

## THE ROLE OF FAMILY IN ENHANCING WOMEN'S CRIMINALITY

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**Suprotik Chakraborty\***

Women are the foundation stone of every family, especially in India; a woman is seen as a preserver of social norms, traditions, and customs. In every society, women have added responsibility of making their own identity along with nurturing their families. But it is very sad to see that women's achievement is also getting extended to criminal activities. On one hand crime against a woman is increasing in India and on the other hand rate of female criminality is also increasing it has turned into an important cause of concern for the legislatures as well as research scholars to find out the reason behind such criminal activity. The social environment especially the environment of the family in which the woman is living contributes a lot to the making of a woman criminal. As per the data on crime by National Crime Records Bureau (Crime Report 2009) women criminals comprise 6.3% of the criminals convicted for crimes under the Indian Penal Code. Data provided by Crime in India Reports (2003) reveal that the number of females arrested for criminal activities was 1, 51,675, which increased to 1,54,635 in 2007. The nature of crimes committed is also witnessing a change, Like, previously they were much involved in softer crimes but as per the recent reports of NCRB in the year 2005 almost 3439 women were arrested for the charge of murder; in the year 2007 this number increased to 3812 and in the year 2009 it reached to 4007 which is an increase from 5.4% to 6.4%. The crime rate among female criminals has risen from 5.4% to 6.2% from 2001 to 2011.

This paper deals with the theories based on female criminality and mainly focuses on the role of families in enhancing increasing woman's criminality relate. We have also provided certain preventive measures to overcome such a situation. It is an urgent need to make laws about the same and implement those laws which are already in existence and also a need to make laws to protect its citizens irrespective of their gender.

### DEFINITION OF WOMEN'S CRIMINALITY

Bajpai and Bajpai stated that, "The rights are first demanded, then commanded and later snatched".<sup>1</sup> In this fight for rights of women, in order to obtain them or defend them, this kind

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\*AMITY UNIVERSITY, KOLKATA.

<sup>1</sup> P. M. K. Mili and Neethu Susan Cherian, *Female Criminality in India: Prevalence, Causes and Preventive Measures*, Volume 10 (1), IJCJS, 65, Page no. 67, (2015), <https://www.sasev.org/ijcjs/pdfs/milietaliicjs2015vol10issue1.pdf>

of incidence of crime takes place. Social scientists and social protection planners have not paid much notice to recognize and unearth diverse trends and quality of the offenses committed by women despite the rapid rate of the participation of females in crime.

Female crime refers to the crimes which are committed by any woman. It corresponds with male crime, which is classified from a gender perspective. A woman who has committed a crime and has been convicted of a crime, in which she has used force or has threatened to use the same, is known as a women offender. Violent crime committed by women includes robbery, terrorism, rape, and murder. It is very much important to recognize the psychology and sociology in which females commit crimes either intentionally or negligently.

## **THEORIES OF WOMEN'S CRIMINALITY**

- **Strain Theory**

Robert Merton and Albert Cohen are the main creators of this theory. According to this theory, any kind of criminality is caused by pressure or tension. The source of this tension is stimulated aspirations to achieve certain goals coupled with obstacles to their achievement.<sup>2</sup> It had been found that depressed and frustrated individuals turn towards the commission of offenses for attaining their goals when they are unable to achieve them through legitimate means. For example, people might endeavour to make money-related progress through ill-conceived channels, like robbery, drug selling, and prostitution. They might strike out at others in their dissatisfaction. They might participate in drug use to mitigate their disappointment. Now, when it comes to women, they are always expected to achieve less than boys. However, even to achieve those restricted goals, a woman faces a lot of obstacles on her way to success. Thus, such blocked access to legitimate means of achieving culturally defined success goals leads to criminal behaviour. It has also been pointed out that delinquent girls generally come from broken homes or families with many tensions and unhappy relations among family members.

### **Differential Association Theory**

This theory has been introduced by Edwin Sutherland. He gave two explanations for criminal direct- Situational and hereditary. Situational wrongdoing will be wrongdoing dependent on the situation that suffers during the period of wrongdoing and hereditary wrongdoing is

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<sup>2</sup> Anupama Kaushik and Dr. Hari Singh Gaur, *Women Criminals: Case Study from India*, Volume no. 1(2), MJHSS, 1, Page no. 2, (2015), <http://www.sncwgs.ac.in/wp-content/uploads/2015/01/2-WOMEN-CRIMINALS.pdf>

dependent on a criminal's helpful experiences. The hypothesis communicates that criminal direction is learned in a methodology of correspondence with various individuals, basically in minimal private get-togethers. This learning fuses the systems of executing the wrongdoing. The specific heading of goals, drives, legitimizations, and perspectives is determined by implications of the legitimate codes as extraordinary or negative. Now, in the case of women's criminality, it has been suggested that girls generally do not mix in criminal circles because their gender role defines them as wives and mothers thereby restricting their sphere of influence and experience to the household. Therefore, according to this theory, women commit fewer offenses because they have fewer learning experiences and also fewer skills as compared to men.

### **Masculinity Theory**

This hypothesis includes two contemplations: Crime is symbolically masculine and that masculinity supplies the motive for a good deal of crime. The qualities such as that criminal-bold, cruelty, and antagonism are all indicative of maleness. As an explanation of female directors, the manliness hypothesis clarifies the unsatisfactoriness of wrongdoing for ladies, subsequently explaining their likeness. Criminologists expect that wrongdoing for females is a kind of enunciation of sex roles. This theory also suggests that girls who commit offenses are often found engaging in those crimes that will make them more attractive to the opposite sex which might portray their male-like behaviour.

- **Control Theory**

Walter Reckless, Ivan Nye, and Travis Hirschi are the main propounders of this theory. They believe that human beings are naturally immoral by nature and they have a tendency to engage in both social and anti-social activities unless something intervenes. Society also develops various control mechanisms for inhibiting the criminal tendency of people. People who are attached to conventional persons are less likely to commit offenses than others. This theory, when applied to women, suggests that although there might be greater social bonding among girls it leads to their greater conformity to societal rules. However, it is not a sufficient explanation of the sex differential in offending.

## **THE ROLE OF FAMILY IN ENHANCING WOMEN'S CRIMINALITY**

It is a universal fact that family plays an important role in the socialization of the child. Family and social conditions leave a very significant impression on the social, cultural, moral, and ethical behaviour of a child. However, several studies have found that female criminality has mostly been the result of maladjustment in the family, both parental as well as in her husband's family. The various factors by which family becomes responsible for women's criminality are as follows-

### **1. Family Type and Environment**

Family plays an important role in the socialization of the child. There is an important correlation between family type and women's criminality which has been established by various researchers. In 2009, a study conducted on women criminals in the state of Punjab revealed that about 57.5% of women offenders are from nuclear families while 36.5% of them live in joint or extended families. Another study in 2006 has shown that about 69.70% of women offenders belonged to nuclear families. Studies have also shown that the majority of women offenders from nuclear families are engaged in property offenses while women offenders from joint families are mostly involved in offenses against the person. Young girls from broken families are most likely to show deviant behaviours. Single-parent families are often not able to satisfy all the needs of a child and are also unable to monitor the day-to-day activities of their children. This often results in young girls getting easily manipulated by people for getting engaged in anti-social activities as they are unaware of the violent consequences.

### **2. Abusive parents**

Physical abuse by parents is also a reason for women's criminality. Young girls who are physically abused by their parents are more often found to be emotionally dependent on people outside their family units. This sometimes makes them the victim of anti-social activities when they come under the influence of wrong guidance. Incidents like running away from home are indicative of such deviant behaviour. Studies show that women whose parents have been engaged in extramarital relationships seem to develop certain behavioural abnormalities from their very childhood which results from a lack of proper attention and affection from their family members. In 2009, a survey was conducted on 180 women prisoners. Out of them, 18.89% suffered some form of parental abuse in the family of their orientation.

### **3. Family history of crimes**

Family history of criminality has been the subject matter of most criminologists, usually within a broader theoretical context emphasizing the role of social learning. Criminal tendencies among members in the family of orientation have a detrimental effect on the psychological development of women from the very childhood and make them mentally and emotionally maladjusted to societal norms. Such maladjustments when not channelized properly result in the development of anti-social instincts and the commission of heinous crimes.

Studies indicate that women criminals mainly emerge out of families where her husband or in-laws, such as brother-in-law or father-in-law, are actively involved in anti-social activities and were also put behind the bars for some crimes. Women have been often found to accomplish their husbands in carrying out illegal activities because the Indian conservative society leaves no option, except to assist the husbands in their wrongdoings, as women are economically dependent on their husbands for the fulfillment of their bare necessities. This is indicative of a patriarchal and conservative structure of Indian households and also suggests a correlation between the environment in the family of procreation and criminal tendencies among the women.

### **4. Marriage and spousal relationship**

There is an extensive correlation between marriage and criminal tendencies among women. Studies suggest that married women commit more offenses than women who are unmarried or who have never married. Marriage tends to develop highly significant changes in the developmental process of a woman. For some, marriages give a positive result and for the rest, it shows negative impacts. Several women who have been married before the age of 18 years seem to face a greater age difference from their husbands which sometimes leads to a mismatch of opinions and results in incompatibility issues. Women whose husbands are engaged in anti-social activities such as drinking, gambling, etc. face severe torture and harassment at the hands of their spouses and other family members. Studies have shown that women whose husbands engage in extramarital relationships suffer deprivation and denial of certain essentials of life, for example, love, affection, security, etc. These are one of the primary causes of women's criminality arising out of depression and frustrations which results in women committing heinous crimes. In 2006, a study conducted on 180 women prisoners revealed that 70.56% of them faced abuse at the hands of their husbands. The study also portrayed the fact that if the husband's family size was large then, the woman faced some sort of abusive relationship and

harassment by her in-laws in case the level of education and economic status of the husband was low because, in such situations, the women hardly have any role to play in the household affairs in her husband's family.

### **5. Role of in-laws**

Studies suggest that most women who are accused of property crimes are victims of the wrongdoings of their husbands or their in-laws who are actual offenders. It has been seen that women have been falsely implicated in their cases either because of some kind of revenge by the husband or by in-laws. For instance, in offenses related to excise where the husband was arrested for illicit distillation, the wife was also arrested for assisting him in illegal activities. Thus, it is evident that in cases like these, the wife merely played the role of an accomplice to satisfy the economic pursuits of her husband as it is her duty as a wife and not because of any desire to violate the social or legal norms. Another common aspect of Indian society is the practice of 'Labelling'. Many cases in India reveal that women were labeled as criminals not because of any of their criminalistic tendencies but because their family's male members were so labeled. There are also instances where it was found out that the offense of theft committed by women was not the result of any psychological or social aberrations but mainly due to family compulsions as they were compelled to play the secondary or supportive role in the commission of such offenses.

### **CASE ANALYSIS**

#### **# Phoolan Devi vs. State Of MP<sup>3</sup>**

#### **Facts**

Phoolan was born in rural Uttar Pradesh into a deprived family. She was compelled to undergo child marriage and also became the victim of an abusive marriage. She had not entered criminal life till that point in time. She was raped multiple times by her husband after which she decided to run away. Later, she joined a gang of bandits where she was the only woman. Meanwhile, she developed a love relationship with one of her gang members who belonged to the upper caste. This led to the creation of disturbances between the gang members based on caste issues and eventually her lover was killed in a gunfight. After that, the victorious rival faction, who belonged to the Rajputs, took Phoolan hostage in their village of Behmai, where she was

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<sup>3</sup> Phoolan Devi vs. State Of MP, Writ petition (Crl.) No. 509 of 1995, [11 SCC 19]



repeatedly raped by them over several weeks. She managed to escape from there, after which she rejoined the remnants of her dead lover's faction belonging to Mallaah, and continued with banditry. After a few months, her newly formed gang attacked the Behmai village for taking revenge for her sufferings. About twenty-two Rajput men of that village were shot dead by Phoolan's gang. After that incident, Phoolan managed to escape capture for two years until she and her few surviving gang members surrendered to the police in 1983. Phoolan was charged with 48 crimes, including multiple murders, pillage, kidnapping, and arson for which she passed eleven years in jail.<sup>4</sup>

## ANALYSIS

This case proves to be an example of the fact that strained family relations were responsible for the detrimental effects on the mentality of women which compelled her to choose the life of a criminal. She belonged to a very low-caste poor family. Thus, societal deprivations existed from the moment she was born. Under family pressure, she was forced to marry a man who was double her age. Her relations with her husband were also very strained because of the huge age differentiation. She was even raped several times by her husband. Marital rape creates tremendous pressure on the physical and psychological well-being of a woman. However, in this case, it was found that not only strained family relationships but, even societal deprivations ruined her life. It is evident from the case that the root of all her crimes was sexual harassment and rape.

In the words of Justice Arjit Passayat<sup>5</sup>, "While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female." Most of the time, it is found that women harassment cases are not reported by victims because of various reasons, the most important being family pressures. The family often puts all the blame on her and asks her to accept the wrongdoings of the offender. Therefore, in the quest for equality, a woman is sometimes forced to engage in anti-social activities.

## # **Randhir Basu vs State of West Bengal**<sup>6</sup>

<sup>4</sup> Sabrina Sultana Tithi, *A Case Review on Phoolan Devi vs State Of MP and Others*, NILS, ( Nov. 12, 2012) <https://nilsbangladesh.org/a-case-review-on-phoolan-devi-vs-state-of-m-p-and-others/>

<sup>5</sup> Sabrina Sultana Tithi, *A Case Review on Phoolan Devi vs State Of MP and Others*, NILS, ( Nov. 12, 2012) <https://nilsbangladesh.org/a-case-review-on-phoolan-devi-vs-state-of-m-p-and-others/>

<sup>6</sup> *Randhir Basu vs State of West Bengal*, AIR (2000) SC 908

## **Facts**

In 1998, Sudipa Pal who was in Class IX had engaged in an illicit relationship with her private tutor Randhir Basu. Her family consisted of her parents and grandparents. Her mother had certain physical sufferings which had developed after Sudipa's birth for which she was often ill-treated by her mother. Sudipa was not allowed to mix with any boys or girls as a result of which she did not have any friends. She was also subjected to physical assaults by her mother on various occasions. She used to make complaints about the ill-treatment by her mother to the appellant(tutor) as she had nobody else to share her feelings with. The appellant used to listen to her complaints and console her and thereby he was successful in winning the confidence of Sudipa who believed the appellant to be her real well-wisher. However, when her mother came to know about her illicit relationship with the appellant, she decides to remove him as her tutor. However, the appellant was clever enough to convince Sudipa to mix poison in "kalojam" and feed that to her entire family. Sudipa, along with and under the influence of the appellant had committed the offense of murder. The High Court awarded the death sentence to the appellant. However, the Supreme Court, after confirming the conviction of the appellant for causing the deaths of all four victims, reduced the sentence of death to the sentence of life imprisonment.

## **Analysis**

This case again reflects the role of the family in enhancing criminal tendencies among women. In this case, abusive parents had played the role of enhancer of women's criminality. As already mentioned before, women are often easily influenced by outsiders when they are unable to get any love and affection from the family. This often leads to them being unable to channel their grievances properly, often forcing them to get engaged in anti-social activities. Sudipa was often ill-treated by her mother and this also in no way seemed to improve her future. Therefore, out of helplessness and frustration, Sudipa was compelled to commit the offense, especially when she saw the appellant be her only friend who was being removed by her mother. Therefore, out of confusion and frustration, Sudipa and the appellant committed the offense.

## **PREVENTIVE MEASURES INCLUDING LEGAL ASPECTS**

It is said that prevention is better than cure. Prevention of crime that too in a country like India is a very difficult task in itself. Prevention of crime among women is a big challenge because it is tough to identify the vulnerable section of people, especially in the case of female criminals. According to the World Female Imprisonment List, while the number of men in



prison has increased worldwide by about 20% over the last 20 years, that of women has increased by 53%.<sup>7</sup> Legal awareness of women and knowledge regarding their actual role in society should be briefed to the uneducated women of society. They need to be informed about the strict laws and punishments which are there against being a part of a crime. Pre-marital and post-marital counseling can be done for couples to reduce tension among them and to maintain stability among the family members.

Though many laws talk about the equality of women it is not used in the practical scenario. Due to this reason, they miss many opportunities in life which affect her financial independence. Many such laws in India protect the rights of a woman. They are –

- 1) Protection of Women from Domestic Violence Act (2005): - This legislation is aimed to protect Indian women from all forms of domestic violence by the husband or any of his relatives.
- 2) Dowry Prohibition Act (1961): - This legislation prohibits giving or receiving of dowry before or after the marriage, from a woman or her family members.
- 3) Commission of Sati (Prevention) Act (1987): - This Act provides for the more effective prevention of the commission of practice of Sati.
- 4) The Sexual Harassment of Women at Work Place (Prevention and Protection) Act (2013): - This law provides protection to women from sexual harassment at their workplace, both in the public and private sector.
- 5) The Protection of Children from Sexual Offences (POCSO Act) 2012: - This act was formulated to address sexual abuse and sexual exploitation of children.
- 6) The Immoral Traffic (Prevention) Act, 1986 (PITA) amended The Immoral Traffic (Suppression) Act, 1956 (SITA): - This Act is for the prevention of trafficking for commercial sexual exploitation of women.
- 7) Indecent Representation of Women (Prohibition) Act (1986): - This Act prohibits representation of women through publications, writings, paintings, figures, or in any other manner.
- 8) Medical Termination of Pregnancy Act (1971): - This legislation provides for the termination of certain pregnancies by registered medical practitioners only on humanitarian grounds.

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<sup>7</sup> Nadia Campaniello, *What do we know about female criminality and how to control it?*, IZA World of Labor, (October 23<sup>rd</sup>, 2021, 11:05), <https://wol.iza.org/opinions/what-do-we-know-about-female-criminality-and-how-to-control-it>

- 9) Maternity Benefit Act (1961): - This Legislation protects women employees during the time of her maternity and also provides certain benefits.
- 10) Equal Remuneration Act (1976): - This Act provides for equal remuneration to both men and women workers for the same work.

## RECOMMENDATIONS

Prevention of crime among women is a very big challenge for a developing country like India because it often becomes difficult to recognize the vulnerable areas especially when it comes to dealing with issues such as women's criminality. Therefore, certain recommendations that can help in dealing with the prevention of women's criminality -

1. General awareness about the rights and laws for women's protection that are given under the Indian Laws should be spread.
2. Social service programs should be conducted to make women aware of any kind of illegal activities so that they can report or keep themselves away from such harmful activities.
3. Proper sex education should be provided so that women become generally aware of sexual crimes and do not get involved in such offenses.
4. Women offenders who are serving their term in the prison for the commission of any offense, should be provided with a chance to rectify their criminal instincts and behavior in such a way that she, after their term of imprisonment, stays away from the commission of further crimes.
6. Women prisoners should be provided with proper medical aid, even during rehabilitation.
7. Proper access to legal advice should be provided because most women come to prison for no mistake of their own.

## CONCLUSION

Family environment, as already known to us, is an important factor in influencing an individual's behaviour. Theories of various researchers have explained the reasons for an increase in criminal tendencies in women. However, no single theory has been able to explain the ultimate cause of female criminality. It has been seen through various studies that it is not the family of orientation but, the family of procreation that accounts most for women's criminality. Researchers have found that the majority of women offenders were married at the

time of the commission of the offense. Since the family of procreation is generally more conservative than the family of orientation, it often leads to tensions among the family members which in turn leads to aggravated torture and domestic violence against the female members of the family. It is evident from various studies that most women offenders have experienced an abusive relationship with their husbands and in-laws. Therefore, the endeavour should be made to properly channel the grievances of such women, and efforts should be made towards ensuring that laws are effectively implemented to prevent any kind of violence towards women. Education and awareness have to be spread among all classes of women so that they become familiar with the rights that are provided to them under Indian laws that it leads to the maintenance of a just and fair society in India.

