

PUNISHMENT FOR RAPE

Written by Gaurika Nigam

3rd year BBA LLB (H) Student, Amity Law School, Noida, India

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INTRODUCTION

The odds of being attacked by a shark is 1 in 4 Million, the odds of women being raped? 1 in 6 and the fear of sharks is considered normal but what do we expect from women, to fear men at all places be it their workplace, worship area, police station or even their own homes. Women tend to fear men, they are put in uncomfortable situations at every point where the male considers it to be their right to objectify women as objects meant just to satisfy their lust.

RAPE CULTURE

Going back in time, Rape was not considered a crime against the state but, a crime against the property. The property which belonged to the “father” or the “husband”. The compensation was given to the father of unmarried female and to the husband of the married female. In some cases and even today the practice of marrying the female to the rapist is considered and not penalising him. The rape culture that has been among us from centuries have proved to grow even more because we do not take serious steps to control them. What we need to understand is the meaning of “consent” and when is consent said to be given and when not. Consent means an unequivocal voluntarily agreement when the women by words, gestures or any form of verbal or non- verbal communication, communicates willingness to participate in specific sexual act. It is also to be noted that the women who does not physically resist the act does not mean they have granted the consent of involving in a physical relationship.

VICTIM’S AWFUL TREK

No one except the victim herself could understand what pain is to be in that situation. The sense of helplessness, the act of being suppressed by a man whose even sight on the victim could be unsettling for the girl is now in the control of a rapist. The act of succumbing to resist the physical pressure made by the rapists shatters every bit of her soul, body and mind. In murder, the person is said to have killed the body but, in rape soul is killed. Rape is a traumatic experience that affects the victim in a psychological, physiological and a sociological manner. The victim who is forced by the circumstances to make eye contact with the person raping her in order to find an escape from the tunnel of hell. Talking about what impacts the women have after or during rape could be horrifying to go through.

- Physical Impact
 - Vaginal or anal bleeding
 - Hypoactive Sexual desire disorder
 - Urinary tract infections

- HIV/AIDS
- Unwanted pregnancy
- Psychological effects
- Feeling nervous
- Feeling uneasy
- Having panic attacks
- Having avoidance response

- Self-Blame
- Lack of empathy
- Isolation
- Anger
- Aggression

PROMOTERS OF RAPE CULTURE

It is often believed that rape is an aggressive form of sexual coercion and the goals of rape are sexual entitlement and gaining a sense of power. The focus of most sexual aggression research is acknowledged non-consensual sexual behaviour. Knowing and understanding the facts clearly states the power which man tends to show on woman by raping her. Understanding what makes a man rape women in the report by The Hindu shows the dominance that man wants to fulfil by having non- consensual sex with a woman. The men who rape not only tend to enjoy non-consensual sex but also feels it to be absolutely alright to treat women in a way they wish to.

What a man thinks about a woman, how he treats a women says a lot about their mentality. There are molesters who think of a woman passing by as just an opportunity to grab on and treat as an object of their own. Why do we only teach our daughters how to dress up, what to wear what not to, at what time to leave and be back home and not our sons to not objectify women as objects, to not have an evil eye on a girl to not stare at what she is wearing and make her uncomfortable. We live in a world where we only teach girls how to behave and be in the limits and at the same time allow the men to do whatever they wish to. Why is the upbringing

done in a manner that promotes men to do whatever they wish to and consider their right to dominate women?

PUNISHMENT FOR RAPE

In order to make men fear on commission of a heinous crime we need to have laws and impositions on molesters that are illiberal. Section 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376DE of the Indian Penal Code provides for the punishments for rape on women, rape on women under 12 years of age, sexual intercourse by a person in authority, gang rape, and punishments for repeat offenders. IPC section 376 is a Non-bailable offence but only confining the molester to the jail provides justice to the victim?

➤ **Punishment under**

- Section 376-rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment of life, and shall also be liable to fine.
- Whoever commits rape on women under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years but which may extend to imprisonment for life and shall also be liable to fine.
- 376A- whoever causes the death of the women shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, or with death.
- 376AB- whoever commits rape on women under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to twenty years and with fine or death.
- 376DA- when a women under 16 years of age is raped by one or more persons, each of those persons shall be punished with imprisonment for life, and with fine.
- 376E- whoever has been previously convicted of rape and repeats the offence shall be punished with imprisonment for life, or with death.

Indian Penal Code in all rape cases provides for imprisonment for not less than ten years, or twenty years, or with fine and death in the rarest cases. Putting the molester behind the bars does no justice and brings no fear to the other people who could commit rape in future. When rape is said to be a Non-Bailable offence then how can a person commit rape repeatedly and why is then punishment provided in IPC for repeat offenders. This clearly states that neither

the will to rape stops here nor there is any fear in commission of such a heinous crime as there are no strict laws to stop the molesters and fear their lives as the victim does. The theory of punishment of an Eye for an eye must be adopted in rape cases. The molester must undergo all the pain, suffocation, and traumatic experience that victim undergoes during that time. The traumatic experience of 5 minutes could stay in the mind of the victim for a lifetime and putting the molester behind the bars even for 5 years brings no change to him and he continues to believe his mindset of rape to be accurate. For the men to fear commission of rape the laws must be so strict that puts men in to the same situation as women at the time of rape. The man must be terrified of the after effects of commission of rape.

In countries like china, the rapists are announced death sentence or “castration” , in Saudi Arabia the rapist is beheaded within days, in North Korea death by a firing squad, in Afghanistan shot in the head then why do we in India just impose fine and leave the molester behind bars. Not putting the rapist in the same situation as of the victim brings no fear to the molesters and they continue to rape. Detaining the rapist serves no purpose instead the resources of the government are going in vain by feeding the rapist for the rest of his life. The punishment for rape is not sufficient. Seventy seven rape cases are reported daily on an average in India and the numbers keep on increasing day by day. There is an urgent need of the hour to impose stricter laws on rapists in India.

LANDMARK JUDGEMENTS

Tuka Ram Anand v/s state of Maharashtra (Mathura case)

Facts

In 1972 on March 26th, a minor girl was allegedly raped by two police officials while she was in police custody. This incident took place in Desai Gunj Police Station in Maharashtra. This case highlighted various issues in the context of Indian Rape laws, especially the issue of consent and the burden of proof.

Judgement

The Sessions court held that the defendants were not guilty due to the voluntary consent of the victim. It was held that Mathura willingly gave her consent to the sexual intercourse as she was habituated to it. The Sessions judge has ruled that rape and sexual intercourse are different terms and cannot be used in the same case.

The case was then appealed in the Bombay High Court, which took note of all the findings in the trial conducted in the sessions court. The High Court has appreciated the observation made by a Sessions Judge that there's a difference between rape and sexual intercourse. However, they forgot to point out that there's a difference between passive submission and consent. The court then noted that the consent given to the accused was not voluntary and was made due to the threat of arrest by the police.

Later, the case was referred to the Supreme Court, where the accused were acquitted.

Mukesh v/s State of NCT of Delhi (Nirbhaya Case)

Facts

On December 16, 2012 a girl was raped by 5 men and a minor on a moving bus in Delhi. The attackers pulled out the victim's intestines using an iron rod. Despite all efforts to save her, she died in a hospital. Out of the five men one of them committed suicide in the jail and sentenced other four adults to death and the juvenile to a rehabilitation centre for 3 years.

Amendments made

The Criminal Law Amendment Act, 2013, was enacted to provide for the amendments in various laws related to sexual offences. Some of these included the Indian Penal Code, 1973, the Indian Evidence Act, 1872, and the Protection of Children from Sexual Exploitation Act, 2012.

The Criminal Law Amendment Act, 2013, was enacted to provide for the amendments in several laws related to sexual offences. Among the changes made was the provision for capital punishment for rape cases where the victim dies or is left in a permanent vegetative state.

NEED FOR OUT OF THE BOX PUNISHMENTS

Despite the progressive reforms in the anti-rape laws, the ground reality of rape cases stayed the same. The men have no fear for the rape so committed or in the commission. We must impose stricter laws on the law breaker. The way these molesters treat women at the commission of an offence same should be done they must be treated inhumanly.

- ✓ We have overcome various instances where the innocent animals are tested for various medications and for observing how they respond to stimuli. Instead of mistreating and using innocent animals for experiments we must use rapists for the lab and drugs testing. No mercy must be shown in testing as is done with speechless animals and this will also pose restrictions on animal testing.
- ✓ There are 300 deaths nearly every day due to organ failure and non-availability of organs and specific blood group to save a life. Doctors say that by donating organs after death one can save as many as 50 lives. For adding good to the society and for dealing with the rapists in a way that is justified, they must be served with this way.
- ✓ Castration must be done with the men who commits rape in order to put them in a situation in which victim was without the will. The drive which lead them to commit such a heinous crime will end and set an example for the future too. The men will face the same after effects as the women feels after rape and that is when justice will be served.

CONCLUSION

It is high time now that our blood boils, it's time now that we blame mens rea (guilty mind) of the rapist for rape and not the victim. The daily count of rape shows that the number of sexual crimes in the country has increased significantly. Rape is one of the most brutal form of violence one can imagine happening. These acts reported are far less than in number than rape committed. People often tend to not report rape to save the dignity of the family instead they do not understand that they are in turn saving rapists and encouraging them to continue with this practice. There are cases when the victim goes for filing a rape case and is in turn raped

again by the person in authority. We have to make this world a better and a safer place for women and for that implementation in the punishment of such heinous crime should be done.

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