INDIA

It is a great task to understand the root causes of the crime that has been committed by the women and also due to the changing circumstances of the society. The causes can be examined under several heads which includes the biological, Psychological and Sociological viewpoint.

Biological Viewpoint

Caesar Lombroso's contribution is notable with respect to the biological viewpoint. He viewed, "female deviance as rooted in the biological make up or as inherent feature of the female species". He stated that female criminals are more terrible than the male criminals because cruelty by a female was much more 'refined' and diabolic than men. According to Lombroso, it is the lack of intelligence of women and moral deficiency that encourage the women to take part in the participation of committing a crime.

According to them, all individuals displaying anti-social behaviour were biological throwbacks. However, I feel that Indian women are inclined to commit crimes more because of social or economic deprivation than being biological throwbacks.

Pollak in his book "The Criminality of Women"(1950) explained that the hormonal changes over the menstruation, pregnancy etc., has influenced the women in committing the crimes. It creates emotional changes, mood swings in the women and in turn results in the commission of the crime. In my personal viewpoint, the present age of information technology and impersonal relations, these theories seem to be unscientific and unreasonable and it is not applicable in India. I came to find here that the biological theories depict crime as an inherent human trait which does not adequately describe the phenomenal variations in the nature of crime being committed these days, when crime has risen to the status of career for many, involving highly advanced professional skills and typical scientific techniques.

Psychological Viewpoint

According to this view, women are not content with their traditional roles as mothers and wives. These maladjusted women refuse or fail to internalise the values associated with the role in the society. Women display emotional instability, insecurity, rejection or frustration. I think it is because of their harsh living conditions, disappointments in love and also a large number of unfortunate experiences which generally made it difficult for them to face the realities of life.

If we are looking into the stress rate, it is higher for women when compared with than for men, due to the blocked opportunities, and the conflicting message of motherhood versus work. In my opinion, women suppress their anger without expressing it and most women cope by changing this anger in them to guilt, failure, and sadness.

I think here the women "bottle up "their feelings until it finally explodes in lethal violence. The situations that cause continuous stress and isolation combine with poor coping skills and the over-controlled personality to result in violence. So I personally felt that, Psychological viewpoint is applicable to the Indian scenario as there are several crimes committed because of depression and frustration.

Sociological Viewpoint

Social factors have led the women to turn into criminals. If we are examining the condition of the women in India, even though there are several legislations enacted with the object to safeguard the interest of the women and which aims at the development of the women in all spheres of the life, it is still confined within the statute and there is no practical implementation of the legislations. It is clearly visible if we are looking to the society as a whole. Women are not provided with any opportunities which affect her financial independence and therefore her economic status is very much lowered.

If we are looking into the women in Indian society, they are always expected to understand and adjust according to the situations around her. This unequal position of women in society is due to social oppression and economic dependency upon men and the state needs to be addressed. I think, in most ways, crimes women commit are considered to be final outward manifestations of an inner medical imbalance.

If we are going through some of the incidents that are mostly seen in the society, poisoning a child or an adult at home, abortions, sexual crimes, shoplifting and other thefts, etc. are easily hidden by them. However, these crimes are committed not only because of their physiological or psychological characteristics but also could be the end result of her socio-economic conditions. Sharma (1963) (Crime and women-A psycho-diagnostic study of female criminality) discussed that with respect to the Indian Women, strained personal relationship with husband and his family members, the extra marital relationship of husband, the denial of basic human rights were the main causes of the crimes committed by them.

I think, in Indian context, we can see certain cases where the murder victim was the respondent's own child, the murder was committed either because the woman was afraid of social exclusion or the child was illegitimate or in a moment of extreme danger because of a dispute with the husband. Thus, in most of the cases, husband-wife relationship proved quite an important factor in the causation of murder.

We can look into the famous Koodathayi case in Kerala (Jollyamma Joseph v State of Kerala 2020) where the accused Jolly Joseph murdered 6 members of her family including her husband by discreetly mixing poison (Cyanide) in their food. Here she craved for power, wealth and sexual desires. We can say it was the result of a gradual evolution of the desire of a village girl to have a position and authority. As the British jurist and criminologist Jeremy Bentham highlighted, pain and pleasure decide the cause of every human act. So here the murder may have given her the pleasure as it was the result of her long cherished dream to have power.

So here I think one must go through some questions in the context of the Koodathayi Homicides that is why did Jolly commit these homicides, what are the precipitating and predisposing factors which might have forced Jolly, the impact of various institutions such as family, religion, education on her etc. Here it seems Jolly had no sense of belonging to her family and appeared to be suffering from psychic isolation, absence of interpersonal commitment and genuine social interactions. She might have thought she was denied power, money and such other pleasures. I think Homicidal behaviour nests in the individual psyche of the offender and the collective culture of the society. Thus culture shapes the mind of the murderer. Here what I understood is that, murderous behaviour appears to have heavily concentrated among individuals who seek pleasure to eliminate pain for power, authority, money, sex etc and Jolly sought comfort in all these which are dear to the society.

Murder committed by women in India in comparison to that of men is negligible. But there is a tendency to depict them as witches or heinous criminals. In Jolly's case there is a high possibility that she has received tacit support from her male friends who might have illicit sexual intimacy and financial dealings with her. Thus, we can conclude that the social and psychological pathologies predominated in the killing of the family members.

Also, it is clear in the Indian context that, family plays a very important role in women committing the crime. Indian women were marked as 'criminals' not because they had 'criminalistic tendencies' but because their family male members were so labelled. Thus it is evident that most of the thefts committed by women are not the result of psychological or social aberrations but are due to family and economic compulsions.

Battered women syndrome is another state of affairs which is not recognized under the Indian

Judicial system .It is a psychological condition that can develop when a person experiences abuse for a long time in a relationship. Abuse can be sexual, physical or psychological aggression in nature. Due to the repeated abuse women start suffering from learned helplessness. Threat to further violence also stops them from sharing their concerns to someone else. This concept has not been placed in the Indian judiciary to explain the reasonableness of a woman's actions in self defence against the abuser.

III. RECOMMENDATIONS

Preventive Measures

As the proverb says “prevention is better than cure” in case of crime and prevention, that too in a vast and diverse country like India, is a humongous task. I think prevention of crime among females in India is an even bigger challenge due to the difficulty in recognizing the vulnerable areas and people, especially women, easily. General awareness of the role of women in a society, her rights and laws for them should be briefed to the uneducated women. Legal awareness must be provided to the women and their rights must be briefed to them which can be used to prevent the women from taking the law in their hands.

Also, sex education plays an important role wherein the women indulge in crime following lack of awareness regarding sex-rackets .The women should be made aware about the harsher laws or the consequences of committing a crime. It is necessary to treat domestic violence cases harshly to avoid future crimes and laws against dowry must be implemented properly.

Corrective measures

If we are looking into the Female criminals who are serving their term in prison due to crimes committed by them, they must be provided a chance to rectify or correct their ways so that when they finish their term and come out of the prison, there should not be any kind of criminal attributes. Most women are deprived of their liberty and do crimes to break off the chains of cruel traditions. Such women should be given enough support and help to be independent and do something worthwhile for herself, her family and her kids.

In prisons, making them engage in various activities like cooking, tailoring, gardening, painting, handicrafts etc. is a positive initiative and helps a lot to improve their self-respect and confidence. Proper public awareness is also a need as a criminal returning to her society is not accepted and is

taunted by everyone. This might result in her ending up committing other harsher crimes.

Rehabilitative and Supportive measures

Here, a female criminal should be given a chance to fulfil her parental responsibilities. I think special attention should be provided to the female prisoner by means of proper medical aid and even rehabilitation. In case a female offender suffers from a mental condition and she comes out of prison after serving her term, she would probably continue to commit crimes because the problem still subsists in her, and who knows it would have probably even become from bad to worse. I think, most importantly, caretaking of children of imprisoned mothers should be done or they should be allowed to be in touch with their kids and relatives. Also, access to legal advice should be provided.

IV. CASE LAWS

In *Satni Bhai v. State of Madhya Pradesh*³, the accused- appellant was found standing near the dead body of her son with a bloodstained axe in her hand. The court observed that any mother's normal reaction would be to go hysterical and clutch the body of her son. Therefore, the unusual reaction of the appellant was used as a ground to determine her involvement in the crime and she was thus convicted.

In *Lichhamadevi v. State of Rajasthan*⁴, the accused-appellant was convicted for the murder of her daughter-in law, because she had harassed the deceased for dowry, had an overbearing, barbaric attitude and was the master of the house .On this basis the court held her guilty.

In *Chinnamma v. State of Kerala*⁵, the court required a strong motive to be proved in order to justify killing by administering a blow on the back of the head and then burning the body. Female offenders convicted of serious crimes have received similar treatment to male offenders convicted for similar offences. This is because the women have committed a grave offence, and therefore displayed characteristics that are predominantly male in nature. Therefore, they have acted contrary to accepted gender norms and are liable for stringent punishment.

In the case of *Paniben v. State of Gujarat*⁶, a woman burned daughter in law alive by throwing

³ 2010 (2) SCC (Cri) 1090.

⁴ AIR 1988 SC 1785.

⁵ (2004) 12 SCC 244.

⁶ 1992 SCR (2) 197.

kerosene on her and lighting it, the court spoke about her saying that even the mother in her didn't prevent her from committing this act, that it was quite unfortunate that a female should kill another female in this manner.

The case of *State of TN v Nalini and Ors*⁷, is different from the above mentioned examples because in it, the court used gendered stereotypes as mitigating circumstances. The dissenting judge with regard to the death sentence, Justice Thomas, noted that because she belonged to the weaker sex, she was unable to escape from the conspiracy of the co-accused men. Further her execution would lead to the orphaning of her girl child, who had been born in prison.

The above analysis depicts that the present manner in which culpability is determined is incapable of accommodating the various experiences in a woman's life. This leads to judgments on the culpability of a woman which are highly inconsistent and at times unfair.

The SC has opined that, though gender is not a mitigating factor in many countries of the world, however, as far as the Indian Judiciary is concerned, gender is a relevant circumstance taken into consideration while deciding the quantum of the sentence to be given to a female criminal.

This does not mean that gender should not be a factor at all. Instead this means that, while taking gender into account, judges should attempt to apply a more or less uniform standard in attempting to decide the culpability of female offenders. Again this must be further qualified by the fact that the particular circumstances of each case must be taken into account since the criminal law prescribes an essentially subjective standard for the determination of culpability. Therefore, what emerges is that there is a need for rectification of the gendered outlook.

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⁷ AIR 1999 S.C 2640.

REFERENCE

1. Dr. A. Ramesh, *Socio-Demographic, Economic and Crime Profile of Women Prisons - A Sociological Study of Chanchalguda Prison, Hyderabad*, 7 IJRMPS (2019).
2. P. M. K. Mili and Neethu Susan Cherian, *Female Criminality in India: Prevalence, Causes and Preventive Measures*, 10 IJCJS 65-76 (2015).
3. <https://www.abc10.com/article/news/history/jaycee-dugard-abducted-30-years-ago/103-398d6351-a266-4ad6-bda9-da1af86d560d>
4. <https://www.preservearticles.com/education/what-are-the-causes-of-female-crime/28873>
5. <https://timesofindia.indiatimes.com/city/mumbai/school-to-pay-for-denying-transfer-cert/articleshow/58099445.cms>

