

**RSTV: Big Picture**  
**Tackling Crime Against Women**

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Guests:

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**Larger Background:**

- Crimes against women have been in focus over the past few weeks, with several heinous ones being reported across the country.
- There was uproar in Kashmir after a 3-year-old was raped by her neighbor in Bandipora district.
- While the police promptly arrested the accused, protesters are demanding capital punishment in the case.
- Days after the gruesome crime, just 50 kilometers away in Ganderbal district, another minor was allegedly raped.
- Meanwhile, in Rajasthan, a young Dalit woman was allegedly raped before her husband in Alwar. On April 26, 2019, the woman alleged that a group of youth stopped the couple who were on a motorcycle and gang raped her.
- They also filmed the incident. Elsewhere in Uttar Pradesh's Hapur, horrific details emerged of the alleged prolonged sexual assault of a 20-year-old woman who has claimed that she was thrashed, tortured and raped by multiple men over a period of years starting 2014.
- The woman's husband said that the couple approached police multiple times but were turned away. These are just a few incidents that have been in the news in recent days.
- This episode will analyse the role of the family in tackling crimes against women.

**The Protection of Children from Sexual Offences (POCSO) Act, 2012:**

- The Protection of Children from Sexual Offences (POCSO) Act, 2012 deals with sexual offences against persons below 18 years of age, who are deemed as children. The Act for the first time, defines “penetrative sexual assault”, “sexual assault” and “sexual harassment”. The offence is considered graver if it is committed by a police officer, public servant, any member of the staff at a

remand home, protection or observation home, jail, hospital or educational institution, or by a member of the armed or security forces.

- The Act has come into force on the 14th of November, 2012, along with the rules framed thereunder. The Act is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through appointment of Special Public Prosecutors and designated Special Courts. The Act incorporates child friendly procedures for reporting, recording, investigation and trial offences. The Act provides for stringent punishments which have been graded as per the gravity of offence.
- Section 39 of the POCSO Act requires the State Governments to prepare guidelines for use of NGOs, professional and experts or persons to be associated with the pre-trial and trial stage to assist the child. On request from several State Governments, Model Guidelines were developed by the Ministry of Women and Child Development and sent to all the State Governments/UT Administrations in September, 2013, which can be adopted or adapted by them for better implementation of the said Act. Further, as per the report of National Commission for Protection of Child Rights (NCPCR), seven States/Union Territories (excluding Uttarakhand) have confirmed formulation/acceptance of guidelines for various stakeholders.
- Section 44 of the Protection of Children from Sexual Offences Act, 2012 empowers the NCPCR and State Commission for Protection of Child Rights for monitoring the implementation of the provisions of this Act in such manner as may be prescribed. In discharge of its duties NCPCR has been taking up the matter with regard to implementation of the POCSO Act in respect of the following aspects:-
  - Designation of Special Courts;
  - Appointment of Special Public Prosecutors;
  - Formulation of Guidelines u/s 39 of POCSO Act for various stakeholders;
  - Designation and implementation of modules for training of various stakeholders;
  - Steps taken for spreading the awareness on the provisions of the POCSO Act;
  - Setting up of child Welfare Committees (CWCs), District Child Protection Units (DCPUs) and Special Juvenile Police Units (SJPU)s;
  - The number of FIRs filed under the Act, cases in which charge-sheet filed, compensation awarded to the victims, number of cases in which accused convicted/acquitted, number of cases in which witness turned hostile, cases in which appeal has been filed etc.
  - Number of trial of sexual abuse cases which have been pending with Special/Session Court for more than a period of one year;

- Number of applications for compensation received by District Legal Services Authority, number of cases compensation awarded by the Special Court, number of cases pending for receiving the amount of compensation for more than 30 days etc.

### **The Protection of Children from Sexual Offences (Amendment) Bill, 2019**

- The Protection of Children from Sexual Offences (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of State for Women and Child Development, Mr. Virendra Kumar on January 8, 2019. The Bill amends the Protection of Children from Sexual Offences Act, 2012.
- The Act seeks to protect children from offences such as sexual assault, sexual harassment, and pornography.
- **Penetrative sexual assault:** Under the Act, a person commits “penetrative sexual assault” if he: (i) penetrates his penis into the vagina, mouth, urethra or anus of a child, or (ii) makes a child do the same, or (iii) inserts any other object into the child’s body, or (iv) applies his mouth to a child’s body parts. The punishment for such offence is imprisonment between seven years to life, and a fine. The Bill increases the minimum punishment from seven years to ten years. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment between 20 years to life, along with a fine.
- **Aggravated penetrative sexual assault:** The Act defines certain actions as “aggravated penetrative sexual assault”. These include cases when a police officer, a member of the armed forces, or a public servant commits penetrative sexual assault on a child. It also covers cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child or the child becomes pregnant, among others. The Bill adds two more grounds to the definition of aggravated penetrative sexual assault. These include: (i) assault resulting in the death of child, and (ii) assault committed during a natural calamity.
- Currently, the punishment for aggravated penetrative sexual assault is imprisonment between 10 years to life, and a fine. The Bill increases the minimum punishment from ten years to 20 years, and the maximum punishment to death penalty.
- **Aggravated sexual assault:** Under the Act, “sexual assault” includes actions where a person touches the vagina, penis, anus or breast of a child with sexual intent without penetration. “Aggravated sexual assault” includes cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child, among others. The Bill adds two more offences to the definition of aggravated sexual assault. These include: (i) assault committed during a natural calamity, and (ii) administering any hormone or any chemical substance, to a child for the purpose of attaining early sexual maturity.
- **Pornographic purposes:** Under the Act, a person is guilty of using a child for pornographic purposes if he uses a child in any form of media for the purpose of sexual gratification. The Act also penalises persons who use children for pornographic purposes resulting in sexual assault.

- **Storage of pornographic material:** The Act penalises storage of pornographic material for commercial purposes with a punishment of up to three years, or a fine, or both. The Bill amends this to provide that the punishment can be imprisonment between three to five years, or a fine, or both. In addition, the Bill adds two other offences for storage of pornographic material involving children. These include: (i) failing to destroy, or delete, or report pornographic material involving a child, and (ii) transmitting, propagating, or administering such material except for the purpose of reporting it.

### **Reasons as to why crimes are committed against women:**

There has been an increase in the number of crimes on the minors by minors. Juveniles are indulging in crimes against minors and somewhere, parental guidance is lacking. This is in spite of the fact that technology is spread all over but the children don't know as to how to use this technology.

Earlier we used to have the joint-family system where even if parents are away, their grandparents were there to guide them. However, nowadays in the nuclear families, both parents are working, and the first schooling which a child gets is from the family; the child learns either consciously or unconsciously from the family. When children see how their father is behaving with their mother's, or with other family members, unconsciously the child learns from that behavior.

Secondly, when parents do not have time for their children, they provide gadgets to them. These gadgets can either be computers, or smartphones, etc.

However, they don't teach their children as to what to watch and what to avoid on these gadgets.

We need to provide children with greater parental guidance. Society has an equal role to play here.

### **The Role of the Society:**

- Earlier children had a close, emotional bonding with the family members at home in a joint-family system. In fact, it was a very closely knit family. Slowly as society changed, it became essential for women to move out of their homes, because a single parent could no longer manage things. With urbanization, there was a huge migration as well. Industrialization led to migration and people started to move into smaller families, and as a result, the nuclear families came up.
- We gradually witnessed a circular change, i.e. again joint families are slowly coming up. This is happening because of many factors. We have a little tilt towards the joint family system. However, because the marriage age has increased, and there is a big gap between the generations, it becomes very difficult for the older people to leave their homes and stay where the younger generation and children are staying.
- It is wrong to say that the joint family system is the solution for all kinds of problems which the society is facing, as far as family values are concerned.
- Further, one must also take note that society is changing fast and there is a section of young people who are frustrated which little avenues left for them. There are too many demands on them as well; for example: to be competitive; to take care of themselves at a very young age; further, the status of women has also changed.

- It is important to note that when people become isolated from the society, their minds turn to criminal activities.

### **Is implementation an Issue?**

- We have observed a very shocking trend of minors committing crimes against minors.
- This is a recent trend. Very recently, the Protection of Children from Sexual Offences (POCSO) Act was enacted to protect the minor children.
- This is also one of the first laws of the land which is gender neutral, wherein we are talking about protecting not only minor girls, but also minor boys who could be subjected to sexual crimes. Thus, we don't have a dearth of laws in this regard. The Indian Penal Code is having many stringent provisions in itself, than after the unfortunate Nirbhaya case. There were suggestions that were made in the Justice M.L. Verma committee in the year 2013 which has again widened the concept of law to include any kind of a crime which is without consent against a woman. We have also had the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- In this scenario, where we are having so many laws in hand, we still see that crimes are increasing day by day. It is not only about implementation. Implementation comes secondary- the first thing that should be addressed is the lack of education and the lack of awareness about the laws. There is no fear of law, and no respect of law. Where there is no fear or respect for law, and no awareness that committing a sexual act against a minor amounts to a crime, and a heinous crime at that.
- What is also shocking is that some of the biggest sexual crimes take place within the family. A child reposes his/her faith in a person of trust (most often a relative), and that person could be as close as the child's own father, aunt, or uncle, and when that trust is exploited, it raises larger questions around the idea of family values.
- Whether it is a joint family or a nuclear family, a child gets exploited within the four walls of their own homes. This needs to be addressed.
- Before we talk about implementation, the first thing that we need to make sure about is the fact that the public at large, are aware that there are stringent laws which if enacted could become very deadly for the accused person.

### **The Psyche of the Person who commits the crime: Can counseling help?**

- Change of mindset can help play a prominent role in developing awareness in the society.
- The family is the basic unit of society, and inside our families, we learn the first lessons of basic relationships.
- It is when a child doesn't feel cared for and loved for inside his/her family, that the consequence is a huge psychological and emotional impact that is carried along by the child into the future.
- Further, if that child is extorted or sexually abused by his father, grandfather or any close relative in his family, such an act can have a huge impact on his future.

- Counselling, awareness and a change of mindset and education can play a prominent role in society where we can educate kids to guard against such transgressions from people both within the family as well as outside.

### **What the State can do as far as crimes against women is concerned?**

- Although laws are in place, what we find is that awareness is a problem. People don't even know what laws are there. The state has to work towards making people aware of these laws. The state should also make the penalties of not abiding by these laws clear to the public. Further, gender-sensitization programmes should also be started. This should ideally be started at the school level. The increased number of cases which we see piling up is also attributable to the fact that the number of FIR's being filed has increased these days. Earlier, the police would refrain from lodging FIR's. However, this has changed in the present day.
- However, what happens after an FIR has been lodged? Unfortunately, the police personnel don't know how to investigate these crimes. They are not even aware about the juvenile laws. Many a time, they don't include those laws in their FIR's. We need reforms in the police force in a big way. It is unfortunate that most of the cases start from police apathy. When a woman approaches the police, it is unfortunate as to how the police treat her.

### **What can the society do?**

- Earlier, there was a dependency between the generations; the family was close-knitted. However, it is unfortunate that today there is a distance. Awareness is also a class phenomenon. The lower classes get exposed to what their parents are doing too closely. Children's minds get diverted very quickly to the negative aspects. Children from middle class families get exposed to technology and there is a distance that emerges between family members in metropolitan cities especially.
- Students should be taught to engage in community activities so that they understand realities and also understand how to cope up with realities. Community get-togethers should also be encouraged so that people get to know each other. Neighbours should also get to know their neighbours. Community activities should be encouraged. These days, in metropolitan cities, one doesn't even know who their neighbours are.

### **Does the Judiciary play a bigger role?**

- Unfortunately, in our country as a whole, we have scant respect for law. The fact that cases linger on for years and years in the courts of our country (by which time many witnesses would have died and there would be a lack of evidence, etc.)- this is something which needs to be changed. Our legal system is a very foolproof legal system in which nobody can go scot-free, however, there are ways that people find a way around it by nitpicking. It is also the time factor that is very important. This is because one of the basic fundamental rights which plays both ways is that nobody is condemned without being heard.
- This is the biggest protection that the Constitution of India guarantees even for the accused person. As a step forward, there needs to be more fast-track courts for this purpose so that any crime, which is of a



sexual nature, not only against women and girls, but even against boys and men. It is high time that one becomes more gender neutral about sexual crimes.

- These sort of crimes need to be tackled by specific fast-track courts. Further, certain statistics need to be brought out in the public domain- such as:

a) The number of sexual crimes being reported in every police station

b) What is the stage at which these cases have reached?

c) What is the rate of conviction and the rate of acquittal, etc.?

- If this kind of information is highlighted by the media, then positive change would occur.

### **An erosion of family values: How does one retrieve the situation?**

- The last decade has seen an erosion of family values, because these days, the world has shifted to a materialistic world. It is because of this materialism that the family value system is coming down. Parents don't have time for their children.

- People don't have time to sit with their family members. This results in a lack of connection with their family members. In the absence of such a connection with their family members, certain side effects manifest themselves inside the family and then in the society.

- Thus, it is important for us to develop a well-connected family. It is thus important for us to create a value system in the society.

### **Concluding Remarks:**

- Children should be persuaded to go out and play. Also, women should be respected at home. When women are respected at home, then children also learn about the importance of respecting women. Parents cannot treat their sons and daughters differently.

- There should also be a relationship of authority and respect between parents and their children.

- There should also be more awareness of the laws of the land. One is appalled at times to see the levels of ignorance of the law which people from educated backgrounds in metros have. People don't know about the Indian Penal Code; about what Section 376 of the Indian Penal Code is all about. When people in metros who are a part of the educated middle-class of the country don't know the basics of the law, what can one expect from the smaller towns?

- Lastly, the misuse of technology has resulted in many crimes. The right use of technology needs to be emphasized.

