

## Women's Security and Justice: The Mahila Thana Initiative in Combating Sexual Assault

*Ms. Soumya Khanna\* & Mr. Sushant Dabral\*\**

**Abstract:** Sexual Assault is endemic and has long been a component of human civilization, and most often, women are the ones who endure the trauma both physically and mentally. For a woman's security and dignity preservation, sex assault necessitates justice. This justice is intrinsically linked to reported crimes against women and deterrence.

India took an initiative in this direction and carried out an innovative policy intervention that spurred a significant surge in the number of "all women police stations" throughout Indian cities.

This paper shall critically analyse and acknowledge three postulations. Primarily, the crime of sexual assault in India and further the role of Mahila Thana in association with reporting of rape against women. Secondly, the scrutiny of the relationship of incorporation of Mahila Thana and police deterrence indicators like police arrest using the national crime data. Lastly, whether there has been a transition from general stations to women police stations with respect to sexual assault against women.

**Keywords:** *Mahila Thana, Women in Policing, Sexual Assault, Police Deterrence Indicators, Innovative Policy Intervention.*

### 1. Introduction

*“On some positions, cowardice asks the question “Is it safe?”  
Expediency asks the question “Is it polite?”  
And vanity comes along and asks the question “Is it popular?”  
But conscience asks the question “Is it right?”  
And there comes a time when one must take a position  
That is neither safe, political, nor popular,  
But he must do it because conscience tells him it is right.”*

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\* Assistant Professor, Vivekananda School of Law and Legal Studies.

\*\* Assistant Professor, Vivekananda School of Law and Legal Studies.

The quote is laid down by the Rev. Dr Martin Luther King, Jr. which prominently prompts us to ponder exactly what constitutes the most vital to us, as individuals and as a group. In India, heinous crimes against women of varied age and socio-economic and cultural groups such as sexual assault, rape and verbal abuse have grown increasingly to be ubiquitous. These heinous crimes anguish a large number of females and jeopardise their physical, social, emotional, and mental health and safety. Our country faces a rape victim every 20 minutes resulting into it becoming the fourth most prevalent offence against women. Moreover, the 2019 yearly submission of the National Crime Records Bureau (NCRB) depicts that a total of 32033 instances of rape were reported in the country which results into making 88 instances of rape per day. The agonising ordeal of rape has not only physical but also psychological, and social effects on those who are impacted.<sup>1</sup> These victims confront significant obstacles to accessing justice and other restitution assistance. This research paper strives to shed light on the issue of 'Rape' and its dissemination in the form of survivors coming forward and reporting it. Specifically, the research paper outlines an examination of the root causes of Women police Station/Mahila Thana in mitigating cases of rape.

The law enforcement department in India is mostly comprised of male policemen. The requirement for recruiting women police emerged when stations confronted a growing number of juvenile and female perpetrators. Assault of women in the form of domestic violence, rape etc. has enormous repercussions in social, physical, mental, emotional ways. A woman might walk up to a Police station and still not go in because she is hesitant to share her experience with a male officer who often cannot be sensitive, or knowing her financial status or facing social stigma. Thereby, reporting of crime was in grave danger. And that is why to report these crimes in a better way by giving a harmonious environment to the victim became expedient.<sup>2</sup>

Moreover, according to recent studies the inclusion of females in professions which are subjugated by males have created a space with much more equitable gender standards, protocols, and perceptions (Dahl et al., 2018).

Simultaneously, the present consternation with respect to violence against women and inadequate mitigation of it have fuelled the need of actions to be taken by the government to avert these crimes (Garcia-Moreno et al., 2006; Telegraph, 2013). This paper examines the ramifications for women on inclusion in police force, positing of WPS in urban-rural set ups,

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<sup>1</sup> Elizabeth Kolsky, *The Body Evidencing the Crime: Rape on Trial in Colonial India, 1860–1947*, GENDER & HISTORY 109, 111 – 130 (2010).

<sup>2</sup>*Ibidat* 116.

curbing the crimes against women by increased reporting rates, creating gender-equality and fighting misogynist social structures.

## 2. The Crime of Rape in India

### Evolution of Rape Laws Prior To Independence:

Pre-Independent India's law enforcement mechanism was established by the East India Company. It also ingested and implemented Muslim law enforcement criteria and standards.<sup>3</sup> With the intent of strengthening the functioning of the justice system, the "British colonies in Asia Act" was enacted in 1882. This act deemed rape as a crime penalised by death if the female victim was younger than eight years, and by incarceration in every other instance.

Assuming his position in 1834 as a Law delegate on the Supreme Council, Thomas Macaulay endowed India with a code of substantive criminal law. At the inception, S.359 described the crime while S.360 outlined the corresponding the punishment.<sup>4</sup>

Also, the Select Committee cited insufficient justification over the amendment including S.375 stating that if the wife is under 10 years of age, then it will not result into marital rape. And with this, anti-rape legislation under IPC 1860 stood unchanged.

In 1891, Criminal Law (Amendment) Act<sup>5</sup> elevated the age of consent to 12 years in all types of rape cases and later in 1924, it was elevated to 14 years of age.<sup>6</sup>

### Rape Laws After Independence:

With time, Anti-Rape legislations were amended in respect of age of consent, substitution of words or rigorous punishments to create deterrence and harmonize the victims. The issue of custodial rape was also acknowledged along with its punishments.<sup>7</sup>

### Justice J.S. Verma Committee and Its Report

Post-Nirbhaya episode in 2012, a committee headed by Justice J.S. Verma was incorporated to laydown suggestions for drafting effective laws focused on VAW. The committee gave significant suggestions so as to formulate deterrent rape laws covering all the aspects such as extending the scope of rape, penalisation, appointment of special commissioners, ceasing of the 2-finger test, modification of the age of consent, and surging the punishment to death penalty in the rarest of the rare cases.

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<sup>3</sup> 2 TAPAS KUMAR BANERJEE, BACKGROUND TO INDIAN CRIMINAL LAW, 33 (R. Cambay, 1990).

<sup>4</sup> Aarti Sharma, *Rape Laws in India: An Analytical Analysis*, IJRAR 150, 150 -156, (2016).

<sup>5</sup> Act X of 1891, Pt V, published in Gazette of India, 1891 (India).

<sup>6</sup> Rukmini Sen, *Law Commission Reports on Rape*, ECON POLIT WKLY 81, 81-87, (2010).

<sup>7</sup> Indian Penal Code 1860 and Code of Criminal Procedure (Amendment) Act 1949, No. XLII, Acts of Parliament, 1949 (India).

The suggestions of the Justice Verma Committee<sup>8</sup> were shaped into the form of the Criminal Law (Amendment) Act, 2013<sup>9</sup>. The significant modifications laid down are as follows:

- Paradoxically, a menace to sexual assault was also categorised as an offence.
- The classification of rape also integrated latest transgressions such as acid attack<sup>10</sup>, stalking<sup>11</sup>, and voyeurism<sup>12</sup>.
- The female's intimate background was omitted as testimony solely to avert an infringement of confidentiality. Also, her personality was made inconsequential in rape trials<sup>13</sup>.

### 3. The Criminal Law (Amendment) Act of 2018<sup>14</sup>:

In 2018, Post horrifying cases of Kathua and Unnao, certain state legislatures adopted anti-rape legislations. As a by-product of these legislative measures, The Criminal law Amendment Act, 2018 was enacted.

These incidents led to significant modifications in the criminal legislations which are below mentioned:

#### 3.1. Indian Penal Code<sup>15</sup>:

- Following the 2018 Amendment, the prescribed punishment for the rape committed against women stipulated in the section 376 has been upsurge to a minimum of 10 years.<sup>16</sup>
- Penalisation including a minimal of 20 years rigorous imprisonment extendable up to life imprisonment of the accused committing rape on a female under the age of 16 years has been inserted.<sup>17</sup>

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<sup>8</sup> Ministry of Home Affairs, <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2020-pdfs/rs-11032020/1959.pdf> (last visited 18.10.2023)

<sup>9</sup>PRS Legislative Research, [https://prsindia.org/files/bills\\_acts/acts\\_parliament/2013/the-criminal-law-ordinance-2013.pdf](https://prsindia.org/files/bills_acts/acts_parliament/2013/the-criminal-law-ordinance-2013.pdf) (last visited 18.10.2023).

<sup>10</sup> Indian Penal Code, 1860, S.326A and S.326B, No. 45, Acts of Parliament, 1860 (India).

<sup>11</sup> Indian Penal Code, 1860, S.354D, No. 45, Acts of Parliament, 1860 (India).

<sup>12</sup> Indian Penal Code, 1860, S.354C, No. 45, Acts of Parliament, 1860 (India).

<sup>13</sup>PRS Legislative Research, [https://prsindia.org/files/policy/policy\\_committee\\_reports/1359132636--Justice%20Verma%20Committee%20Report%20Summary\\_0.pdf](https://prsindia.org/files/policy/policy_committee_reports/1359132636--Justice%20Verma%20Committee%20Report%20Summary_0.pdf) (last visited 18.10.2023).

<sup>14</sup>Ministry of Home Affairs, [https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct\\_14082018\\_2.pdf](https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_2.pdf) accessed on 18.10.2023.

<sup>15</sup>Tondon MP, Tondon R. The Indian Penal Code 15th ed. Allahabad: Allahabad Law Agency; 1982.p. 300-4

<sup>16</sup> Indian Penal Code, 1860, S.376(1), No. 45, Acts of Parliament, 1860 (India).

<sup>17</sup> Indian Penal Code, 1860, S. 376 (3), No. 45, Acts of Parliament, 1860 (India).

- As above mentioned, similar penalisation has been inserted as a modification in the criminal law regarding raping a girl under the Punishment for rape of a woman under the age of 12 years. Keeping in mind, the age of the victim, rape becomes much more severe and traumatic, therefore amendment included a harsh addition of capital punishment to which the perpetrator can be made subject of.<sup>18</sup>
- The criminal law amendment incorporated sub sections which pertains to the penalization of gang rape on girls under the age of 12<sup>19</sup> and 16<sup>20</sup> years. The imposition of capital punishment may also be warranted in certain particular incidents.

### 3.2. The Code of Criminal Procedure, 1973:

- High Court or Sessions Court shall not issue anticipatory bail to the perpetrator who has committed rape of a girl aged 16 years.<sup>21</sup>
- The modifications laid down through criminal amendment acts has expedited the prosecution proceedings.
- Significant addition to section 439 of CrPC has been made in the form of a proviso and subsection 439A specifically relating to rape cases and vigilance of the courts.<sup>22</sup>

## 4. Introducing Mahila Thana into the Criminal Justice System

Around the world, law enforcement machinery including police force is bestridden by men (Prokos and Padavic 2002, p. 242, Loftus 2008, p. 757, Victorian Equal Opportunity and Human Rights Commission (VEO) 2015). This profession of being police officials is viewed to be stern challenging occupation for men and consequently policing is perceived to be an all-male establishment (Shelley et al. 2011, Wadds 2019). These variables can be reflected into a cautious disposition for women or a perception of their vulnerability (Prokos and Padavic, 2002; Rabe-Hemp, 2008). Furthermore, this culture of machismo in the police force has structural detrimental impact on handling VAW cases (Prokos and Padavic 2002, Loftus 2008, Goodman-Delahunty and Graham 2011, Douglas 2019).<sup>23</sup>

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<sup>18</sup> Indian Penal Code, 1860, S. 376 (AB), No. 45, Acts of Parliament, 1860 (India).

<sup>19</sup> Indian Penal Code, 1860, S. 376 (DA), No. 45, Acts of Parliament, 1860 (India).

<sup>20</sup> Indian Penal Code, 1860, S. 376 (DB), No. 45, Acts of Parliament, 1860 (India).

<sup>21</sup> Code of Criminal Procedure, 1973, S. 438, No.2, Acts of Parliament, 1974 (India).

<sup>22</sup> Code of Criminal Procedure, 1973, S. 439 and S.439(A), No.2, Acts of Parliament, 1974 (India).

<sup>23</sup> Kanishka Sikri, Ayushi Thakur, Betelhem Araya Tadele, Daniel Cowen, Why Women's Police Stations in India Fail to mitigate violence against women, University of Toronto, March 2021, <https://reachalliance.org/wp-content/uploads/2021/03/WPS-Final-March29.pdf>.

The evaluation of a nation is contingent upon the level of standing that its females are able to attain. The increasing incidence of abuse directed at women has emerged as a significant issue that has further garnered considerable attention from governmental bodies and non-governmental organisations alike. Earlier while cases of violence against women went largely unnoticed for the past few decades due to the efforts of women's group and media coverage a large number of searches have been highlighted. This facilitated to the development of widespread perception concerning the pressing need of sufficient interference by the governmental authorities. This escalation of inclusion of females in the Thana structure resulted into making an affirming claim regarding nation's commitment to emphasize on the crimes against women. Therefore, from initial point of recording the crime, state is making efforts to provide empathetic assistance to the abused.<sup>24</sup>

WPS is a globally prevalent approach to policing that usually entails the establishment of police stations equipped exclusively by female officers concentrating in dealing with offences of delicate significance, especially assault, rape, domestic violence, and other gendered offences (Natarajan, 2016).

## 5. Introducing Females in Policing

Since 1939, females constitute a part of law enforcement mechanism. With time, females were recruited into the police force as a consequence of an imperative to combat an upsurge in female perpetrators as well as the offences committed against them (Natarajan, 2016).

The inclusion of females in the police force ranges significantly between states. The states of Kerala and Maharashtra witnessed female officers in 1939 followed by Delhi and Gujarat in 1948, Uttar Pradesh in 1967 and Tamil Nadu in 1973. Nevertheless, this inclusion of female officers in the force does not result into establishment of Mahila Thana.

Still, even after the recruitment of female officers, majority of the states did not swiftly execute the establishment of Mahila Thana. It took 34 years to set the first WPS in Kerala long after the recruitment of female police officers in the state.<sup>25</sup>

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<sup>24</sup> Kerry Carrington, Máximo Sozzo, Vanessa Ryan & Jess Rodgers, *Women-led police stations: reimagining the policing of gender violence in the twenty-first century*, 32 POLICING AND SOCIETY, 577, 577-597 (2022).

<sup>25</sup> Massachusetts Institute of Technology, *Women's help desks in local police stations in India increased registration of cases of gender-based violence*, PHYS.ORG NEWS, (July 7, 2022), <<https://phys.org/news/2022-07-women-desks-local-police-stations.html>> accessed on 18 April 2024.

## **6. The Mahila Thana – delineation and documentation of crimes as an inference in India**

After the commission of the offence, the person victimised may choose to communicate and disclose it which led to reporting effect. After that, it is on the discretion of the police officer to fill FIR and commence the official investigation known as the recording effect.<sup>26</sup> Following a probe into the case, police officer may decide further to make an arrest or not known to be effectiveness effect.

Incorporating Mahila Thana in the law enforcement machinery would better cater the needs of the female victims by giving them an accommodating and tailored platform specific to dealing with crimes against women. As a consequence of the implementation of a WPS, we anticipate a surge in reporting of offences committed against women as the environment of a Mahila Thana would be less induced to demonstrate distorted gender-stereotypes relating to the position of Mahila in our society and the consideration and recognition given to varied kinds of abuses she endures.<sup>27</sup> Lastly, if Mahila takes full charge in handling these offences against women with efficiency, it will definitely aid in upsurging the competency of the law enforcement machinery.

## **7. Suggestions from the research**

### **Police System**

- Role of humane heart in police station is a necessary requisite for its effective working.
- Establishment of all-women police stations at district level.
- Gender-sensitivity programs should be organized for the officials.
- Ratio of women in police force should be increased.
- Victim-Offender Mediation programs should be adopted to give both the stakeholders a platform to showcase their positions post-offence.
- Resources and facilities should be made available at the WPS for its effective working.

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<sup>26</sup> Punam Sahgal, *Women in Police: A Study of Their Career Aspirations and Motivation*, 42 IJIR, 408, 408–429 (2007).

<sup>27</sup> Nirmalee Kakati, *Women In Police Service: A Case Study Of All Women Police Station, Assam*, 9 IJRSS, 720, 720-730 (2019)

**Court System**

- Recruitment of Women Public Prosecutors would help the victims to be represented in a much more effective way as the victim would be able to give details of the crime being much more comfortable.
- Victim's parameters of justice should be given much heed rather than just punishing the offender.
- Effective judicial system should be established with respect to CAW because conviction rates are very low as the victims turns hostile or compromise with the offender.
- False Accusations should be punished as to deter this section of people.

**Societal Role**

- There is a need to put a closure on violence against women by identification and combatting perceptions of the patriarchal society.
- There is a need for change of Societal attitudes toward violence against women as Blaming the victim would not help in mitigating this crime.

**8. Lessons Learned**

Despite the efficacy of Mahila Thana's in elevating the rates of reporting the crimes, the Indian legal system has not done enough to enhance women's circumstances. Since a large proportion of reported violations are not pursued or addressed in an expedient way, the gridlock in the policing and justice machinery obscures the advancements obtained by WPSs in boosting reporting rates. A dearth in faith in the Indian justice system and social prejudices towards abuse against women impede efforts to make the much-needed transition to an age with greater gender equality. Until the functioning of WPSs accommodate to the constraints of the law enforcement system and its social foundations of gender-based violence, their aim of establishing an atmosphere of safety for women to report crimes will not be realised. Thereby, the hypothesis stands false.

**9. Conclusion**

To successfully counteract the adverse consequences of abuse against women, women's police stations (WPSs) must first reach to the most pregnable women. It becomes expedient on the part of WPS if it needs to cater to the needs and vulnerabilities of the section of



women been deprived of it. The exigency to approach this pregnable section of women requires investigation which not only includes their identification but also to understand the intertwined disparities shaping their lives. Even so, this recognition does not immediately result into its realisation.

Pertaining to abuse of women, majority of them does not seek legal assistance. However, the reach of WPSs has been extended to rural areas but is still lagging to approach the most impoverished and prejudiced section of women who encounter distinct systematic obstacles that preclude them from obtaining legal recourse.

Mahila Thana's inclusion of rural areas have facilitated in reducing the rural-urban gap on geographical scale. However, this is not a barrier for reducing the efficacy of Mahila Thana, factors such societal, political, cultural, financial plays a key role. The social stigmas of patriarchal society put the victim in a dilemma to approach a Mahila Thana in proximity. These barriers are imperceptible even though they are so evident and substantial. Hence, these obstacles intertwine with each other resulting into deprivation of women from their basic rights and further getting access to justice.

Although Mahila Thana's function as a comprehensive mechanism for combating crimes against women, they tend to overlook the fact that they are just one component within the broader context of women's experiences throughout their lives. Even when a female police officer is responsible for filing the first information report (FIR), it does not eliminate the possibility of the officer harbouring various other biases, particularly when it concerns violence against Dalit and economically disadvantaged rural women. Discrimination is not solely based on gender or sex but often encompasses numerous other forms of oppression. This explains why only 3.5 percent of women resort to the police to seek justice for cases of domestic violence.

This system tends to facilitate abuse. The policing system involving the officials prolong the scenario of abuse of women. This stagnant attitude result into stigmatisation of the victims rather than addressing to their vulnerabilities and pain. Therefore, to end this abuse against women, it is expedient to uncover and combat these social barriers maturing through misogynist structures.