

Theories of Female Criminality in India

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I. INTRODUCTION

Crime is the violation of the fundamentals and instructions affirmed by the public at large on occasion, for which system will work is prescribed by law. People in each public at large are expected to follow the established regulations and guidelines. In any particular instance, when a person believes that it is tough to satisfy his wants and requirements in a socially acceptable manner, he seeks a different opportunity to deal his wishes and desires. He chose blameworthiness as a replacement. Women are often expected to be the keepers of social rules, but for the past few years, many women have been breaking the law and committing crimes all over the planet. This is not unique to India. Female criminality also has risen exponentially in India. There may be many key contributors to such a rise, some of which will be thoroughly discussed below. The changing role, profession, and role of women, as well as the concept of female empowerment, economic independence, and political independence, unlock the door for women to compete in a variety of activities, increasing their vulnerability to crime. Women are nonetheless involved in small offenses; they are also engaged in a variety of non-traditional and heinous offenses, which will be discussed in this research paper.

Women's offences have risen with the passage of time, but the law has remained unchanged since its inception. As a result, the law must be made less effective of women and much more gender-neutral. So, the main objectives of the study are to understand the female criminality in India, to analyse the theories presented in female criminality and to study the preventive measures in female criminality in India. Bearing in view the research studies on female criminality and female prisonisation conducted by various theorists at the regional and international level, the significance and relevancy of the current work on women prisoners is also explained how the inquiry is relevant in the sophisticated situations. Female

criminal behaviour occasionally sparks significant problems and is frequently regarded as a crucial hazard to the public at large. Criminological theories are diverse in nature. In several aspects, crimes committed by women are assumed to be the last information can be displayed of an inner treatment unbalance or social unsteadiness, according to women's activist groups. Their self-control appears to be primarily aimed at therapies and negotiate in good faith, according to all records.

INDIAN FEMALE CRIMANILITY

Female's criminality has long been rejected due to the widely held belief that women are more truthful and less likely to commit crimes. In Indian society, women are treated with subservience and composure. They are assumed to be the guardians of society's norms, gatherings, cultures, morality, and family support. Generally believing in the Indian society that women's roles are restricted to the home, she devotes her life to serving all members of the family. Her joy is based on the success of various family members, her success is based on the success of members of her family. Women have fewer opportunities to socialise with people who are not family members. In India, the family structure is dominated by men. The household is led by the oldest living male member. The family is distinguished by the family name or by the family leader. In the family, women have a dependent and complementary role to men. As a young lady, she is protected by her father, as a wife, by her husband, and as an elderly person, by her child. Male members of the family protect a female member of the family. When compared to men, their interference in criminal activities is relatively low. Men criminal behaviour is widely studied and has consistently sparked interest in Criminology, and a significant amount of research is conducted in this area. Because of the renewed interest in women and economic progress, the issue of women's crime has begun to garner a

lot of attention. In the past few decades, the role of women in Indian culture has changed significantly, resulting in greater financing in criminal activities by them. Women's criminality, women's prison sentences, and the rights of women prisoners have all been ignored by philosophers and knowledge relating to the phenomenon.

Supervisory fairness for women, in particular, has proven to be critical in context of the new economic and personal landscape, which has expanded women's role in crimes. Supervisory offences against women prisoners have also increased, necessitating a fact required of current legal provisions, their organised violation, and the ways and means, lawfully and primarily, to associate provisos to the treatment of women prisoners at various stages of accusation guilty verdict and detainment. Women's financing in crime will rise as their job opportunities expand in accordance with their interests, desires, and self-definition shifts from traditional to more progressive. We discover that the amount of abusive behaviour at home is rising, which is attributed to the agreement structure, this creates a rebellion state of mind, which has compelled women to commit crimes. Crime, like infestation, sickness, and death, is a continual event. It is as long-lasting as spring and as monotonous as winter. Criminality is not created, rather, it is the result of social factors. The importance and relevancy of the current work on women prisoners is substantial in the sophisticated situations, taking into account the examination deems relating to female criminality and female prisonisation by various philosophers at the regional and global level. The crimes committed by women are like prostitution, child marriage, dowry murder, kidnapping, abduction, theft, drug trafficking, etc.

THE THEORIES AND CAUSES

The research paper will concentrate on six theories under female criminality. They are Feminist theory, Liberation theory, theory of differential opportunity, self-control theory, social-control theory and social learning theory.

1) **FEMINIST THEORY:** - Because criminology has been male dominated, feminists claim that all traditional theories are classed in men's experience. Women in patriarchy are subjected to enslavement based on their gender, according to feminists, and this enslavement leads to crime. Feminists argue that patriarchy must be abolished, or that at the very least, modifications in gendered organizations and social relations must be made. The aim would be to minimise gender-based imbalances and

injustices in society, as well as in the legal and criminal justice systems. They claim that in both residential and non-residential local organizations, women are less aggressive and more conducive to control and diagnosis than men, and that they adapt positively. As a result, feminists emphasise the patriarchal system as the source of social split between dominant and subordinate groups. Women are more underprivileged, confined, and governed in this system.

- 2) **LIBERATION THEORY:** - Women's liberation, according to Freda Adler, is leading to an increase in criminal activity because it has heightened women's challenging impulses, making them more forceful, violent, and manly. Women now have more structural possibilities to cause offence as a result of their liberation. Critics refute the theory of the new violent female by citing statistics and records that show women's criminal activity is limited to petty theft.
- 3) **Theory Of Differential Opportunity:** - Richard Cloward and Lloyd Ohlin support this theory. The theory aims to explain why different criminals use different types of crime to convey their needs and wants or objections. They believe that everyone lives in one of two types of opportunity structures. The real opportunity structure and the ill-conceived opportunity structure are two different things. Theories of status discontentment and chance direct our attention to organised inequalities, which result in a wide range of crime rates. These theories explain why a particular social class gravitates toward a particular type of criminal behaviour. These theories look into the social and structural causes of crime and criminal behaviour.
- 4) **SELF CONTROL THEORY:** - Hirschi and Gottfredson developed this theory, which is referred to as a "General Theory of Crime". This implies it seeks to describe all types of crime and does not believe gender-specific explanations are necessary. According to the theory, crimes happen when men or women lack self-control. They claim that a lack of self-control develops as a result of their parents' unsuccessful parenting practices as they grow up. People who lack self-control are more likely to be self-destructive, unresponsive, and aggressive. Criminals are often flexible, according to Thornton, Graham-Kevan, and Archer, which reinforces the concept that they lack self-control.

- 5) **SOCIAL CONTROL THEORY:** - According to the Social Control theory¹, we all have criminal impulses. Even so, the significant proportion of us do not behave on these temptations because external factors control them and prevent us from acting on them. Connection, commitments, intervention, beliefs, and compliance are all examples of external factors. Moreover, if these controls are weak in a person, they are about to behave upon their criminal temptations. When Alarid, Burton, and Cullen (2000) looked at the relationship between a lack of social control and criminality, they found few gender differences. This indicates that this crime theory is applicable to female offenders as well.
- 6) **SOCIAL LEARNING THEORY:** - Bandura developed the Social Learning Theory to explain all types of human behaviour. This theory proposes that behaviour is learned through reproduction and encouragement, implying that criminal behaviour is learned through observation, modelling, and other means. As a result, the more crime you witness, the more likely you are to commit it yourself. It is, however, debatable whether this relationship holds true for females as well. It is argued that such a notion was not as powerful for females in this sense. It's worth remembering that those who surround a person are likely to share their context, which could be a complicating factor in this relationship.

There can be different causes of female criminality in India. They are biological, sociological and psychological causes of female criminality. Female misbehaviour, according to Caesar Lombroso, is deeply embedded in the biological make-up or an underlying functionality of the female race. He claimed that female criminals are worse than male criminals because female brutality is far more sophisticated and devilish than male brutality. Lombroso believed that women disclosed many characteristics with children, that they were fundamentally evil, and that their lack of intellect was the rationale for their low involvement in crime. Women are more stressed than men, owing to limited possibilities and the contradictory statement of pregnancy and birth versus job. Women who have a lower social status are more stressed than women who have a

¹ Travis Hirschi coined the term “social control theory” in the year 1969. The social bond theory is another name for it.

higher status in society. Women fear of alienating those around them if they express their anger. As a result, they inhibit their anger and deal by channelling it into feelings of guilt, inability, and despair. The psychological perspective is relevant to the Indian situation because many crimes are committed as a result of mental illness and distress. Over the last few years, a multitude of writings on sociological perspectives have appeared. This perspective emphasises how sociocultural factors influence a woman's decision to become a criminal. Women's equality is not practised as it is mentioned in the Indian Constitution. Women miss out on the majority of life's chances as a result of inequality, and their financial condition suffers as a result. Women in Indian society are constantly expected to comprehend and adapt to the world around them. Women's unequal status in society must be discussed as a result of social injustice and economic dependence on men and the state. In most cases, the crimes committed by women are seen as the final indications of social instability.

CASE STUDIES

In the case of State of Himachal Pradesh vs. Nirmala Devi², Justice Sikri cited criminologist Eugene McLaughlin's study on “Justice and female criminal offenders” to argue that “paper justice” would necessitate the imposition of similar penalties for similar offences. When it comes to “real justice”, therefore, the factor of bearing the effects of a penalty cannot be overlooked. The real-world effects of handing down a sentence to a female offender can be seen here. “Real justice” would take into account the possibility that a child may struggle more as a result of his mother's prison than from his father's. He went on to say that in the criminal underground, women are fighting with men, copying them in all crimes and even exceeding them at points of time. The fact that Nirmala Devi was the mother of children who needed her affection and attention is obvious from Justice Sikri's argument. His judgement is not founded on any consideration of female criminality or feminist theories that explain why female criminals face a structural disparity in sentence. In reality, it simply proves what criminal sociologists Candace Kruttschnitt and Jukka Savolainen discovered in their study, which showed how punishment in American courts strengthened gendered identities of mothers and childcare. Study aims to look into whether justices may treat female defendants more strictly in some cases if they consider it is in the defendants' best interests or if

² 2017 (2) RCR (Criminal) 613

the harsher sentence will safeguard the women in the long run, according to the authors. Lawmakers should also investigate methods to regulate the justice system, which would lessen inequalities by limiting judges' power.

Education gives an individual the capacity to adapt with having the opportunity to distinguish right from wrong, as well as the ability to avoid crime. Education also provides skills for earning a valid living, so it is used as a prevention tool for crime. Illiteracy and poor education can be seen as an issue, and high female illiteracy rates in India contribute to the perspective that most female convicts are illiterate. Most women prisoners in India and the West have low educational credentials, according to studies. The majority of women in the prisons of Ferozepur, Jaipur, and Varanasi were clearly illiterate. The majority of female prisoners are married, though men have been known to abandon their wives while they are in prison. Married women in India commit more crimes than unmarried, abandoned, or widowed women. The occupation of a person is a strong factor of their social status. Men are the services in most patriarchal cultures, while women do not have a good professional career and are only the caregivers. According to studies, the majority of women in prison are either unemployed or have few job skills. Religion is thought to play a role in pontificating, constructing, and preserving morality in people. It has an effect on a person's actions and retains them from engaging in unethical actions. Some research has discovered a link between religious doctrines and illegal activity, such as witchcraft killings. Religion is more important in the Indian scenario because Indians are more religious, and surveys have shown that the majority of female prisoners in India are Hindus. Traditional Hinduism had a strong hierarchical segment of four "varnas" (classifications) and numerous castes within each varna. As a result, caste is a measure of a person's social standing in Hindu society. According to research, nearly half of female criminals come from backward castes.

As a result, the majority of female inmates in the three prisons were illiterate, married, Hindu or Sikh, homemakers or workers from general caste or other backward castes (OBC). Various prisons produced different results in terms of age. According to research conducted in India by Thomas William and Christopher, forty percent of women commit murder. In one of the researches in Ferozepur prison, the majority of respondents (64.5%) were found guilty of murder, while 22.5 % were found guilty of drug trafficking, and 12.9 % were found guilty of misappropriation of funds.

In Varanasi prison, 92 % of women convicted of murder were women with 78.57 % found guilty of dowry-related bride murders, 14.28 % found guilty of murdering a brother-in-law, and only 7.14 % convicted of certain other crimes. In dowry deaths, they claimed the bride died of natural causes or died by suicide. In Jaipur, the majority of women, 76 %, were found guilty of murder, while 11.3 percent were found guilty of drug trafficking. In Jaipur, 2.6 % of women were found guilty of abetting rape, while 10% were found guilty of minor offences such as theft. Dowry has devolved into a heinous social practise in which the bride's family pays an enormous sum of money. If the bridegroom's family is unimpressed with the dowry gifts, the bride is harassed and sometimes killed. As a result, the majority of accused women in all three prisons were found guilty of murder, and the majority of these women's murders were linked to dowry. The majority are not violent criminals who committed the crime with a family member or friend.

II. CONCLUSION AND RECOMMENDATION

To prevent female criminality, many laws need to be amended, few studies and learning programs on female criminality should be conducted. Organizations to prevent crime, the criminal justice system must be restructured. Reconstruction and women offenders' peace and reconciliation, answerable information providers, sex education to prevent female criminality, men and women should share social and domestic responsibilities evenly rather than differentiating them. Pre-marital and post-marital counselling are recommended for couples and families to minimise pressures in the family or society. Spousal abuse incidents must be punished severely in order to prevent future offences, and dowry laws must be fully enforced. An appropriate awareness campaign is also required, as a reformed criminal is not welcomed back into society and is mistreated by all. People must be notified of a rehabilitated criminal's rights, as they, too, have the right to live their lives as they did before. A female criminal should be given the opportunity to fulfil her parenting duties as part of remedial and supportive initiatives. Consideration should be given to delivering proper medical care to female prisoners, as well as rehabilitation. Because the majority of women end up in prison through no fault of their own, lawful assistance should be made available.

Many people today see increasing female criminality as a response, a retribution, and the final form of self-preservation. Since the dawn

of time, crime and criminals have coexisted in society. The government agencies, on the other hand, should help to encourage a continual action to achieve logistical challenges in the implementation of the rules and initiatives, as this would result to the objective of optimizing results for women prisoners, their children, and their societies. When deciding a case, the courts should discuss the rationale and convincing events that contributed a woman to commit the crime in question. However, until lately, only men were capable of committing such crimes. Female criminality was once thought to be a one-of-a-kind problem in traditional society. The feminist theory of female criminality appears to be the best fit for studying female criminality. Women must obtain as much as men do and be educated and informed of their rights in order for society to consider them equally. As a result, the answer lies largely in women's social and professional motivation, as well as a good law and order circumstance that guarantees men and women do not engage in criminal actions.

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