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**DAILY EDITORIAL
ANALYSIS**

TOPIC

**LANDSCAPE OF SEXUAL
VIOLENCE LEGISLATION IN
INDIA**

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LANDSCAPE OF SEXUAL VIOLENCE LEGISLATION IN INDIA

Context

- The issue of sexual violence against women is deeply concerning, and it's essential to explore why our legal framework sometimes falls short in addressing this pervasive problem.

About the Sexual Violence

- According to the **World Health Organisation (WHO)**, it is any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.
- It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part or object.

Historical Context and Legal Framework in India

- India's legal framework related to sexual violence has evolved over time, influenced by **feminist movements, anti-caste movements, and other vocalisations**.
 - ♦ Laws cover a range of offenses, from rape to verbal abuse of a sexual nature.
- **Minority laws** related to sexual violence—ranging from **rape to verbal abuse**—hold significant historical importance. Understanding this context is crucial for meaningful reform.

Intersectionality and Gender Violence

- To understand sexual violence legislation comprehensively, there is need to consider **intersectionality**. Factors such as **class, caste, religion, and geography** significantly influence how cases of gender violence are perceived by civil society, the government, and the media.
- These factors also impact the perception of perpetrators and the punishments meted out.

Beyond Rape Alone

- Laws on rape cannot exist in isolation. To truly address men's brutalisation of women, there is need to recognise that sexual violence is just one facet of a larger problem, including:
 - ♦ **Dowry Deaths:** In India, annual dowry deaths claim approximately 6,516 lives—that's **one victim every 90 minutes**.
 - ♦ Shockingly, the **conviction rate** in such cases remains **abysmally low**. The accused often **escape justice by paying "blood money"** to the victim's family—a compromise routinely allowed by the police and courts.
 - ♦ **Domestic Violence:** Undoubtedly, domestic violence is the **most underrated crime** against women **across all socio-economic strata**.
 - ♦ The law prescribes a maximum punishment of three years' imprisonment, making it nearly impossible for the police to arrest the accused promptly.
 - ♦ **Stalking and Harassment:** Similar issues plague cases of stalking and harassment. Lax bail norms hinder corrective action, allowing aggressors to continue their predatory behaviour unchecked.
 - ♦ **Marital Rape:** The penal code does not recognise marital rape, which is a significant issue.

Calcutta High Court Verdict (2023)

- It issued a controversial judgement advising adolescent girls to **"control sexual urges."** This ruling sparked significant debate and concern.
- The contentious observations made by the Calcutta High Court included statements such as:
 - ♦ **Duty to Protect Autonomy and Dignity:** The High Court suggested that it is the duty of every female adolescent to protect her right to integrity, dignity, and self-worth.
 - ♦ **Control of Sexual Urges:** The judgement implied that girls should control their sexual urges, as societal perception often labels them as "losers" when they engage in sexual pleasure.
- However, recently the Supreme Court stepped in and set aside the High Court's order, emphasising the need to protect children from sexual offences.

Related Concerns

- Despite legal frameworks, the implementation of rape laws in India remains poor.
 - ◆ Survivors, especially those from marginalised communities based on caste, class, and ethnicity, face numerous obstacles in accessing justice.
 - ◆ Corruption within law enforcement agencies exacerbates these challenges.
- **Low Conviction Rates:** Despite doubling prison **terms for rapists to 20 years**, India still grapples with a **low conviction rate**.
 - ◆ **Structural factors**—such as **caste, community, and class status**—contribute to this.
 - ◆ Vulnerable groups, including working-class women, minorities, and lower-caste Dalits, face heightened risk.
 - ◆ Additionally, riot or conflict situations exacerbate their vulnerability to sexual violence.
- **Flaws in the Judicial System:** The wheels of justice turn too slowly. Civil society activists rightly demand quicker implementation of laws.
 - ◆ Vigilante justice sometimes fills the void left by the sluggish legal process.

Bharatiya Nyaya Sanhita

- It has the provision where there would be no express provision to charge someone for the offense of bestiality.
- Ensuring comprehensive legislation that covers all forms of sexual violence, including those against animals, is crucial.
 - ◆ However, implementation of these codes remains challenging.

Supreme Court Intervention

- The Supreme Court's intervention restored the conviction of the accused under the **Protection of Children from Sexual Offences (POCSO) Act** and the **Indian Penal Code (IPC)**.
- Additionally, the Court directed states to implement relevant provisions of the **POCSO Act and the Juvenile Justice Act**.
- Such decisions play a vital role in shaping legal norms and societal attitudes toward sexual violence.

Intersectional Approaches and Community Engagement

- **Safe Spaces:** Courts must ensure that marginalised groups—such as Muslim and Dalit women—feel safe within legal and medical institutions.
- **Community engagement** programs can educate people about the impact of sexual violence and the importance of supporting survivors.
- Changing societal attitudes is crucial for long-term change.

Conclusion

- There are multifaceted solutions against sexual violence. Strengthening laws is essential, but so is addressing the broader ecosystem—where dowry deaths, domestic violence, and harassment persist.
- Efforts to combat sexual violence must address gaps in governance systems. Recommendations made by experts often remain unimplemented, leading to inadequate utilisation of allocated budgets.
- Solutions should focus on effective implementation and systemic change.

Source: IE



Mains Practice Question

- [Q] How effectively do current laws addressing sexual violence against women in India impact the diverse needs of survivors, and what improvements could be made to better support their access to justice and recovery?