



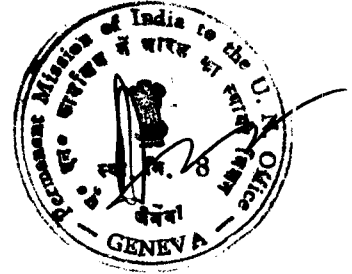
भारत का स्थायी मिशन, जेनेवा  
PERMANENT MISSION OF INDIA  
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NV- 45/05

3<sup>rd</sup> October, 2005

The Permanent Mission of India to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter No. G/SO/214 (89-9) dated 16<sup>th</sup> August, 2005 from the Special Rapporteur on Violence against Women, its causes and consequences Mr. Yakin Erturk has the honour to attach the response of the Government of India.

The Permanent Mission of India to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights  
(Attn: Mr. Yakin Erturk, Special Rapporteur on violence  
against women, its causes and consequences,  
Palais Wilson,  
Geneva.  
(Attention: Ms.L. O'Hanlon, Fax: 022-917 9006)

**OHCHR REGISTRY**

- 4 OCT. 2005

Recipients :...S.P.B.....  
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## Violence against Women

The term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

### Constitutional provisions for protection of women rights

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio-economic, educational and political disadvantages faced by them. Article 14 confers on men and women equal rights and opportunities in the political, economic and social spheres. While Article 15 prohibits discrimination against any citizen on the grounds of religion, race, caste, sex etc., Article 15(3) makes a special provision enabling the State to make affirmative discriminations in favour of women. Similarly, Article 16 provides for equality of opportunities in matter of public appointments for a citizens. Article 39(a) further mentions that the State shall direct its policy towards securing all citizens men and women, equally, the right to means of livelihood, while Article 39(c) ensures equal pay for equal work Article 42 directs the State to make provision for ensuring just and humane conditions of work and maternity relief. Above all, the Constitution imposes a fundamental duty on every citizen through Articles 15 (A)(e) to renounce the practices derogatory to the dignity of women.

### Strategy for dealing with violence against women

On the one hand, the Government is strengthening the ex legislations through review and amendments, wherever required, and developing new institutional mechanisms (National and State Commissions for women, all-woman police stations, etc.) / on the other, it is running projects that provide support to vulnerable women (like short homes, Hostels for Working Women etc.) and rehabilitation of victims of violence (through schemes like Swadhar) The National Commission for Women and several NGOs are also conducting sensitisation and orientation programmes for judicial and police officers on gender issues that also focus on violence against women.

### Legislative measures — Legal rights of women

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support service especially to working women.

Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc., the crimes which are directed specifically against women are characterized as 'Crimes Against Women'. These are broadly classified under two categories:

(1) The crimes identified under the Indian Penal Code (IPC)

i) Rape (sec.376 IPC)

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- ii) Kidnapping & abduction for different purposes (sec 363 — 373 IPC)
- iii) Homicide for Dowry, Dowry Deaths or their attempts (sec.302/304-B of IPC)
- iv) Torture, both mental and physical (sec.498-A of IPC)
- v) Molestation (sec 354 of IPC)
- vi) Sexual harassment (sec 509 of IPC (referred to in the past as Eve-teasing))
- vii) Importation of girls (upto 21 years of age) (sec.366-B of IPC)

(2) The crimes identified under the Special laws, such as:

1. Commission of Sati (Prevention) Act, 1987 (3 of 1988)
2. Dowry Prohibition Act, 1961 (28 of 1961)
3. Indecent Representation of Women (Prohibition) Act, 1986
4. Immoral Traffic (Prevention) Act, 1956

The statistical data of crimes against women compiled by the National Crime Records Bureau, Ministry of Home Affairs for the years from 1998 to 2004 is attached.

#### Enforcement

Law and order and other criminal matter is a State Government subject under the Constitution and therefore, the direct responsibility for dealing with enforcement of the concerned Acts is that of the State Governments and the mechanisms under them. The registration, investigation, detection and prevention of the crimes against women is primarily the responsibility of the State Governments/ UT Administrations. However, the Government of India has initiated a number of measures to check such crimes, such as:

- setting up of helplines for women in distress under the Swadhar Scheme
- support services to victims of violence through schemes such as Short Stay Homes and Swadhar under which shelter, maintenance, counselling, capacity building, occupational training, medical aid and other services are provided.
- grant-in-aid schemes providing assistance for rescue and rehabilitation of trafficked victims as well as prevention through special schemes in source areas of trafficking
- redressal of grievances through interventions of National and State Commissions for Women
- organizing legal Literacy and Legal Awareness Camps
- implementation of schemes for (i) awareness generation and advocacy and (ii) economic empowerment of women through the programmes of Rashtriya Mahila Kosh, Swashakti project, Swayamsidha Project, Swawlamban programme and Support to Training & Employment programme (STEP)
- review of laws with a view to remove provisions which may be discriminatory to women and to enhance punishments for crimes against Women
- sensitisation of judiciary and police and civil administration on gender issues

- Follow up of reports of cases of atrocities against women received from various sources, including NCW, with concerned authorities in the Central and the State Governments.

Apart from legislative changes in the relevant Acts, instructions/guidelines have been issued to the State Governments/Union Territory Administrations to effectively enforce legislation relating to crimes against women and monitor the enforcement and to give more focused attention to improving the administration of criminal justice system and to take such measures as are necessary for the prevention of crime against women and other vulnerable sections of society. The measures suggested include:

- sensitizing of police officials charged with the responsibility of protecting the women;
- vigorously enforce the existing legislation relating to dowry violence
- set up women police cells in police stations and exclusive women police stations
- provide institutional support to the victims of violence
- provide counseling to victims of rape
- take measures to eliminate trafficking in women. States have also been advised to constitute State Advisory Committees to advise on trafficking matters
- ensure wider recruitment of women police officers
- train police personnel in special laws dealing with atrocities against women.
- setting up of Fast Track Courts
- setting up of Family Courts
- appointment of Dowry Prohibition Officers and notification of Rules under the Dowry Prohibition Act, 1961

#### National Commission for Women

The Government has set up a statutory body called National Commission for Women (NCW) with a specific mandate to study and monitor all matters relating to the Constitutional and legal safeguards provided to women; review the existing legislations to suggest amendments wherever necessary; and to look into complaints involving deprivation of the rights of women. NCW is receiving complaints relating to Dowry/atrocity cases Dowry related suicides /death / murder. These cases are duly processed in the Commission under Section 10(1) (f) and 10(1) (g) of the NCW Act, 1990 and referred to the appropriate authorities such as police, District Magistrates etc. with the Commission's recommendations for expediting action under the criminal laws and bringing the guilty persons to trial in the Court. These cases are tried in Courts having criminal jurisdiction under Section 304-B, 498A, 302 etc. of the Indian Penal Code read with the Dowry Prohibition Act, 1961.

#### Legislation on Protection from domestic Violence

There are remedies for dealing with domestic violence under the criminal law. Section 498-A of the Indian Penal Code introduced in 1983 is often invoked in such cases. The section deals with cruelty by husband or a relative of husband and the punishment can extend upto 3 years and fine. Cruelty, inter-alia, has been defined as willful conduct which is of such nature as is likely to

drive a woman to commit suicide or is likely to cause grave injury or danger to life, limb or health. It also includes harassment of the woman with a view to coercing her to meet dowry demands. Section 304 B of IFC deals with cases of dowry deaths. Section 354 of IPC deals with assault of criminal force with the intention to outrage the modesty of a woman.

In order to address the phenomenon of domestic violence, which is widely prevalent but has remained largely invisible in the public domain, the Government has introduced in the Lok Sabha the Protection of Women from Domestic Violence Bill 2005 as a civil remedy to secure women victims from domestic violence and to provide her other relief. The Bill has been passed by both the Houses of Parliament and received the assent of the President as Act No. 43 of 2005.

#### National Policy for the Empowerment of Women

The Government has approved the National Policy for the Empowerment of Women on 20th March, 2001 with the objective to bring about the advancement, development and empowerment of women through a process of change in societal attitudes towards them, to eliminate all forms of discrimination against women and to ensure active participation of women in all spheres of life and activities. The Policy stresses on the need to change societal attitudes and community practices discrimination to women.

The Policy prescribes affirmative action in areas such as Legal System, Decision Making Structure, Mainstreaming of Gender Perspective in Development Process, Economic Empowerment through increased access to resources like micro credit, better resource allocation through Women's Component Plan, Gender Budget exercises and development of Gender Development Indices and Social Empowerment of Women through, inter-alia, universalisation of education, adoption of holistic approach to women's health etc

Para 7.1 of the Policy lays down that 'all forms of violence against women, physical and mental, whether at domestic or societal levels, including those arising from customs, traditions or accepted practices shall be dealt with effectively with a view to eliminate its incidence. Institutions and mechanism/schemes for assistance will be created and strengthened for prevention of such violence, including sexual harassment at workplace and customs like dowry; for the rehabilitation of the victims of violence and for taking effective action against the perpetrators of violence. A special emphasis will also be laid on programmes and measures to deal with trafficking in women and girls'

A Plan of Action for implementing the National Policy for the Empowerment of Women is on the anvil.

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**ANNEXURE****Trend of crime against Women during 2000-2004**

(as reported by the National Crime Records Bureau, Ministry of Home Affairs)

S.No.	Crime Head	2000	2001	2002	2003	2004*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Rape	16496	16075	16373	15847	16134
2.	Kidnapping & Abduction	15023	14645	14506	13296	14945
3.	Dowry Death	6995	6851	6822	6208	6702
4.	Cruelty by husband/ relatives(Torture)	45778	49170	49237	50703	48583
5.	Molestation	32940	34124	33943	32939	32100
6.	Sexual harassment (eve teasing)	11024	9746	10155	12325	13375
7.	Imporation of Girls	64	114	76	46	112
8.	Sati Prevention Act	0	0	0	0	0
9.	Immoral Traffic(P) Act	9515	8796	6598	5510	5330
10.	Indecent Representation of Women (Prohibition) Act 1986	662	1052	2508	1043	3092
11.	Dowry Prohibition Act	2876	3222	2816	2684	2602
	Total:	141373	143795	143034	140601	142975

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