



Plight of Rape Victims With Special Reference to India

* Dr. Monica Narang ** Richa Sabharwal

* Asstt. Prof. in the Law School, University of Jammu

** Research Scholar in Law, Law Deptt. University of Jammu

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"Tears shed for the accused are traditional and tendy but what has the law done for the victim of crime, the unknown Martyr"

The above cited observation of the Justice V.R Krishna Iyer makes it clear that criminal law in India is not victim oriented rather than it is offender oriented and the sufferings of the victim, often in measurable, are entirely over looked in misplaced sympathy for the criminal.

MEANING OF VICTIMOLOGY:-

The word 'victimology' was coined in 1947, by a French Lawyer , Benjamin Menderahn, who is now a citizen of Israel by deriving from a Latin word 'victim' and Greek word 'logos'. of the victim. Victiim is defined as the person or group of persons who suffers harm, loss or injury due to the illegal activity of the offender. It can also be defined as anyone suffering physical, emotional or financial injury or harm.

HISTORICAL BACKGROUND

The scientific study of victimology can be traced back to the 1940s and 1950s. Until then, the primary focus of research and academic analysis in the field of criminology was on criminal perpetrators and criminal acts, rather than on victims. Two criminologists, Mendelsohn and Von Henting, began to study the other half of the offender/victim dyad : the victim they are now comidered the "father of the study of victimology"

In their efforts to understand crime, there new, victimologists began to study the behavior of victims. In the course of his legal practice Mendelsohn intervened his clients to obtain information about the crime and the victim.. His analysis of information about victims led him to chorizo that victims had an unconscious for being victimized.

Viewed from the perspective of criminology, victimology initially devoted much of its energy to the study of the how victims contribute- knowingly or unknowingly- to their own victimization and potential ways they may share responsibility with offenders for specific crimes. More recent avenues of studies in victimology have included:

- How various components of the criminal justice system treat victims;
- The impact of victimization.

VICTIMOLOGY AND RAPE VICTIMS :-

"of late crime against women in general and rape in particular is on the increase..... Rape is not merely a physical assault. It is often destructive of the whole personality of the victim. A murderer destroys the physical body of the victim, a rapist degrathe very soul of the helpless female the court therefore,

shoulder a greater responsibility while trying an accused on the charges of rape."

In the penal laws of all country several offences against a woman occupies a significant place and out of all crimes the one which makes the conscience and shakes its roots and is the most heinous is the rape the only crime perhaps, where instead of being sympathies with a victim is socially ostracized and morally degraded with a life long stigma on her dignity and character the mental torture is deep and the agony unbearable. In such a state victim this to get justice by appealing to the courts, holding the provision of the penal laws lose to her heart and hoping against hope that justice will be rendered to her

DEFINITIONS:

The offence of rape occurs in Chapter XVI of the IPC. It is an offence affecting the human body. This chapter was introduced to stop sexual abuse of women. The section now run as :

"S.375 Rape-A man is said to commit 'rape' who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions :

Firstly – Against her will;

Secondly – Without her consent;

Thirdly – With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly----- With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly ---- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication, or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent ;

Sixthly ----- With or without her consent, when she is under sixteen years of age.

Explanation---- Penetration is sufficient to constitute the sexual intercourse being under fifteen years of age, is not rape".

"S.376- Punishment For Rape- (1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be

punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever :-

(a) being a police officer commits rape-

(i) Within the limits of the police station to which he is appointed; or

(ii) in the premises of any station house whether or not situated in the police station to which he is appointed ; or

(iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail remand home, place or institutions; or

(d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital ; or

(e) commits rape on a woman knowing her to be pregnant; or

(f) commits rape on a woman when she is under twelve years of age; or

(g) commits gang rape. Shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall be liable to fine;

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.----- Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.----- 'Women's or children's institution' means an institution whether called an orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

Explanation 3.----- 'Hospital' means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or

of persons requiring medical attention or rehabilitation".

PROBLEMS FACED BY THE RAPE VICTIMS

The problems faced by the victims of rape are -

- Economic strain of the family:- the death of the bread winner of a family in a crime will result in the gross family disorganization
- Change in the social role of dependents some times, the old parents of the victim are compelled to earn money.
- Frustration and suicide :- the victims who suffers physical disability caused as a result of victimization may become a burden and liability of his own family.
- Social Stigma :- the victims of the social crimes suffers the problem of social stigma. The whole family of the victim falls prey to social degradation. It also causes the problem of the marriage of younger generation in the rape victim family.

INCIDENCE REPORTED TO NATIONAL COMMISSION FOR WOMEN:

- MARINE DRIVE RAPE CASE On 21st April 2005, "rape most foul", was perpetrated at a police Chowki located adjacent to the marine Lines Railway station in south Mumbai by an on duty police Constable named Sunil Atmaram More. The abhorrent incident, committed by a policeman, and raped the victim aged about 17 years in the chowki. The act being out rightly condemnable, the incident impelled the National Commission for Women, to take immediate cognizance of the incident.
- IMRANA RAPE CASE : The Inquiry Committee was constituted to inquire into the alleged rape of Imrana resident of Charthawal, in District Muzzaffarnagar by her father-in-law. The incident was reported by the Asian age and other News paper, on which the National Commission for Women took immediate cognizance and issued notice to the district Police, directing them to register a case of rape.
- BHATERI GANG RAPE CASE (RAJASTHAN) The Commission suo moto took up the case of Ms. Bhanwari Devi and extended its full support in going for appeal and also providing security to the victim and appointment of a special public prosecutor to argue her case.

CONCLUSION :

Rape, is one of the most inhuman and brutal forms of sexual aggression on the dignity of a woman. Expressing concern over the rising number of acquittals of those charged with rape. The Law Commission has suggested stringent provisions in the Indian Penal Code, The Code of Criminal procedure and the India Evidence Act- besides enlarging the scope of provisions relating to rape (Section 375, IPC) to cover even unnatural offences Regarding awarding death penalty to rapists, certain women activists feel that all which has been gained over the years for justice to women would be lost if the law is not amended to give death penalty to the culprit

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