
INCREASING SEXUAL OFFENCES AND ITS IMPACT ON THE SOCIETY

Rani Balkrishna Yadav, LLB, Late Parvatibai Jondhale Women's College of Law

ABSTRACT

This paper aims to discuss in brief the term sexual assault as well as demonstrate briefly the types, impacts, and effects of the offence on the victim as well as the society. Sexual assault has exceeded every boundary of humanity and aspects of behaviour in accordance with a female. The country where women's are worshipped as goddess are also sexually assaulted at the other hand. Observing & analysing the mens rea of the offender pre and post offence. Instigation to commit such shameful act which defames as well as abolishes the border of harmony in the society. Illustrating the effects of the guidelines, punishments, acts passed after landmark judgements in such offences, whether they have been successful in the prohibition of the act or not. The methodology used in the completion of the research is Secondary data which is based on past and present data recorded. As a result, there are gaps that are yet to be covered that have been overlooked over time. Regulating laws does serve legal justice but may not be able to compensate for the loss faced by the victim, the family and society as a whole. In accordance to which some sort of changes, improvement are needed and suitable suggestions provided.

Keywords: Sexual assault, harassment, mens rea, victim, society.

INTRODUCTION

Sexual assault is an act in which one person without any due permission/consent with coercion forcefully touches a person at any part of their body or forcefully engages the another party into any sexual act can be an result of an sexual assault. It can be touching someone through close also. It is a forced intimacy vaginal, anal or oral penetration of drugs which facilitates sexual act between a person. Although if the act is performed with consideration which is offering something in return or permission of the another party it may not be considered as an sexual assault as it dosen't prove to be a forcefully done act. It can be sexual abuse, child abuse, rape, attempt to rape.

Sexual assault is an act in which one person without any due permission/consent with coercion forcefully touches a person at any part of their body or forcefully engages the another party into any sexual act can be an result of an sexual assault. It can be touching someone through close also. It is a forced intimacy vaginal, anal or oral penetration of drugs which facilitates sexual act between a person. Although if the act is performed with consideration which is offering something in return or permission of the another party it may not be considered as an sexual assault as it dosen't prove to be a forcefully done act. It can be sexual abuse, child abuse, rape, attempt to rape.

Here the Mens rea i.e The intention of the person committing this offence is always bad or negative. Studying the intention of the person before committing the sexual offence or what instigated him to to do it or his reaction after the completion of the offence is very important part of the investigation. The mens rea can never be good or positive in an offence failing to which it wouldn't have lead to an offence.

The women of our society have always been prone to be an victim of an sexual assault irrespective to their age criteria. Beginning from an infant right till above 45 years of age women have been an victim. Number of rape cases reported in India in the year 2019 was 32,559. We can see the cases rising speedly and in a fraction of time women are becoming a prey to the offence. We are although considered to be a country that is free from british rule but can we indeed consider it as a freedom in the era where women yet fear to walk along the road at night in fear of getting sexually assaulted by an unknown.

Out of the 338 thousand cases of crime against women in India 33 thousand were of rape cases from which 93% rapes were done by someone known to the victim. Now here comes the big

twist in the angle. Sexual assault are not always committed by an unknown but rather than an known person it may also involve the family, peer groups, room mates, friends of the victim this may differ according to the situation brought forth in the crime. As per the statics given by NCRB there were 88 case of rape recorded per day we can easily analyse the fear of being a women living in a society where she can be prone to this act at any sudden moment. Sexual assault can begin right from the home till the streets. A women forced into prostitution which means where her consent was not acquired or sold to a party with consideration of a high package of money where she is forced into sexual activity everyday with an unknown person is also a form of it.

AIM & OBJECTIVE OF THE STUDY

- 1) To convey meaning of the term sexual assault and broadly categorised the types of it.
- 2) Distinguish the difference between the types of assault, factors relating to the cause of the offence and appraise the effect on the victim and on the society as a whole.
- 3) Identifying the guidelines, recently passed acts relating to the offence, and providing an numerical count of the offence recorded.
- 4) To highlight the similar research performed on the topic by comparing and illustrate the findings which differ from the present study.

CATEGORY OF SEXUAL ASSAULT & FACTORS RELATING TO CAUSES OF SEXUAL ASSAULT

Sexual assault can be in any of the following form mentioned below:

Physical assault

Mental assault

Emotional assault

PHYSICAL ASSAULT :

Physical assault may involve of bad touch, touching in a improper way any body parts with or without clothes which creates a negative vibe or amounting to rape, rape. It also includes how much the person has been tortured after the offence or brutally injured by inserting of any sharp or unwanted object, murder of the person or which may lead to instant death of the person.

MENTAL ASSAULT :

Mentally assaulting a person this may take place usually after a physical relation between both the involved party although it may be happened with consent but may lead to a mental torcher after. This may done by threatening the person with photos/videos/mms etc taken during the consent. Forcing the person to commit into a sexual act failing to which he/she may be exposed in front of the society. This creates a mental trauma on the victim to be a part or bear the crime.

EMOTIONAL ASSAULT :

This maybe done through stalking a person in his/her private routine without consent, bullying or taking advantage of a higher position an undue influence. Using abusive or sexual language while chatting/calls/text messages etc. which, causes a emotional as well as mental breakdown of a person.

SOCIAL FACTORS LEADING TO SEXUAL ASSAULT

1. Poverty
2. Pornography
3. Sick/ slave mentality
4. Anger/revenge
5. Power / Undue influence

POVERTY :

Poverty can be considered as an reason behind a sexual assault or sexual violence. We've seen or heard many a times where a girl child or a women is used or forced into a prostitution line due to the economical condition of her house. Although she may be left with no other choice as she considers her family as an priority. Family may sacrifice the child intentionally knowing the consequences of it. This racket is on from decades. Where a women is forced to keep relation with multiple mens for daily income, indulging in sexual advertisement etc. It can lead to several chronic disease in the body which can lead to death if not treated well. Women do face unwanted pregnancy because of lack of education or preventions used. Poverty is a virus which can cross every limits & values of a relationship.

PORNOGRAPHY:

As a result, India is the country where highest number of people are indulged into watching and promotion of pornography. As per India today article there is a 95% of hike in viewing of pornography websites even before the pandemic. Although porn is banned in India but according to the statistics released by the porn websites India secures the third position in watching of porn followed by United kingdom. It reflects the crave of the country regarding to sexual activity.

Back to 2013 when an advocate, Kamlesh Vaswani filed Public Interest Litigation asking the court to block pornographic websites in India. According to the Hindustan Times, he had earlier argued that the court should step in and pass an interim order to ban these adult sites from the internet in India as they promote violence towards women and encourage sex crimes. His petition read:

“Watching porn itself puts the country’s security in danger, encourages violent acts, unacceptable behaviour in society, exploitation of children and lowers the dignity of women and he believes watching online pornography has a direct co-relation with crimes against women.” as per report. the Indian government banned access to 857 porn sites and instructed the Department of Telecommunications (DoT) to issue an order to internet service providers (ISPs) to block access to these 857 adult sites, as reported by the Newsgram. One gets all pumped up while watching such videos & when the desire arises but cannot be fulfilled legally can lead to attempt to rape, rape. Here we analyse the mens rea it may be loneliness, sexual desire, unsatisfied person.

SICK/ SLAVE MENTALITY :

India has always been representing a sick /slave mentality in cases regarding to women. Women have been sold to slavery or sex slaves due to poor mentality where they are considered to be inferior and her due permission is not taken into consideration in this act. A mentality where women are made to bear every consequence is coming her path used to please men at given time where she is assaulted which brings out a question that just because being born as a women results into being mum in every situation. A 12-year-old girl was raped while she was working in the fields in the afternoon on July 16, 2017. When a meeting was held in the village to discuss the rape, the panchayat’s members ruled that the alleged attacker’s 16-year-old sister should be raped in order for justice to be delivered as per report by Indian express

ANGER/REVENGE :

Most of the sexual assault may be a result of anger or revenge which are interconnected. To take revenge of his sister's rape two years ago, brother of the rape victim and his associates abducted 15-year-old minor sister of the jailed accused and gang-raped her in a moving vehicle before her mother as per report by DNA INDIA. Revenge may oftenly lead to sexual assault or rape.

POWER/UNDUE INFLUENCE :

We may see people taking advantage of a women because of a higher position where one may fear to oppose against the offence. Undue influence by a boss/friend etc. Power may be showcased in a way resulting into a negative act. Where she may be forced to be molested or raped due to her inferiority, fear of being exposed or threat of killing her family in order to fulfill their own sexual desire.

IMPACT OF SEXUAL ASSAULT ON THE SOCIETY

The immediate of the sexual assault is directly on the victim/survivor. They are the ones who suffer from the whole act done. Some may speak it out immediately regardless to what happen but some may prefer to be silent and figure it out by themselves. It becomes tough when one has to live with the trauma their whole life as a victim which widely effects their relationships or way of living.

Not only the victim but the family, friends, spouse, children, co-workers as well as the society. A huge distraction spreads all over which keeps reminding them about the incident. The victim may go through a sort of physical, mental & emotional changes through out completely propostinate to the post effect of the offence. There is a spread of threat, anger, bitterness & revenge in the society. It shakes the whole stability & governance of the country as well. Society are largely effected when acts like these result into unlawful assembly, riots, shutdowns, strikes, destroying public property & transport while seeking justice. Society starts criticizing women for their bold behaviour, style of clothes or high ambitious dream but they forget it dosen't concern age, religion, working style, clothes or standard of living to be a victim of sexual assault. They may either be more aware & strong or change to be an introvert. It turns out to be tough to speak out with someone regarding these incident as the victim may stress more about will their family friends, spouse, society understand them or will they blame and

condemn? will it effect their dignity and standard of living? will it effect their family status? will they be accepted? would they ever be in a position of starting it all over again? will they ever overcome this brutal nightmare? bunch of questions but mere silence is what we see.

MAJOR EFFECTS OF SEXUAL ASSAULT ON VICTIM

1. PHYSICAL EFFECTS :

- Change in eating/ sleeping pattern
- Physical injury
- Concerned about physical safety
- Stressed about contracting HIV/AIDS/Unwanted pregnancy
- Anger/ lack of control
 - a) Change in eating / sleeping pattern - we can analyse disorder in the pattern which is a post effect of the act. The feeling or thought which sets apart the victim from their daily schedule over thinking of the past or effects on the relation of victim and their relation may lead to a disturbance in their life. Which leads to loss of appetite / hunger or sleeping disorder which falls under the psychological effect too. The effected person may tend to sleep more, sleep less or may go without sleeping for weeks after the attack.
 - b) Physical injury - It relates to the injury caused to the victim during the sexual assault which may vary according to the situations. some may suffer with slight injury or severe injury on the body which may also speak out loud about the consequences whether they may survive or not. We may record severe injury in cases where they are joint offenders which tends to create a huge pressure on the victim by forcefully done acts. The injury caused on the body also determines/ reflects the mens rea of the offender.
 - c) Concerned about physical safety - After the survival of the victim tend to be more cautious about their physical protection. They seem to be scared or nervous during traveling alone in public places or at home. They may start to lose faith on the opposite gender and start feeling uncomfortable between their peer groups. There will always be a spot in their mind where doubts would deceive their control

over emotion which lead to fear of being treated or abused sexually all over again.

- d) Stressed about contracting HIV/AIDS/Unwanted pregnancy - During the period of sexual assault not necessarily someone attacks the another with preparation. In some cases we may find alk the four stages of the crime i.e - 1) Intention to commit a crime 2) Preparation for execution 3) Execution/ attempt 4) Completion / crime committed. Where it is a sudden act it may not have been done with safety measures and in cases of groups this may lead to infection /virus i.e HIV which not be treated can lead to AIDS or unwanted pregnancy. All the factors are physically as well as mentally detoriating the victim to take illegal steps like Suicide etc.
- e) Anger/ Lack of control - As we have discussed about the above factors this will lead to anger and lack of control of the victim. How can a person suffer or bear this much of unjust not only during the sexual assault but even post of the act. The real war begins after the assault where the victim strives to live with these factors. Anger may cause harm to themselves or to the society as well. Lack of control over the body where the physical health may begin to detoriate within time. Stressor that can lead to work withdrawal, career instability, job dissatisfaction.

2. PSYCHOLOGICAL EFFECTS :

- Depression
- Flashbacks
- Nightmares
- PTSD

- a) Depression - Survivor would eventually suffer a mental breakdown in this case. In today's era depression is very easy to attract any form loss in a persons life can attract depression if not handled well mentally. Thoughts are the initial stage where any sort of feelings or perspectives are given birth to or generated. It's very necessary to convince the victim to speak about the trauma they hold up in their mind or assure they are not alone in this mental fight. Depression won't take long

to capture the whole body as the assault is not a negligible act which can be overlooked or forgotten over a period of time. Let not thoughts be impactful on the victim which may lead to depression regarding their suffer.

- b) Flashbacks - Flashbacks of the incident are common in every situation. Victim may struggle with it as days go by. sometimes even when the strive to forget the society won't let them too. Not necessarily every society mam accept the victim and may keep constantly reminding them about their past. Fighting thoughts inorder to move on becomes challenging although they should be encouraged and not reminded but empowered to be courageous and move forward in life. Sexual assault leaves an unseen print on the mind and heart which will not be visible with naked eye but be felt by the victim every time the flashback may hit. Not only the victim but their family, friends may also suffer the consequences along.
- c) Nightmares - Usually even when we experience a rough day we may have nightmares. we can determine the condition of the survivor how disturbing or foul nightmares would they suffer with. Nightmares of someone attacking them, of their security, repetition of the incident or of someone spying over them. Not necessarily at night but also during the day the fear of been left alone or again experiencing the same assault, of being overlooked. The act may finish within a minute or hour but the post effects keeps haunting the victim.
- d) PTSD- Post traumatic stress disorder which continues to remain over a longer period of time. This may lead to loss of concentration it may get severe and require medical treatment.

Literature Review

SR NO	1	2
PAPER TITLE	An Overview of Sexual Harassment of Women at Workplace in India: An Analytical Study	Sexual Harassment at Workplace
AUTHOR	Rouf Ahmad Bhat, Prof. Dr Anita Deshpande	Astha Poonia
YEAR	2017	2019
VOLUME	6	5
PUBLISHED BY	International Journal of Innovative Research in Science, Engineering and Technology	Amity International Journal of Juridical Sciences

STATEMENT OF THE PROBLEM

Women play an crucial and significant role in the contribution of development of the economy of the country. wherein women have come far way long into standing along with men at every stage there are special provisions provided for women too. Both the study are highlighting the sexual harrasment faced my women at workplace and prohibition or solutions to it.

AIM & OBJECTIVE OF THE RESEARCH

1. To highlight the causes that lead to sexual harrasment at workplace
2. This calls attention to International Laws and Policies for Addressing Sexual Harassment in the workplace, acts, Punishments states in the Indian penal code, guidelines and their implementation.

METHADODOLOGY

The authors have referred to various secondary data for their article. Government guidelines, landmark judgement for e.g Vishaka v State of rajasathan, POSH Act, Vishaka guidelines, Law journals, Universal law publishing etc.

BACKGROUND

The authors discussed about the reason that lead/ results towards sexual assault. It has elaborated the key areas of the activities which are involved in creating an atmosphere that may give rise to or signify a negative or a offensive mindset. It signified various reasons such as male domination, inferior job position, misrepresentation of a friendly nature of a women, family condition etc leading towards sexual assault at workplace. It provided guideline issued by various means i.e. Constitutional Safeguards Against Sexual Harassment at Workplace, Development of Law on Sexual Harassment in India, Vishaka guidelines, Amendments in IPC post Nirbhaya rape case which are crucial part towards prohibition of sexual harassment or punishments for the offence & steps to be implemented by private & government sector.

LIMITATIONS OF THE RESEARCH

The studies although were well briefed and directed towards in depth knowledge of the topic it stated about. But it was limited to the information already provided in many research, journals etc. It could have been more society oriented instead of just focusing over the guidelines already provided. The study was limited to the application of rules & regulations, act & mentality of an offender. If we critically analyse the primary material available on net we can conclude that all the contents are lacking a major area in the study which is the effects on the society which cannot be neglected. It strongly reflects the same area all over again instead of analysing the society as a whole. It emphasizes over the broad areas instead it could have stated or pointed towards the smallest guilt or behaviour which impacts adversely.

RESEARCH METHODOLOGY

I have used the secondary source of data while demonstrating the types & effects of the study at a large in brief. As it's not possible to conduct a large survey in a stipulated period of time on a sensitive topic. Neither it is possible to approach people during the ongoing pandemic. It would be an improper finding if the research would have been done with people who have

never faced such issue or who are not an victim of these act / study. We couldn't have acquired the presiced data in conducting a survey within a group of uneffected people. Instead analysing many landmark judgements and analysis over the past situations I have driven towards the effect on the victim & society as a whole.

SUGGESTIONS

- 1) Instead of making provisions for the circumstances created after the offence it would be beneficial of regulations or code of action to be formulated stating the action incase of pre- condition of the offence.
- 2) Moniter each streets/lanes especially the narrow/ corner most part of it by installation of CCTV camera.
- 3) Development of acts prohibiting of abetment /instigating such offences. Offenders can be given taste of their own guilt / offence through treatments or sending them to rehabilitation centre for improvement.
- 4) The nature of punishment should be more strict even if the case dosen't fall into the rearest of rare attracting death penalty. Here rarest of rare is not the consideration the performance of such shameful act is to be acknowledged.

CONCLUSION

Sexual assault served as a severe offence, although it has had a tremendous effect on victims and society based on the punishments stated in IPC and guidelines framed after such landmark judgements, it has yet not created an approach toward the active prohibition of the offence. Deterrent theory or Retributive theory of punishment would be the best form of execution of punishment on the offender although our country has completely strucked it down as it is a of violent nature and unsuitable for a democratic and sovereign country like India.

Guidelines and punishment may serve justice to a victim in a legal perspective but the physical and mental loss of the victim and the effects on the society would never been compensated or be a satisfactory judgement towards the consequences.