

VICTIMOLOGY AND RAPE: REHABILITATION & REINTEGRATION POSSIBILITIES IN INDIA

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ABSTRACT

The number of rape offences in our country has increased, and so have the number of victims. Rigorous sentencing laws and boosted registration have not deterred criminals, but they have instilled fear in rape victims' minds. The attempts to sensitise criminal justice staff who work with rape victims have not yielded satisfactory results, as the victims continue to feel shame and degradation throughout the process.

Further, there is no comprehensive national programme in place in India to guide the efforts of various ministries and state governments to prevent and respond to sexual violence against women. As a result, there is a hodgepodge of different programmes. And because India lacks a national monitoring and evaluation framework to evaluate the implementation and efficacy of laws regulating violence against women and children, including sexual violence, these temporary efforts are not adequately monitored. Victims must be rehabilitated in order to mitigate their pain and suffering by meeting their needs that arise as a result of their victimisation.

This article attempts to deliberate on the various needs of the victims of the sexual offence particularly the heinous crime of rape, it continues on to identify distinct categories of victim assistance programmes and rehabilitation techniques, including medical, physical, psychological, restorative justice, and reintegration strategies, all of which are important for rape victims' rehabilitation.

Keywords- *Victim, Rehabilitation, Reintegration.*

INTRODUCTION

In 2012 owing to infamous Delhi Gang Rape Case, nationwide protests broke out; these massive demonstrations influenced political momentum in favour of restructuring India's ineffective criminal laws regulating sexual harassment.

As a result, existing criminal laws were updated and additional classes of sexual offences were introduced. The Indian Penal Code, the Code of Criminal Procedure, and the Evidence Act—which together form the basis of criminal statutes relating to sexual offenses—had been under discussion for many years at the time. The three pieces of legislation were amended by the Criminal Law Amendment Act of 2013.

Several statutory changes regulating sexual crimes happened in India prior to this amendment. For example, in June 2012, the Indian government adopted the Protection of Children from Sexual Offences Act (POCSO), legislation that seeks to deal with child sexual abuse in a clear and concise manner, after years of contemplation with rights groups throughout India.ⁱ

According to the National Crime Records Bureau (NCRB), there was a 39 percent spike in the number of criminal cases recorded to the police in 2015 (34,651) relative to 2012 (24,923).ⁱⁱ In 2015, girls made up 11,393 of the 34,771 rape victims identified. After the Indian Penal Code was amended in 2013 to make it a criminal offence if a police officer fails to file a First Information Report (FIR) in response to rape allegations, the government told parliament in March 2015 that the number of rape cases registered had “increased dramatically” since 2013.ⁱⁱⁱ

Critics assert that these figures vastly undervalue the issue. On the basis of disaggregated data, India has yet to establish periodic population-based research documenting crimes against women, including sexual harassment.

TAINT, STIGMA, CONDEMNATION & LACK OF AWARENESS

Despite the fact that the number of reported criminal complaints for rape is increasing, far too many people in India still are reluctant to report sexual harassment for a variety of reasons,

including terror of being stigmatised, shamed, backlash from family and friends, and a justice system that provides little security to victims and witnesses.

Since 2013, the central and state governments have sought to raise awareness of the problem and approach it more sensitively, still, the inclination to blame the victim continues, with concerns about their clothing, sexual background, and actions often posed by those in power, including politicians, police, and even judges.

Victims of abuse will require services, support, and assistance from mental health and criminal justice personnel in the immediate aftermath of their victimisation, and the compassion and respect with which these professionals handle victims may play a key role in their process of recovery.

Mental health and criminal justice staff can potentially re-victimize trauma survivors by being insensitive to their needs, engaging in victim-blaming, or casting doubt on victimisation evidence.^{iv}

Negative prejudices exist in the judiciary as well. For instance, instead of framing rape as a violation of a woman's bodily dignity and dignity, a 2016 study analysing 45 High Court decisions around the nation found that many judges tended to characterise rape and sexual assault that "dehumanises" the woman, "kills her personality," or "ruins her marriage prospects," contributing to the stigma.^v

The victim's previous sense of invulnerability disappears, resulting in a loss of self-esteem and belief. Anxiety, depression, remorse, and rage are all common feelings experienced by the victim at the very same time. A victim's self-control, self-esteem, and self-confidence must all be reclaimed.

In a nation like India, the focus put in every culture on women's sexual virtue translates the rape of one female into an assault on the society to which she belongs: the stigma of the rape embarrasses the survivor's family and all those associated with her.

In patriarchal culture, female virginity is highly valued, as is the sanctity of sexual intercourse before and after marriage. This ideal has been profoundly rooted in the collective consciousness

of women since childhood, to the point that the rape victim herself feels defiled after being sexually assaulted. She is continually chastised and blamed for her chastity, and as a result, she feels not only a personal sense of shame, as well as a sense of guilt for no fault of her own. She is likely to be excommunicated by her family, ridiculed by her friends and colleagues, and forced to face a life of misery, sometimes worse than death itself.

Negative social responses were found to be strongly correlated to increased psychological symptomatology, a longer recovery time, and a lower perception of general wellbeing.^{vi}

VICTIM ASSISTANCE & LACK OF VICTIM SUPPORT SERVICES

The rape victim needs immediate assistance, whether in the form of medical care, therapy, or filing a FIR (First Information Report) with the police department.

Crisis Intervention Services (CIS)

Operating telephone helplines, providing counselling, attending rape victims to police stations, clinics, and court appearances if they want to be accompanied, and running support groups where victims can share their thoughts with one another are also part of Crisis Intervention Services. Crisis intervention services help victims re-establish a sense of security, as well as facilitate victims with practical needs following victimisation and provide a safe refuge. The Rape Crisis Intervention Centers staff and volunteers are specialised in non-directive counselling and can provide long-term counselling if appropriate. The concentration is on victim assistance and a dedication to privacy.

Rape Crisis invests in activism to promote awareness of the patriarchal implications of violence towards women, in addition to offering practical resources to victims. As a result, it has aided the government's understanding of the need for legal reform.^{vii}

The women's helpline number 1091 has been operational in the Delhi Police Control Room around the clock from September 18, 2002; this service is in addition to the current helpline number 100. The Women Police Mobile team has the contact information of non-governmental organisations (NGOs) and government agencies that provide support services. The team offers

the required support to women in crisis, and if warranted, action is taken in response to the women's grievances in the form of criminal intervention, medical assessment and care, preventive action, and so forth. Such mobile teams also offer on-the-spot support to women victims and educate them on their legal rights.

Women who are victims may obtain any form of assistance from these mobile teams. The vulnerable are also provided with shelter.

The Ministry of Women and Child Development (MWCD) has established a Centrally Sponsored Framework for the establishment of One Stop Centres (OSCs), which is a sub-scheme of the Umbrella Scheme for the National Mission for Women's Empowerment, which includes the Indira Gandhi Matritrav Sahyaog Yojana. The program, popularly known as Sakhi, has been in operation since April 1, 2015. These Centres have been developed throughout the nation in phases to provide organised counselling and support to women who have been victims of abuse in both personal and public spaces. One Stop Centres will provide an integrated spectrum of resources to women impacted by abuse in private and public areas, within the family, community, and at work, covering immediate intervention and rescue personnel, medical support, assistance to women in filing FIRs, legal assistance and therapy, psycho-social support/counselling, housing, and teleconferencing service. It will also offer conferencing services such as Skype, Google Conferencing, and others to help accelerate and simplify police and legal proceedings. If the victim wishes, she can document her statements for police/courts from OSC itself via audio-video electronic means as specified under sections 161(3)^{viii}, 164(1)^{ix}, and 275(1)^x of the CrPC, 1974, and section 231(1) of the CPC, 1909, respectively.

Counselling

Counselling is the provision of expert advice and support in the resolution of emotional or psychological issues. One way to support victims/survivors is to communicate about their trauma and encourage them to share their pain and loss. This helps them to communicate their emotions and realise that the victim/survivor trauma is a shared one. They should be able to share their emotions without ever being judged. The psychologist may interfere in the victim's life in sensitive places, such as her suicidal thoughts or suicidal ideation, in order to mitigate it

and improve her capacity to deal. Suicide care must, at the most basic level, provide an evaluation between both sociological and psychological risk factors. Responding and giving comfort and reassurance to victims are examples of emotional support.

In the case of *Khem Chand & Others Vs State*^{xi}, Hon'ble Delhi High Court has directed that: - "The concerned S.H.O shall inform the Delhi Legal Services Authority immediately of the commission of the offense of rape. The D.L.S.A shall depute a Social Worker/Para Legal Worker to establish contact latest within a week of the commission of offense with the victim and her family. The Social Worker/Para Legal Worker shall work towards gaining the confidence of the victim and provide necessary moral and legal support and advice as may be required to face the ordeal. The Social/Para Legal Worker shall operate under the overall guidance and supervision of the Child Counsellor/Psychologist nominated by the Delhi Legal Services Authority. The Child Counsellor /Psychologist shall personally step in and give assistance to the Social/Para Legal Worker or herself handle the case, wherever required, to ensure adjustment and rehabilitation of the victim.

The Child Counsellor/Psychologist will also ensure that education of the victim is not disrupted and normal life is restored as soon as possible. A report would be submitted to the Delhi Legal Services Authority in this regard by the Child Counsellor/Psychologist."

Further, "Delhi Judicial Academy has been organizing seminars/workshops for sensitization of Judicial Officers in the conduct of cases of rape, sexual abuse. The Commissioner of Police and Director of Prosecution shall either themselves or through Delhi Judicial Academy organize seminars/workshops for the police personnel and personnel of the prosecuting agencies for their sensitization in cases of rape and sexual offense so that they are receptive to the difficulties, suffering, pain and trauma of the victim and her family." "The Secretary, Department of Health, Government of NCT of Delhi as also the Director General, Health Services, Government of India would either themselves or through Delhi Judicial Academy organize seminars/ workshops/courses for the Doctors and medical personnel involved in the examination and treatment of victim of rape and sexual offence to ensure a humane approach in dealing with them and also to familiarize them in the reporting requirements of medical and clinical examination for trial purposes."

RAPE VICTIMS IN INDIA: REHABILITATION & REINTEGRATION

After the harm sustained by illness or trauma as a result of rape, rehabilitation is the method of assisting victims in regaining the highest degree of function, freedom, and quality of life achievable.^{xii} It does not repair or reverse the trauma, but rather aids the survivor in regaining health and returning to a regular life through training and therapy. On the other hand, Medical Rehabilitation is associated with using physical means such as electrotherapy, corrective exercise, or pharmaceutical pain control to avoid, diagnose, and treat debilitating illnesses, disabilities, and injuries. The victims should be able to receive free first aid or medical treatment from both the government and private hospitals.

In the case of *Delhi Domestic Working Women's Forum Vs. Union of India*^{xiii} and others writ petition, the Supreme Court of India, directed National Commission for Women to adopt a scheme so as to wipe out the tears of unfortunate victims of rape. The Supreme Court stated that, in view of the Directive principles enshrined in Article 38(1) of the Constitution, it was appropriate to create a Criminal Injuries Compensation Board because, in addition to emotional suffering, rape victims often experience severe financial losses and, in some cases, are too traumatised to return to work. The Court also ordered that compensation for victims be granted by the Court if the offender is convicted and by the Criminal Injuries Compensation Board whether or not the offender is convicted. If a woman is pregnant as a result of abuse, the Board must consider her distress, misery, and trauma, as well as her loss of earnings and maternity expenditures.

Also, under the Indian Law, Section 357A of the Code of Criminal Procedure determines the compensation provision of the rehabilitation of victims of crime, including rape, which states that every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim of crime including rape. The Victim Compensation Scheme has been drafted by 20 states and seven UTs so far.^{xiv}

Apart from making the penalty for acid attack more severe, the Criminal Law Amendment Act 2013 provides for a just and fair fine to compensate the victim's medical costs, which must be paid to the victim. Both hospitals, public and private, are required to provide free medical care to all victims of acid attacks and rape, according to the amendment.

Swadhar and Short Stay Home Schemes are also administered by the Ministry of Women and Child Development for the relief and rehabilitation of women in challenging situations, including rape victims. Under the Swadhar Graha Home Scheme, this programme aims to empower women in vulnerable situations by providing them with food, shelter, clothes, training, and education.

As far as Psychological Rehabilitation/Counselling is considered, in India, there is no institutionalised system for providing psychological counselling to rape survivors. The majority of Indian legislation, such as the Indian Penal Code, the POCSO Act, the Protection of Women from Domestic Violence Act, the Sexual Harassment of Women at Workplace Act, and others, only provide for monetary compensation to victims of criminal offences. The One Stop Centre (often recognized as Sakhi Centre) Program, which was launched in April 2015, does provide “on-call” psychosocial counselling facilities, but only for situations that need “emergency response and rescue services.” Because of their underdeveloped capital, these centres are unable to respond to all cases of violent sexual harassment in which therapy is needed.

Several rape survivors need urgent psychiatric therapy in order to deal with their emotional trauma and adversities. The United Nations Declaration on the Elimination of Violence Against Women^{xv}, adopted in 1993, also calls for the creation of support systems to facilitate women's safety, physical and psychological wellbeing.

As a result, it is well beyond time for India to follow British Columbia's lead and develop a robust counselling and support system for victims of violent crime. Just financial compensation will not always be enough to guarantee victims' recovery. If indeed the state fails to protect its citizens' constitutional rights, it is obliged to reimburse them.

CONCLUSION

Until now, India has lacked a Restorative Justice System. Because of the adversarial trial's limitations in treating victims of sex crimes fairly and obtaining convictions, as well as high attrition rates and low indictment rates, restorative justice has become a viable option.

Restorative Justice's goals include restoring victims to their pre-existing emotional/psychological condition by repairing the damage they have endured. Restorative Justice claims to promote greater victim participation, expanded offender responsibility, and increased community security, all of which are almost difficult to achieve within the conventional criminal justice system. It focuses on the needs of victims, including participation and empowerment, and addresses duties and responsibilities arising from the harms caused by violence against victims and communities. Restorative justice measures include restitution, community service, victim support, victim compensation, and offender recovery programmes.

Restorative Justice, which claims to be victim-centered, adheres to the principle that "*victims' needs should be the starting point of justice.*"

Finally, in India, ambitious laws and policies often suffer from lack of implementation. Laws that promote women's and girls' access to justice and clinical treatment in cases of sexual harassment are no exception. To ensure the enforcement of these laws and initiatives, the Indian national government should work with state governments, police, basic healthcare and forensic facilities, the justice system, child protection committees, national and state commissions for women, civil society organisations, and legal aid services as well as removing obstacles to women's access to justice and health services for themselves and their children.

ENDNOTES

ⁱ The Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012.

ⁱⁱ "Crime in India, 2015," NATIONAL CRIME RECORDS BUREAU, MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA, <http://ncrb.gov.in/StatPublications/CII/CII2015/FILES/Compendium-15.11.16.pdf> ; see also "Crime in India, 2012, <http://ncrb.nic.in/StatPublications/CII/CII2012/Statistics2012.pdf>

ⁱⁱⁱ "Dramatic rise in rape cases registered: Govt," PRESS TRUST OF INDIA, March 18, 2015

<http://indianexpress.com/article/india/india-others/dramatic-rise-in-rape-cases-registered-govt>.

^{iv} Hagan, J & Dinovitzer, R 1999, '*Collateral Consequences of Imprisonment for children, communities and Prisoners. Crime and Justice*', THE JOURNAL OF UNIVERSITY OF CHICAGO PRESS, vol. 26, pp. 121–162.

^v Melanie Verwoerd & Claudia Lopes, *sexualized violence in the national debate cross-border observations on india and south africa*, April 2015.

^{vi} Sarah E. Ullman, *Social Reactions, Coping Strategies, and Self-Blame Attributions in Adjustment to Sexual Assault*, Dec 1, 1996 <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.873.8072&rep=rep1&type=pdf>

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- ^{vii}James Dignan, *Understanding Victims and Restorative Justice*, OPEN UNIVERSITY PRESSs, Maidenhead, Berkshire, UK, 2005, Current Issues in Criminal Justice, 18(3), pp. 501–502
- ^{viii}(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.
- ^{ix}(1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial: Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.
- ^x(1) In all warrant- cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.
- ^{xi}Khem Chand & Others v State 1958 AIR 300.
- ^{xii}SUSAN B. O'SULLIVAN & THOMAS J. SCHMITZ, *PHYSICAL REHABILITATION* (6th edition, 2014).
- ^{xiii}Delhi Domestic Working Women's Forum v Union of India 1995 SCC (1) 14.
- ^{xiv}Government of India, Ministry of Women and Child Development, *PRESS INFORMATION BUREAU*, (feb.7,2014)<https://pib.gov.in/TagbasedSearch.aspx?Tag=Women%20&%20Child%20Development%20Ministry>.
- ^{xv}Proclaimed by General Assembly resolution 48/104 of (Dec.20, 1993)
<https://www.refworld.org/docid/3b00f25d2c.html>
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