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**PROTECTION OF WOMEN AND CRIMINAL LAW (AMENDMENT) ACT, 2013: A CRITICAL LEGAL ANALYSIS**

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**Abstract:** Man and woman are two essential ingredients of society. They stand as two main pillars of society which bear the burden of social edifice. For smooth functioning of the society, both of them are to be strengthened equally. *Manu*, the father of Hindu law also prescribed norms for man and the woman for their conduct and relations *inter-se* as well as inter-society. His norms were basically aimed at bringing the rationalization of the image and reconciliation of the personality of men and women taken as a unit in any given social structure. He further states that a husband is under an obligation to accord respect to his wife in the family status and to provide her full freedom for material and spiritual attainments. The husband, his parents, wife and their kids jointly formed the family which in Hindu Law is known as joint family. For running of the family, a man contributes economically by his earnings and a woman do so emotionally by keeping the family well knit into one unit. Here, it is seen that the concept of rights of woman is acknowledged and legally recognized in Hindu law. The purpose of Hindu tradition, convention, usages and even the un-codified Hindu law also gives equal status materially and emotionally to man as well as woman.

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**Introduction:** In all probability, it can be safely stated here that in no other social and legal systems of the world, a woman was accorded such high esteem as in Hindu social and legal system. At times, women had risen to pinnacles of glory, distinguished themselves as rulers in their own right, as regents of minor princesses, as powerful queen consorts, as diplomats in peace and war, as commanders of the armies, as thrifty land ladies, as builders and reformers, as protectors of the religious lore, as singing and dancing beauties and also earned names in keeping homes[1]. The happiest period for women was when the country came under the sway of Buddhism[2]. However, with the establishment and consolidation of Muslim rule in India, women were gradually and increasingly deprived of their rights and privileges. Their sole meaning and purpose of life became to keep the houses, to gratify the desires of their husbands and procreate[3]. Since then, exploitation and degrading position of women continued in India. In the opinion of Arnold Whittick, "the 19<sup>th</sup> century witnessed the most complete and degrading subjugation of women in the history of mankind"[4].

Here, in this paper the present author would like to analyze the effectiveness of Criminal Law (Amendment) Act, 2013 in relation to protection of women in free, independent democratic country like India. Before proceeding onwards, the present author feels it appropriate to define the very word protection.

**Meaning of the Word Protection:** Protection of the weak is a concept embedded in welfare ideology. The whole process of protection presupposes existence of a stronger section of dominant class who by virtue of social, economic and political power dominate other sections who have been denied of good things of life due to lack of democratic participation in state's affairs and socio-economic-political backwardness. Exactly the same things happen in case of women in India. Women, belonging to weaker sections of society, are often denied

social justice, and hence, are not allowed to enjoy human rights. Numerous socio-political and legal reforms have failed to change women's position and their exploitation in one form or other is still rampant. In many form, the Indian women is greatly exposed to exploitation. The continuing phenomena of women suffering in all walks of their life is a clarion call for humanity to wage an ultimate war against the atrocious acts.[5] So, they need special protection.

Protection means different things to different types of weaker section. That means, equal law for equals and unequal law for unequals. This is a concept envisaged in equal protection clause of Indian Constitution[6]. Hence, protection strategies range from food security, legislative remedy, educational development, pro-weak interpretation and reservation in national policy adopted by the government. In other words, we can term them as affirmative action. Affirmative action is a term used to indicate that organizations are taking positive steps toward providing equal opportunities for women and others from under represented groups. Strategies are needed in part to remove institutional barriers created by past discrimination and prejudice. One goal of affirmative action is to create access for women and minorities to fields in education and employment that were previously closed to them[6].

It is submitted here that protection means safeguarding of a weaker person of society from injury, exploitation, forceful action, discriminatory approaches and denials. All possible steps should be taken by the state to create a condition that may enable him to compete with other sections of the society and to save him from all kinds of exploitation. Social justice is an essential component of sustainable development of a nation. Instead of being a mental observer of social conflict, the state must aim to usher in a just social order. The concept of social justice is central to this approach. It means an efficient social arrangement for equitable distribution of opportunities

to lead a dignified life with primary social goods and amenities of life[7]. Social justice to a woman should create an atmosphere which should enable her to get out of the sense of being wronged, a situation where her dignity, self-worth and human rights could be asserted with a belief of self-preservation. It should help her to overcome the feeling of powerlessness, so that she emerges from the comforts to dependency and faces and challenges the autonomy by enjoying her human rights[8].

**Why Protection Needed?:** There are a number of factors responsible for placing women in unequal position in Indian society. They are conventional role structure, historical, social status, inadequate educational facilities and orthodox beliefs on the part of parents etc. That is why a woman is compelled to confine herself to domestic activities. As per the study conducted by the investigators, "An individual role and position in the society are determined by the social structure, the existent cultural norms and the value system of society. These determinants of the role and position of the individuals influence social expectations regarding the behaviours of the two sexes, both as individuals and in relation to each other. They also shape the attitudes and the behavioral patterns of the individuals differently according to their sexes"[9]. In the Hindu religion, the women's image have undergone many changes. The religious dogmas were responsible for the pitiable condition of women in India. They were considered as secondary citizens without independence of any sort. The religious laws regulating the system of marriage, divorce, inheritance, polygamy, polyandry, dowry, widow remarriage, and debarring widows from performing certain social functions were other discriminatory provisions prevalent in Indian society against women. As already seen, the high status accorded to the women in the Vedic period was downgraded in the later ages of the epics, the *Puranas* and the *Dharmasastras*.... As time passed, the image deteriorated further. Many derogatory attributes were attached to her. She was considered fickle minded, sensual, seducer of men, given to falsehood, trickery, folly, greed, and impurity, thoughtless action, inconsistent and cruel. In short, the root of all evil. She was not allowed to study *Vedas* or perform sacrifices[10]. In Islam, woman was not the cause of man's downfall as is believed by the Christians. In fact at the rise of the Islamic religion, women were considered inferior and servile to men. A woman cannot become a priest, or lead a prayer or become *Kazi* or even participate in the affairs of the community[11]. The deterioration of socio-economic conditions and greater strains and stresses, which led to the economic insecurity of man in inter-war period and after, further increased subjection of women and degradation of their living and working conditions. Women were, thus, alienated from their families, from their native places, their jobs, from land and from human dignity[12]. Moreover, the post war emergence of new productive forces, the transformation

of their ownership, the changing productive relationship and impending super structures created distinct classes, new institutions and developed new laws which further relegated women's position to an unparalleled low relative to others in the social hierarchy and economic status[13].

It is submitted here that in all religious societies throughout the world, woman has been placed in an inferior position. The status of woman all along been subordinated to men. The report of the Committee on the status of women in India appointed by the Government of India also corroborates the same view expressed by the present author[14].

Even in 21<sup>st</sup> century, the present society is still under the impression that woman is inferior to man. In spite of numerous legislation passed by the democratic government *lex loci*, age old customs followed by people causes the deterioration of position of women even in modern society. In the observation of S.K. Panchari, "woman has been suppressed under custom and law for which man was responsible and in the shaping which she had no hand[15]. All women that may be poor or rich, illiterate or literate, house wife or working, conservative or modern are subjected to more or less exploitation by her counterpart the man. Although women constitute a majority of world population, there is still no society in which the women enjoy full equality with man. Even the world's most advanced and number one democratic country the U.S. is also not free from such diseases like atrocities on women. The Reuter informs that the number of sexual assaults reported across the U.S. military rose by around 50 per cent in the 2013 fiscal year compared with 2012 as per Pentagon's data. The Pentagon again said that a review of preliminary data from the government's 2013 fiscal year, which began in October 2012, showed there were slightly more than 5,000 reports of sexual assault. The figures were first released by A.P. The data compares with a previously released estimate of a 46 per cent increase in sexual assault during the first nine months of the year[16].

It is submitted here that the women class is not safe, even in 21<sup>st</sup> Century India. The best example is 'Delhi Rape case of December 16, 2012'. The victim and her male friend were beaten and dumped naked on road side and at last, the girl died two weeks later in Singapore where she was admitted to the well-known multi-organ transplant facilities Mount Elizabeth Hospital in an extremely critical condition[17]. In spite of heavy protest on behalf of the people followed by stringent legal provision framed by the government, the most heinous crime like rape is still going on in India at present. Whenever one opens the pages of any news paper very often a rape case has been reported. The Times of India reports-"45-year-old woman 'gang-raped' in Bengal". A middle aged woman was allegedly gang-raped and murdered at Jagannathpur in West Bengal's North 24 Parganas district on a day the nation was mourning the tragic death of the Delhi rape victim[18].

In spite of implementation of a stringent legal provision to deal with rape victims like the Criminal Law (Amendment) Act, 2013 to deal with rape victims, such crime continues in India still today. The Times of India reports, "Woman gang-raped on busy Kolkata road". The woman has alleged that as soon as she got into the taxi and crossed the Princep ghat area adjoining the Ganga, five men forced her out of the taxi after threatening her with a weapon, took her inside a parked truck and took turns to rape her. They then finally abandoned her near a ground adjoining the Army barracks and fled[19]. "Manipur girl raped in Delhi, one held". A 14 year old from Manipur was raped by her landlord's son in Munirka area in South Delhi on Friday night[20]. Fearing stigma, rape victim kills herself in Ganjam district of Orissa. She was allegedly raped by a distant relative at Prayagi village in Ganjam district[21]. Jug Suraiya, a Times of India columnist, opines "Gender terrorism - of which rape is only one obvious manifestation - is a crime against not only half the population of this country which happens to be female but against half the population of the world. Like other forms of terrorism, it is a crime against humanity. And "Mother" India runs the risk of being branded as its most visible and most hypocritical, perpetrators"[22].

**Constitutional Provisions:** Constitution is the fundamental legal document in a democratic society. The Indian Constitution came into force on 26th January, 1950. Our founding fathers of the Constitution were well aware of the social problems associated with the emancipation of women. They had observed prevailing gender inequality during contemporary period and had visualized that the sex-equality was essential for the development of the country. In order to do away with the inequality and to provide reasonable opportunities and create awareness for the exercise of human rights and claim, it was necessary to promote with special care, educationally and economic interest not only of men but also of women and to provide necessary protection from social injustice and exploitation. Accordingly, they have incorporated numerous provisions in the Constitution of India for protection of women and maintenance of equilibrium in Indian society. It was also felt that human liberties might not remain sacrosanct unless they are incorporated in the basic document of the country. Thus many basic rights, which are recognized as fundamental rights, have been incorporated in the Indian Constitution[23].

**Article 14:** Article 14 of the Constitution guarantees equality before law. It provides that the state shall not deny to any person equality before law or the equal protection of law.

**Article 15 (1):** The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

**Article 15 (2):** No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -

- (a) access to shops, public restaurants, hotels and places of public entertainment; or
- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of states funds or dedicated to the use of general public.

**Article 15 (3):** Nothing in this article shall prevent the state from making any special provision for women and children.

Article 15(3) enables the state to make special provisions for women. This obviously intends to meet their special needs on account of their peculiar characteristics as women, such as the need for maternity leave before or after child birth etc. The court while interpreting any law should keep in mind that the women constitute a weaker section of the society and this applies to almost every society. This classification cuts across social, economic and regional distinction. However, the judicial predicament towards women has been quite wavering and this can be seen from some of the decided cases[24]. As a protective measure Section 437 of the Code of Criminal Procedure, 1973 enables women and children to be released on bail for non-bailable offences in the circumstances under which a male cannot be released on bail has been held to be consistent with Article 15(3)[25].

**Article 16(2):** No citizen shall, on grounds any of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.

Though the discrimination of women is explicitly prohibited in Article 15 and 16 of the Constitution of India, this type of prohibition of discrimination of sex is mingled with the prohibition of other discrimination in the ground of religion, race, caste, place of birth. In all other fundamental rights, the words 'citizen' 'person' means both male person and female person. Hence women are equally entitled for the protection of all fundamental rights along with men. There is no discrimination of women relating to the fundamental rights guaranteed in Constitution[26].

**Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Article 23(1):** Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Part-IV of the Constitution contains the Directive Principles of State Policy. It incorporates many directives to the state to improve the status of women and for protection of their rights. The relevant provision under the Directive Principles of State Policy relating to the rights and status of women are as follows:

**Article 38:** The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all the institutions of the

national life.

**Article 39:** The state in particular direct its policy towards securing – (a) that the citizens, men and women equally, have the right to an adequate means of livelihood, (b) that there is equal pay for equal work for both men and women; (c) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

**Article 42:** The state shall make provision for securing just and humane conditions of work and for maternity relief.

**Article 44:** The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

The main objective of this article is for the achievement of gender justice. The hon'ble Supreme Court of India in *Sarala Mudgal* case has recognized the necessity of the uniformity in application of civil laws like law of marriage, succession, adoption and maintenance etc.[27].

**Article 46:** The state shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Article 51(e):** It shall be the duty of every citizen of India to promote the harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

Apart from these specific provisions meant for the protection of women all the other provisions of the Constitution of India are equally applicable to both men and women. This clearly establishes the intention of the founding fathers of the Constitution to safeguard the social, economic and political interest of women so that they can be treated with men on equal terms.

Besides the above provisions, the preamble, which incorporates chief goal enshrined in the Constitution, reflects the spirit of equality. A look into the preamble will enable us to locate ideal incorporated into constitution[28].

**Legal Provisions:** In order to remove all disparities and discrimination against women and for giving equal status to women with men various revolutionary laws have been framed by the Indian Parliament basing on the prescription made by the Constitution of India. They are as follows:

- (1) Suppression of Immoral Traffic in Women and Girls Act, 1956.
- (2) Dowry Prohibition Act, 1956.
- (3) The Equal Remuneration Act, 1976.
- (4) Family Court Act, 1984.
- (5) Indecent Representation of Women (Prohibition) Act, 1986.

(6) Muslim Women's (Protection of Rights on Divorce) Act, 1986.

(7) The Juvenile Justice Act, 1986.

(8) Commission of Sati Prevention Act, 1987.

(9) National Commission for Women Act, 1990.

(10) Protection of Human Rights Act, 1993.

(11) The Domestic Violence Act, 2005.

Besides the above enactments, there are certain punitive provisions in the Indian Penal Code (IPC). Of course, some of those have been repealed in the Criminal Law (Amendment) Act, 2013. Yet, the present author would like to highlight in a nutshell the penal provisions relating to the child sexual abuse and exploitation.

**Section 366 (A):** Deals with the procurement of minor girls for immoral purposes from one part of India to another.

**Section 366 (B):** Punishes the importation of minor girls for immoral purposes from foreign country.

**Section 372:** Dealing with selling of minor for purposes of prostitution etc.

**Section 373:** Dealing with the offence of buying minor for purposes of prostitution etc.

**Judicial Response:** The Supreme Court of India, the highest court of appeal, is heading towards a right direction with regard to gender equality. It has been trying to interpret the law in a positive way. Whenever there is an anti-women legislation, rule or order of government or any activities went against the interest of women class, it comes into picture to protect the rights of women. It is a matter of relief that the highest court of the country is working for the welfare of the weaker section of the society i.e. women. "Supreme Court (SC): Why can't states bear acid attack victims' treatment cost". After laying down stringent regulatory mechanism for sale of acid to curb incidents of acid attack on women, the Supreme Court wanted to know from the states if they could be asked to bear the entire cost of medical treatment of acid attack survivors, including plastic and corrective surgeries[29]. "SC seeks report from Bengal Chief Secy.". The Supreme Court made it known to the West Bengal government that it would not rest till it got to the bottom of the gruesome incident in Birbhumi district where a girl was raped by 13 persons on the village headman's order for falling in love[30].

The hon'ble Supreme Court in its numerous pronouncements also has taken positive stand in respect of protection of rights and status of women in India.

On the question of equal pay for equal work, the hon'ble Supreme Court has held that the principle of "equal pay for equal work though not a fundamental right" is certainly a constitutional goal and, therefore, capable of enforcement through Constitutional remedies under Article 32[31]. In *Yusuf Abdul Aziz v. State of Bombay*[32], *Sowmithri Vihuu v. Union of India*[33], *Revathi v. Union of India*[34], the hon'ble Supreme Court held that Section 497 of Indian Penal Code which only punishes man for adultery and exempts the woman from punishment even though she may be equally guilty as an

abettor since the classification was not based on the ground of sex alone. In *Air India v. Nargesh Mirza*[35], the hon'ble Supreme Court held that an Air Hostess can work up to the age of 45 years and that her services could be terminated on third pregnancy provided her two children were alive. This judgment attempted to recognize that their right to service benefits is equal to their male counterparts and comedown heavily upon the corporation management for its chauvinistic attitude of looking upon the Hostesses as sex symbols employed for business consideration. In *Bodhisatwa Gautam v. Subra Chakraborty*[36], the hon'ble Supreme Court held that, rape is a crime against basic human right and is also violative of the victims most cherished of the fundamental rights, namely, the right to life contained in Article 21. Women also have the right to life and liberty, they also have right to be respected as equal citizens. Their honour and dignity cannot be touched or violated. They also have the right to lead an honourable and peaceful life.

With regard to special provision made in the Constitution of India in the form of Protective Discrimination, the hon'ble Supreme Court, in *Government of A.P. v. P.B. Vijay Kumar*[37] pronounced that, making special provision for women in respect of employment of post under the state is an integral part of Article 15(3) is not whittled down in any manner by Article 16. The special provision which the state may make to improve women's participation in all activities under the supervision and control of the state can be in the form of either affirmative action or reservation.

Relating to implementation of Directive Principles of State Policy, the hon'ble Supreme Court has held that the Directive Principles now stand elevated to inalienable fundamental rights and they are enforceable by themselves. The directives in our Constitution are

forerunner of the UNO Conference of Right to Development as inalienable human right and every person is entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights, fundamental freedom would be fully realized. It is the duty of the state to take responsibility for further development of these human rights and fundamental freedoms[38].

On analyzing the decisions of the hon'ble Supreme Court of India as above, one can say that the highest court of appeal has taken positive view on the question of the protection of the interest of women. It has taken a lead as front-runner to that effect. This is not easy to say that courts have no rule to play in developing equality oriented jurisprudence. They have in fact played a very crucial role in doing so[39].

**The Criminal Law (Amendment) Act, 2013:**The Constitution provides the framework for the governance of the country assigning roles to different institutions such as executive, legislature and judiciary. In the event of Delhi rape case, the Government of India was shocked. As outrage against the death of the Delhi gang-raped victim soared, the Congress party, which is in power, decided to propose a tougher law to check crimes against women. On December 22, 2012 a judicial committee headed by Justice J.S. Verma, a former Chief Justice of India was appointed by the Central Government. It was asked to submit a report within 30 days in respect of amendments to be made in criminal law implemented in India to make it a stringent one. Accordingly, Justice Verma Committee submitted its report within 29 days taking into consideration 70,000 suggestions received from various sources of Indian public such as jurists, legists, law professionals, NGOs, Women organizations, civil societies etc.

Sl. No	Cause of Offence	Existing legal provisions, IPC 1860 and PCSO, 2012	Provision made in Criminal Law (Amendment) Act, 2013
01	Violation of law by a public servant on duty	No such specific provision made in existing law.	Punishable with rigorous imprisonment for six months to 02 years and also with a fine.
02	Rape leading to death of victim or vegetative state	Rape and murder has been differentiated. For Rape – From 7 years to life imprisonment, For murder – Imprisonment for life or death sentence.	Specific offence. Punishment is from 20 years to life imprisonment (with rigorous imprisonment) or death sentence.
03	Punishment in case of gang rape.	Punishment from 10 years to life imprisonment and fine.	Punishment from 20 years to life imprisonment (with rigorous imprisonment) and a fine to be paid to the victim to meet the medical expenses.
04	Punishment for rape	From 7 years to life imprisonment and fine	From 10 years to life imprisonment and fine.
05	Gang rape of a child.	From 10 years to life imprisonment and fine.	From 20 years to life imprisonment and fine.

Basing on the report of Justice Verma Committee, the Cabinet of Central Government on February 01, 2013 approved the promulgation of ordinance throughout India by incorporating 90 per cent of suggestions made by same Committee report. The ordinance was subsequently passed by the Parliament in the shape of a bill with certain modifications which was passed by the Lok Sabha on March 19, 2013 and Rajya Sabha on March 21, 2013 as Criminal Law (Amendment) Act, 2013. More popularly known as the Anti-rape bill which is now law of the land, regulates sexual crime against India.

It is submitted here that the legislative intent in respect of sexual crime against women is very clear and curative. It has attempted to provide tougher law to create an atmosphere throughout India where women class can feel safe and can lead a secured life.

Some of the important provisions incorporated in the Criminal Law (Amendment) Act, 2013 are mentioned below with a comparative statement of existing law prevalent in India.

On analysis of comparative penal provision particularly in respect of rape cases it is seen that the Criminal Law (Amendment) Act 2013 has prescribed stringent legal provisions to check the most heinous crime 'the rape' in India. In addition to that, there are other areas also dealing with protection of women, the same principles have been adopted, i.e. the penal provisions have been made tougher. The Act also provides penal provisions for other abhorrent forms of crime, like stalking, touching, voyeurism, human trafficking etc. which are seen in modern Indian society at present. Realizing the need of the situation, the legislature has incorporated new provision in the Act of 2013.

**Legal Analysis:** Access to violence free and safe public space is the basic right of not only a woman but also of every human being residing in India[40]. Thanks to the Central Government which has endeavored to combat the alarming threat to women's safety and freedom of movement in public places, in the shape of Criminal Law (Amendment) Act 2013, with a stringent punishment system as has been discussed above. Here, the question arises in the mind of present author, how far the present legislation will be effective in combating the problem of women class which is facing challenges day to day in our present society?

In the opinion of present author, the stringent legal provision framed by the Central Government is not enough to check increasing rape cases in India, as it has got numbers of voids. The Act fails to address contentious issues like 'marital rape' and 'legal immunity' for army officials. The Verma Committee report suggests that any army officials accused of sexual assault or rape should be tried under civilian law and should not be protected by the law that guarantees absolute protection. Unfortunately, such a provision escaped from being finding a place in the Act of 2013. The same Act has increased the age of consent to 18

years which remained 16 since 1983. Legal experts argue that raising the age of consent to 18 years leaves ample room to wrongly prosecute teenagers (especially boys) below 18 years or rapists or offenders of sexual assault simply for kissing, hugging or even having consensual sex with a female counterpart of his age[41]. The Act also lack clarification with regard to procedure of establishing a crime against the culprits of touching, stalking, sexually coloured remarks etc. In modern society such types of crimes are increasing day by day. Here the accused may escape without being tried for the offence committed. Wikipedia states "The Criminal Law (Amendment) Ordinance 2013 has been strongly criticized by several human rights and women's right organizations for not including certain suggestions recommended by the Verma Committee report like marital rape, education of age of consent, amending Armed Forces (Special power) Act, so that no sanction is needed for prosecuting an armed force personnel accused of a crime against women. The Government of India replied that it has not rejected the suggestions fully, but changes can be made after proper discussion[42].

The purpose of framing tougher law with death sentence, longer jail term or capital punishment is to inculcate a sense of fear among the culprits. But as a matter of fact, for so many women in India's urban centre like New Delhi and Mumbai, the new laws have not made the streets any safer. According to local media report 1,330 cases of rape were reported to police in New Delhi up to 31.10.2013 as against 706 cases for the whole of 2012[43]. Here, one can observe the differences of percentage of crime against women within a span of one year and ten month. Even after the legislation of tougher law, like Act of 2013 the rape cases in Delhi have increased alarmingly. In a single sentence it can be stated here that the crime against women in India is increasing, because of improper implementation of legislation by the law enforcing government agencies. The Verma Committee report also corroborates the same view. The report indicated that failure on the part of the Government and police were the root cause behind crimes against women[44]. Jacqueline Bhabha also opines that "Law can never be the entire answer. This is a tough admission for me since I am a lawyer. But framing laws and getting them perfect should not take up all our time. Clearly one also needs to build the political will to implement just laws and this doesn't just drop from the sky[45].

**Conclusion and Suggestion:** In concluding this paper it can be inferred that the legislation framed by the Parliament to deal with the rape cases in India is, to some extent, correct one. In certain aspects like marital rape, age of consent and legal immunity for army officials, it needs reconsideration and amendment. At this stage, the existing law i.e. Criminal Law (Amendment) Act, 2013 needs to be implemented properly, with meaningful reform in respect of Judiciary as well as police administration to make India a safe

heaven for women. It is difficult to create a women friendly atmosphere overnight, because India is a conservative country with patriarchal tradition. It will take more than a year to erode generations of devastating sexism. Hence it is suggested here that:

1. Fast track courts should be established in each district headquarters for trial of culprits of sex crime for quick disposal of cases without delay.
2. The Government of India should initiate steps for engagement of more and more women lawyers and women doctors to assist the judiciary in disposing cases related to gender issue.
3. Steps may be taken to appoint adequate numbers of trained police personnel with sophisticated infrastructure. A 2012 study conducted by the Bureau of Police Research and Development reveals shortage of manpower in the police department. For every 568 person there is only one police man and the ratio of police to population is 176.2 police per one hundred thousand of population[46].
4. Sometimes it is seen that due to non-availability of woman police officers, many women victims fail to lodge

complain about sex crime. Hence, adequate numbers of women police officers required to be appointed by the Government. The Act of 2013 also requires that a female officer should record all information in the case of offences like acid attack, sexual harassment, disrobing, voyeurism, outraging a women's modesty, rape (of all kinds).

5. Proper lighting facilities should be provided in the area which is more prone to sex crime. The Verma Committee report also suggests the same. It recommends that "Street lighting everywhere would provide more safety since dark areas are more prone to facilitate crime"[47].
6. The attitude of police personnel must be positive and responsive to the victims. In 'Nirbhaya Case' the male friend of victim had brought such an allegation against Delhi police. Breaking his silence the male friend of the Delhi gang rape victim came on T.V. and severely criticized the Delhi police for its tardy response and bemoaned public apathy after both of them had been badly injured and thrown out of the bus after she was gang raped by six men[48].

#### References:

1. P.N. Bazaz, *Daughters of Vitasta*, Pamposh Publication, New Delhi, 1959, p.02.
2. *Id.* at p.14.
3. *Id.* at p.15.
4. Arnold Whittick, *Woman into Citizen*, Athenacum with Frederick Muller, London, 1979, p.17.
5. Prabhat Chandra Tripathi, *Crime Against Working Women*, 1998, pp.241-242.
6. Article 14 of Constitution of India.
7. *Encyclopedia of Women and Gender*, Vol. One, Judith Worell (Ed.), Academic Press, London, 2001, pp.69-70.
8. K. Subba Rao, *Social Justice and Law* 1974, p.01.
9. Reena Laitonjoum, "Women Social Justice and Human Rights", *Third Concept*, December, 2012, p.26.
10. A.W. Oak, *Status of Women in Education*, The Indian Publications, Ambala Cantt., 1988, p.22.
11. *Id.* at pp.25-26.
12. *Id.* at pp.28-29.
13. K. Murli Manohar, *Socio-Economic Status of Indian Women*, Seema Publications, New Delhi, 1983, p.118.
14. *Id.* at p.115.
15. Report Published by the Department of Social Welfare, Ministry of Education and Social Welfare, December, 1974.
16. S.K. Panchami, *Women and Human Rights*, 1999, p.117.
17. Decan Chronicle, Hyderabad, 29 December, 2013, p.12.
18. *The Times of India*, Bhubaneswar, December 30, 2012, p.1.
19. *The Times of India*, Bhubaneswar, December 31, 2012, p.01.
20. *The Times of India*, Bhubaneswar, January, 14, 2014, p.01.
21. *The Times of India*, Bhubaneswar, February 9, 2014, p.01.
22. *Ibid.*
23. Second Opinion @ timesgroup.com. <http://blogs.timesofindia.indiatimes.com/Jugglebandhi/>
24. V.P. Srivastav, *Human Rights Issues and Implementation*, Vol.1, 2002, p.4.
25. Shailja Chander, "Justice V.R. Krishna Iyer on Fundamental Rights and Directive Principles, 1992, p.98.
26. Mst. Choki V. State AIR 1957 Raj. 10.
27. Monica Chawla, *Gender Justice : Women and Law in India*, Deep & Deep Publication, New Delhi, 2006, pp.26-27.
28. *Sarala Mudgal v. Union of India*, (1995) 3 Sec635: AIR 1995 SC 1531. K. Kumar and Punam Rani, *Offences Against Women – Socio-legal Perspective*, 1996, p.12.
29. *The Times of India*, BBSR, December 4, 2013, p.01.
30. *The Times of India*, BBSR, February 1, 2014, p.06.
31. *Randhir Singh v. Union of India*, AIR 1982 SC 879.
32. AIR 1954 SC 321.
33. AIR 1985 SC 1618.
34. AIR 1988 SC 835.
35. AIR 1981 SC 1929.
36. (1996) 1 SCC 490.
37. AIR 1995 SC 1649.
38. *AIR India Statutory Corporation v. United Labour Union*, AIR 1997 SC 645.
39. Justice Sujata V. Manohar, *International Regime for Gender Justice : Reflection in the Constitution of*

- 
- India*. In colloquium on Justice for Women – Empowerment Through Law, 2000, p.09.
40. Article 19 and 21 of the Constitution of India.
41. K. Krishnan (March 13, 2013). A legal tool for moral policing, Tehelka.com.
42. Wikipedia, the free encyclopedia.
43. The Hindu, New Delhi, October 31, 2013.
44. J.S. Verma, L. Seth, M. Subramaniam (January 23, 2013).
45. Jacqueline Bhabha, Lecturer of Law at the Harvard Law School and of Public Policy of the Kennedy School is the leader of Harvard University task force set up to advise on the implementation of the Justice J.S. Verma Committee Report. *The Times of India*, Bhubaneswar, February 24, 2013.
46. Data on Police Organisation in India as on January 1, 2012, Bureau of Police Research and Development, New Delhi.
47. Supra note, 45, at p.420..
48. Supra note, 45, at p.420..
49. *The Times of India*, Bhubaneswar, January 6, 2013, p.01.

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