

**PYRAMID THEORY VIS-À-VIS CRIME ENGINEERING: AN ANALYSIS
WITH REFERENCE TO CRIMES AGAINST WOMEN IN PERSON**

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INTRODUCTION

Security of persons is a fundamental function of the State which can be achieved through instrumentality of criminal law.¹ Roscoe Pound commented that “a final definition of crime is impossible, because law is a living and changing thing, which may at one time be based on sovereign will and at another time on juristic science, which may at one time be uniform, and at another time give much room for judicial discretion, which may at one time be more specific in its prescription and at another time much more general.”² It is significant to note that the law of our day faces a twofold need.³ The first is the need of some restatement that will bring certainty and order out of the wilderness of precedent.⁴ The second is the need of a philosophy that will mediate between the conflicting claims of stability and progress, and supply a principle of growth.⁵ The second, though less generally appreciated, is emerging year by year to fuller recognition.⁶ Here the question remains why our criminal law should not grow with the brew of new principles, which are already in existence in Indian culture

¹ Purushottam Dashrath Borate and Ors. Vs. State of Maharashtra, 2015 (6) SCALE 204, ¶ 23; MANU/SC/0583/2015.

² N.V. Paranjape, Criminology and Penology, (13th edn. reprinted), Central Law publications, Allahbad, (2008), at p. 6.

³ Benjamin N. Cardozo, The Growth of the Law, (2006, Reprint), Universal Law Publishing Co., Delhi, at p. 1.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

and which can facilitate systematic lives of all social organisms⁷. It is difficult to define crime, which is always based on the system, community and public will. The simple thing of spitting on public places is not an offence in India but it is chargeable offence in Singapore. The question remains why the active consideration were not taken and infused in the legal norms of the country?

It is expected in every legal system all over the world that women deserve respect and protection. If we see the spirit of Indian Constitution it has facilitated equality rights for both men and women. But at the same time it has also provided some special protection for women and children, because of their very nature and vulnerable situation. Attitude of the society, values of the system and different religious teaching also provides solid support to achieve equality rights/gender justice.

Moreover, in present scenario of free trade, globalization and cyberization⁸, world has become global village. In such background, many things are being adopted from western world which easily cannot be digested or infused in short span of time in Indian culture. Consequences of this are different negative impacts on women and it is also leading towards different offences. In such milieu the ethical and moral values of different religions can only shape balanced positive attitude for providing respect and protection to women.

Researcher argues that for any calamity, disaster, hazardous gas leakage or any environmental degradation/pollution by factories, industries, tanneries etc., government and giant system always keeps check through rules and regulations for safety, security and healthful life and compliances of necessary legal requirements. A

⁷ Carl Heath, Crime and Social Responsibility, International Journal of Ethics, Vol. 19, No. 2 (Jan. 1909), at p. 233.

⁸ Cyberization is the era of Cyberspace and Information Technology which has entered in every nook and corner of the planet earth.

robust system has been developed to combat with environmental pollution with the help of prevention and precautionary approaches. Different legal systems all over the world have been trying to incorporate prevention and precautionary approaches in environmental regulations for reduction of harmful pollutants from the atmosphere. What about the harmful inner elements which are present in the individuals of society and harming women population and bringing down equality rights for women? Major question is that whether our legal system has any approach and principle which can be instilled in criminal law/law of crimes for lessening crimes against women in person?

In criminal justice administration, system is dealing with crimes through law enforcement agencies/police authorities. But, how far can this system work for lessening the crime rates against women in person? Is this the responsibility of governmental agencies/law enforcement agencies only? Or are there any role for society/community and each individual to play for?

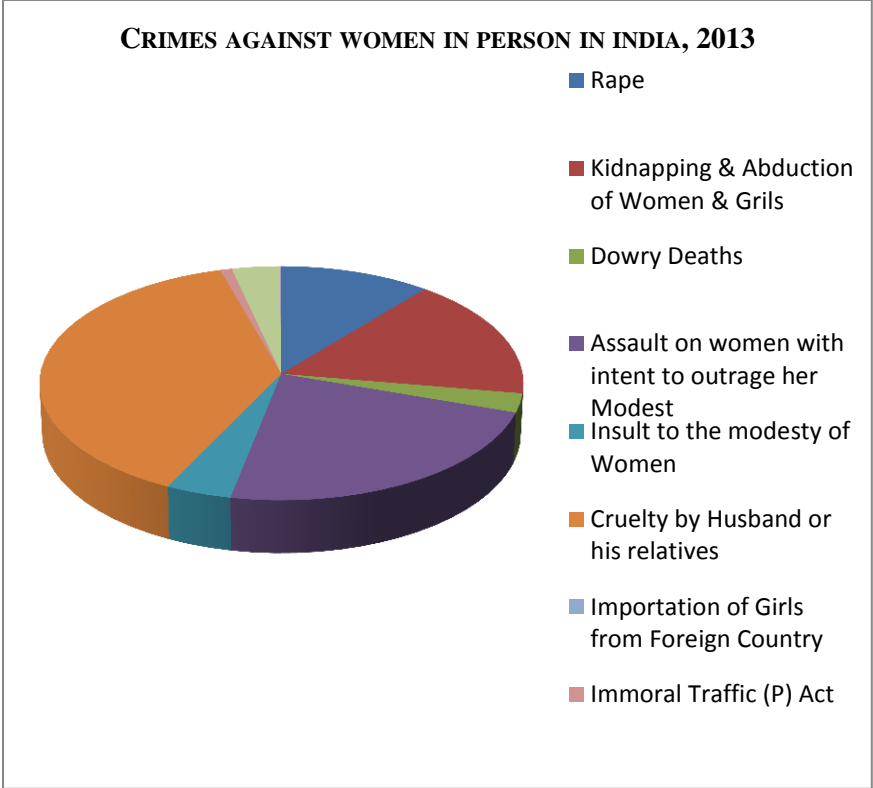
For non-occurrence of pollution, disaster etc. legal system takes preventive and precautionary measures, but for non-occurrence of crimes against women as end products, what kind of preventive and precautionary measures were adopted by Indian Government and Society so far?

Following data of National Crime Record Bureau (NCRB) shows the increase of crimes against women in person in India. It also shows the graveness and magnitude of the problem.

NATIONAL CRIME RECORD BUREAU DATA ON CRIME AGAINST WOMEN IN INDIA (2013)⁹

CRIME AGAINST WOMEN	CASES REPORTED	% TO TOTAL IPC CRIMES	RATE OF CRIME	CHARGSHEETING RATE	CONVICTION RATE
KIDNAPPING & ABDUCTION OF WOMEN & GIRLS	51881	2.0	8.8	68.4	21.1
ASSAULT ON WOMAN WITH INTENT TO OUTRAGE HER MODESTY	70739	2.7	11.9	95.8	25.7
INSULT TO THE MODESTY OF WOMEN	12589	0.5	2.1	96.1	32.0
CRUELTY BY HUSBAND OR HIS RELATIVES	118866	4.5	20.1	92.3	16.0
IMPORTATION OF GIRLS FROM FOREIGN COUNTRIES	31	0.0	0.0	37.1	19.2
TOTAL CRIME AGAINST WOMEN	309546	11.7	52.2	90.5	22.4

⁹ National Crime Record Bureau, Ministry of Home Affairs, India, available at <http://ncrb.gov.in/> last accessed on 06th June, 2015.



Above pie chart shows that women is mostly facing cruelty by husband or his relatives and assault with intent to outrage her modesty. These are strong examples and empirical data which shows that how society is treating women. It also raises a question about our social milieu, which we set through our law of the land, Indian Constitution to facilitate the gender justice.

Following is the graphic representation which shows the differential manner in which our system deals with the pollution control and crimes against women in person.



Fig.: 1

Researcher argues that if above analogy is applied in the occurrence of crimes against women in person, it can be concluded that there is an absence of precautionary and preventive approaches in crime control by the system/society. Indeed, the system, for prevention of crimes against women in India, does not contain precautionary and preventive approaches. This can be represented in the following diagram.



Fig.: 2

Deviation from the set pattern of human behavior and conduct, by law is considered as a crime. However, law and legal rules do not talk and maintain prerequisites of human behaviors. To be more precise law takes care of the crime after its occurrence, police authorities/ government agencies take recourse after commission of crime/offence. There is no system or proper value laden approaches in the law which can prevent crime at threshold. Small deviations from expected set pattern of human conduct, gradually take the form of crimes/offences as end products. In this process government/law enforcement agencies cannot be held responsible. Our crime control administration itself is faulty, which does not truncate the crime prone behaviors and circumstances at its source.

PYRAMID THEORY VIS-À-VIS CRIME ENGINEERING

Crime engineering is a design, structure or model of law to deal with ill evils and immoral thoughts from individuals of the society with the help of value laden, ethical and religious teaching.

Researcher through this paper has attempted to provide value laden, moral, ethical and religious teaching based principles to design or develop a structure of legal system, specifically criminal law, forecasting human behaviors under specific circumstances and the system with preventive and precautionary approaches to lessen crimes from the society. It is crime engineering based on understanding of the pyramided scheme of occurrence of crimes in society.

At a particular point of a time and in a particular set of society/community, there is threshold of deviations from standard behaviors of individual, such as following woman at night time, passing on taunting verbal toward girls, staring woman with bad intention, not respecting woman with the dignity in family, abusing woman, use of unrestricted pornographic material in daily life, watching violence based movies, watching western sexually oriented movies, desire for acquiring wealth by illegal means, etc.

CRIME ENGINEERING FOR WOMEN IN INDIA

In our present tradition-bound society, structured on the basis of old values, when a woman is subjected to a crime like rape, it becomes a multiple crime. She is raped at home, then in public life, followed by an agonizing cross-examination (by the police and) in the court, and the climax is reached when sensational reports about the crime against her appear in the media. The victim of the crime finds public exposure more agonizing than the crime (of rape)

inflicted on her. (It is a continuing rape of her in full public view).¹⁰

The (even more) humiliating aspect of the crime against a woman is that her status in the hierarchical structure of society also (obstructs) the way of securing justice for her. Thus, her social status compounds her gender injustice.¹¹

In a well-known case, the most obnoxious situation was that the court acquitted the accused, observing that the rapists were middle-aged and respectable of a higher caste who could not commit rape of a lower caste woman. This is the tragedy a woman had to face compounding gender and social injustice.¹²

Every rape, even that by a single individual, is a gang rape and an aggravated sexual assault. Taking a holistic view of such a crime, the laws relating to all its aspects must be reviewed for its prevention and punishment.¹³ The scrutiny need not be confined only to those laws which relate to the investigation, prosecution and trial of the incident of rape.¹⁴

Even as an increasing number of violent crimes against women, especially rape, continue to be reported across the country, a 13-year analysis of crime data reveals that a little more than 57 rapes were reported every day.¹⁵ This averages over two rapes every hour, every day during the last 13 years. A total of 2,72,844 cases were reported across 28 states and seven UTs in this period.¹⁶

¹⁰ Leila Seth, *Talking of Justice – People’s Rights in Modern India*, Aleph Book Company, New Delhi, (2014), at p. 5.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ The Times of India, 28th July, 2014, <http://timesofindia.indiatimes.com/india/One-rape-every-30-minutes-in-India/articleshow/39128982.cms>

¹⁴ Leila Seth, *Talking of Justice – People’s Rights in Modern India*, Aleph Book Company, New Delhi, (2014), at pp. 5-6.

¹⁵ The Times of India, 28th July, 2014, <http://timesofindia.indiatimes.com/india/One-rape-every-30-minutes-in-India/articleshow/39128982.cms>

¹⁶ *Ibid.*

CRIME PYRAMID WITH REFERENCE TO CRIMES AGAINST WOMEN

Crimes against women are more serious matters for any society and it has tremendous negative impact in India. It is significant to note here that crime prone activities form the bottom (see fig. 3 below), or base, of the crime pyramid, whereas grave crimes/offences stand at the top. If lost time is used as a criterion for the seriousness of crimes against women, we find a relatively high degree of correspondence with the crime pyramid. There may be a slight deviation as a result of the reporting requirements of different nations and society.

From the crime pyramid, it follows for the purposes of crime prevention that:

1. Crime prevention begins with avoiding crime prone activities.
2. Eliminating minor crime prone activities usually has a positive effect on eliminating serious crimes.

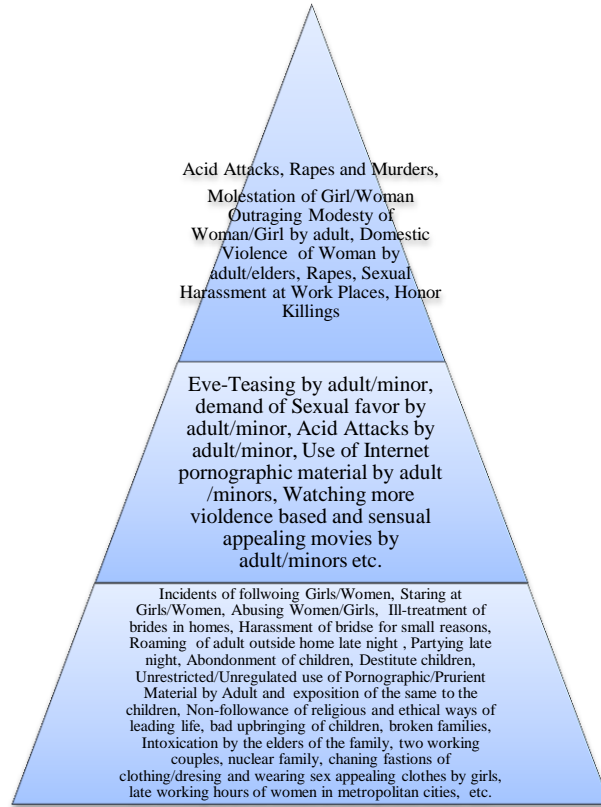
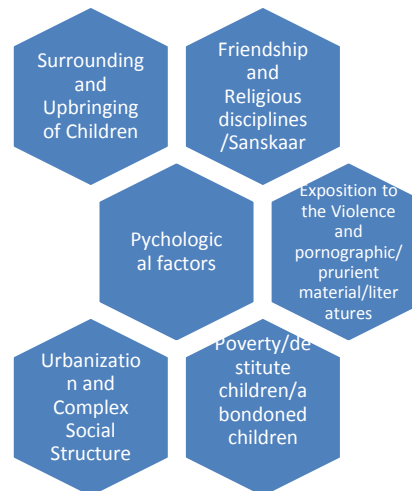


Fig.: 3

MODEL OF CRIME CAUSATION

There are perceptible and imperceptible factors, which are major components of the causes of crimes against women in the society.

CONTRIBUTING FACTORS



CONCLUSION AND SUGGESTIONS

It is significant to know that only legislation and law enforcement agencies cannot prevent the incident of crime against women. There is need of social awakening and change in the attitude of masses, so that due respect and equal status is given to women.

It's a time when the women need to be given her due. This awakening can be brought by education campaign among youth making them aware of existing social evils and the means to eradicate same. Mass media can play an active role here as in the present days it has reached every corner of the nation. Various NGOs can hold a responsible position here by assigning them with the task of highlighting socio-economic causes leading to such crimes and by disseminating information about their catastrophic effect on the womanhood and the society at large.

Precautionary approach and preventive approach should be adopted in criminal laws our country.

Changes that have been attempted or experimented by civil society organizations, new laws, and government initiatives have been producing some impact but that are far from creating any significant result. As poverty forces women to participate more in economically gainful activities, the control over asset and economic decisions remain still in the hand of males. Attitudes prevail that identify young and adult women as sex objects and encourages women's restraining behaviour. Crime engineering is the solution towards the end of different crimes against women in person.