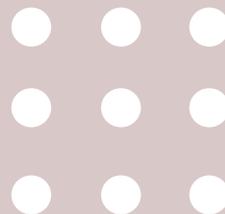


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॥ न्यायस्त्र प्रमाणं स्यात् ॥



INDIAN JOURNAL OF CRIMINOLOGY

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“THE QUEST FOR TRUTH IN CRIMINAL JUSTICE- REVISITING THE MALIMATH COMMITTEE RECOMMENDATIONS”

Ankita Chakraborty* & Dipa Dube**

ABSTRACT

‘Satyameva Jayate’- Truth alone Triumphs, enunciates the Indian ideology which confers the zenithal importance to truth. Truth and Justice are somewhat synonymous for the common man, and thus, when justice fails, truth stands defeated. The Malimath Committee in its Report on Reforms in Criminal Justice System, 2003 deliberated on the need to attain the ultimate end, not in terms of acquittal or conviction, but truth. Referring to the observations of Dr. R. Venkataraman, Former President of India, the Committee reiterated that “the Judge is not concerned with the truth; he is only concerned with the proof.” In fact, the law of evidence clearly enumerates that either the evidence is proved, disproved, or, not proved. In other words, facts of a case are to be established by means of evidence, which is submitted before the Court, and, the latter has to decide whether the facts are thereby established. In case the Court is convinced to the point of ‘beyond reasonable doubt’, conviction is maintained for the accused, whereas in all other cases, it is acquittal. It is merely presumed that truth will surface from the individual version of facts presented by the prosecution and the defense in presence of the Judge, who appears to have little or no say in the drama that unfolds before him in the court room. He simply plays the role of a mute spectator at the contest between two parties and declares who has won and lost. The Malimath Committee criticized this system to be profoundly loaded in favor of the accused and accordingly made recommendations to incorporate appropriate changes in the law.

An illustration may be given from K. Venkateshwarlu v.State of Andhra Pradesh(2012) where the Court found itself helpless to give justice to a polio-ridden child rape victim; although it was proved that she was sexually assaulted by the accused, a police officer. Lamenting on the acquittal, the Court said:

“The demeanor of Aruna, the tears in her eyes, her walking out of the Court after looking at the appellant, pricks the judicial conscience....”

A decade and a half later since the Committee suggested necessary amendments to shift the core focus of criminal justice to attainment of truth, little has been achieved. Except for sparing aspects of victim participation, the remaining suggestions have gone unhindered. The present system suffers from the same laxity as before. The paper analyses recent judicial trends to indicate the continued ineptness of the adversarial system to achieve justice, and consequently truth, and the dire need to bring about changes.

KEY WORDS

Malimath Committee, Adversarial System, Truth, Justice, Victims.

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Introduction

The Indian spirit vests the highest importance to truth. The aphorism, Satyameva Jayate (Truth alone succeeds) is engraved in our National Emblem “Ashoka Stambha” and all our saga narrate the goodness of truth. (Berti and Tarabout, 2017, p.27) Truth is a cherished ideal of India and the cornerstone of our justice system. Truth being the very basis of justice protects the innocent and punishes the guilty. For an average person, truth and justice holds the same connotation, and thus, when justice flounders, truth stands defeated. The Malimath Committee in its Report on Reforms in Criminal Justice System, 2003 considered the need to attain the ultimate end, not in terms of acquittal or conviction, but truth. (Malimath, 2003a)

For criminal justice dispensation, India follows the “adversarial system” which has been handed down by our British Colonial Rulers. (Malimath, 2003b) In an adversarial criminal justice system, the Judge acts as a neutral fact finder who remains passive throughout the proceeding. (Menkel-Meadow, 1996, p.7) He allows all sides of arguments in the court room which eventually take the shape of a combat which must be adequately using all available resources. He dispassionately examines the evidence forwarded by the parties during disposition, his only objective being, resolving the dispute. (Landsman, 1983) Here, it is presumed that truth will come up from the individual versions of the facts forwarded by the prosecution and the defense before a neutral judge.

Considering several lacunas in the adversarial system of justice delivery, the Malimath Committee in its 2003 report pointed out that this system has led to a situation where large numbers of criminals escape convictions. In such a system, ascertainment of truth becomes a distant goal; either due to the errors on the part of investigation officer, prosecution, witnesses,

or on account of stringency of the laws of evidence. To do away with the lacunas of adversarial system; the committee recommended that the “presumption of innocence” and “proof beyond reasonable doubt” be substituted with a lower standard, for example, “the Court’s conviction”. (The Adversary system: Who wins? Who loses? 2019) The committee further recommended incorporation of certain attributes of inquisitorial system of investigation and administration of justice in the present criminal justice system. The committee emphasized on the dire need to reform the entire criminal justice system keeping in mind the justice to the victims in terms of adequate compensation, legal representation and witness protection. (Kumar, 2018)

The present paper contends that decade and a half later since the Committee suggested necessary amendments to shift the core focus of criminal justice to attainment of truth, little has been achieved. It analyses recent judicial trends to indicate the continued ineptness of the adversarial system to achieve justice, and consequently truth, and the dire need to bring about changes.

Indian Adversarial System And Its Limitations

India follows an age-old criminal justice system founded on the Penal system established by our colonial rulers. In an adversarial system, the Judge acts as a neutral arbitrator without actively taking part in the legal battle carried out in the court rooms. (Srikrishna, 2008, pp.241-42) The liability of gathering evidence rests with the parties (the prosecution and the defense) and a duty is vested on the court of sovereign appraisal of the evidence collected during investigation.

During the trial, the prosecution and the defense submit their variant of events and argue their case in front of a neutral adjudicator. Here, unless contrary is proved;

the accused is presumed to be innocent and, in case of a reasonable doubt as to whether the guilt is credibly proved, the accused is allowed acquittal.(Van Sliedregt, 2009, p.249)

Unlike the inquisitorial system of justice, where Judges play an active role, direct the court room debate, shoulder the role of the principle interrogator of witnesses and defendant, inquire into the charges and asses all pertinent evidence; in an adversarial system, the Judge merely acts as a umpire at the hearing. The Judge ensures that the trial is conducted observing due process. (Ainsworth, 2015)Thereafter, it is decided whether the defendant is guilty beyond reasonable doubt and hearing is conducted on the sentence given. Lawyers are chiefly accountable for leading the evidences and interrogating witnesses. (Cramton, 2002) At first, each witness gives their evidence-in-chief, thereafter they may be cross-examined.

Adversarial system is regulated by the idea of “Proof beyond reasonable doubt,” unlike the inquisitorial system where the appeasement of the Judge towards attainment of truth holds greater value. Furthermore, right to silence inherent in our Constitutional mandate of right against self-incrimination is an integral part of this system. It is argued that here the defendant has got stronger protections and the role of the victim is not prominent.(T. Pizzi, 1999)The system does not differentiate between the police and the prosecution. It creates a close knit between the police, prosecution, and the State which tries to convict the defendant. The system fails to recognize the police as a separate authority having responsibilities independent of the prosecution with relation to attainment of truth(T. Pizzi, 1999). Critics claim that the adversarial system is more perturbed with unraveling disputes than detecting the endmost truth.(Roach, 2010)This system places an exorbitant on victory and hence

persuades manipulation and deception.(E. Sward, 1989)Also, people with inadequate resources cannot buy equal access to justice as that of affluent ones(E. Sward, 1989). The system is characterized by the fact that lawyers spend more time avoiding truth than seeking it(Cramton, 2002).

In the adversarial system, since the parties direct the litigation, they are persuaded to submit only the evidence that is beneficial to them and to repress evidence that is not (Van Caenegem, 1999).

Critics maintain that the ‘rules of evidence’, which were created to guarantee fairness to all parties actually work against fairness by suppressing necessary information which should have been submitted before the Judge, who is supposedly the fact finder in the case. (Wistrich, Guthrie and Rachlinski, 2005).The Indian law of evidence clearly enumerates that either the evidence is proved, disproved, or, not proved. In other words, facts of a case are to be established by means of evidence, which is produced before the Court, and, the latter has to decide whether the facts are thereby established. In case the Court is convinced to the point of ‘beyond reasonable doubt’, conviction is maintained for the accused, whereas in all other cases, it is acquittal. Though the goal of truth to be attained at the end of a judicial process is an ideal expressed in the Higher Courts (High Courts of State and the Supreme Court of India); the accent to ‘winning at any cost’ without adequate concern towards truth-seeking is the prime focus when it comes to adversarial system (De Barba, 2002,p.1523). Judicial truth in India is exclusively concerned with the facts established according to the law of evidence which may be far from the reality of actual facts. Criminal trials in an adversarial system are prone to manipulations of all sorts and since the contesting parties determine the scope of the dispute, they bring selective evidence in the Court (Berti and Tarabout,2017,p.29).

It is argued that the present adversarial system is not only unresponsive towards the victims' predicament and rights, it does not permit the presiding Judge to rectify the anomalies in the investigation or in the issue of production of evidence in the Court(Manoharan, 2013).

Quest For Truth Or Proof?

According to Swami Vivekananda, for an average man, truth tantamount to justice and thus, when truth flounders, justice also fails(Berti and Tarabout, 2017, p.12). However, there is no place for truth in the present criminal justice system that is followed by India. On one hand, lawyers are more concerned with resolving controversies and representing their client's interests rather than finding truth; on the other hand, Judges are merely concerned with 'proof', and not 'truth.'(Parker, 2004, p.50)

Through their entire career, the lawyers involve themselves bootlicking their rich clients who expect them to manipulate the substance and procedure of law (West, 1999, p.974).Eventually, truth becomes a casualty and a premium is put on winning.

In an adversarial system of justice, "proof beyond reasonable doubt" and "presumption of innocence" still maintain a pivotal position. The maxim that "it is better to acquit ten guilty persons than convict an innocent one" is nowhere mentioned in the criminal law books, but is a rule of prudence founded on public policy(Gurbachan Singh v. Satpal Singh, 1990). Where the proof of an offence with certainty of criminal law is established to the effect that the offence has been committed and that no other person but the accused must have committed the offence; then the Court considers the case to have been proved "beyond reasonable doubt"(Naba Kishore Rout v. the State, 1990). "Proof beyond reasonable doubt" does not admit fanciful possibilities and stems out from the idea of "presumption

of innocence" embedded in our adversarial system(SK Badar Alias SK. Badiruddin v. State of Orissa, 1995). Even though "proof beyond reasonable doubt" holds high value, the Supreme Court pointed out that inflated fidelity to the rule of benefit of doubt must not be exercised to the extent that justice becomes sterile(Gurbachan Singh v. Satpal Singh, 1990).In the case of Neelam Katara v. Union of India and others(2003), the Court further added that it is a fact that administration of justice is of great significance in our society, and it may be true that let hundred escape but do not let an innocent to be punished, but this plea cannot be outstretched so as to provide an escape route for the accused and usurp the administration of justice.

The Court on various instances condemned the inert role played by the judges and accentuated the significance of finding truth. For example, in Ram Chander v State of Haryana(1981),Justice Chinnappa Reddy opined that in adversary system, the judge plays the role of an umpire or referee wherein he allows the trial to take the shape of a match between the prosecution and the defense with the unavoidable contortions flowing from aggressive, confrontational, and competing elements infiltrating the trial procedure(Ram Chander v State of Haryana, 1981). He further added that if a Criminal Court is to be an effectual tool in assuring justice, the presiding judge must refrain from being a bystander and a mere audiotape. He must become an accomplice in the trial by manifesting sharp dynamic interest and by throwing questions to the witnesses in order to determine the truth(Ram Chander v State of Haryana, 1981). Similar views were given in State of Karnataka v. Suvarnamma(2015) where the Supreme Court said that even though we are governed by the adversarial system, the Court cannot be a taciturn observer predominantly in criminal cases and the key obligation of the court is to unleash

the truth from material on record (State of Karnataka v. Suvarnamma, 2015).

The judiciary has further advanced the need of social justice adjudication as an alternative to mere adversarial approach as mere adversarial means may not be apt. After all, the ultimate duty of the courts is to facilitate the cause of social justice (Badshah v Urmila Badshah Godse and another, 2014). The Supreme Court has accorded greater value to social context adjudication when it comes to enforcement of rights of the vulnerable section of the society (Vishaka and others v. State of Rajasthan and others, 1997; Aruna Ramachandra Shahbaug v. Union of India & others, 2011); though, as Prof. Madhava Menon puts it, adversarial legalism is the only reality in trial Courts where evidence law would dismiss social-context arguments as hearsay (Menon, 2005, p.257-58). He further contended that the adversarial system functions in a manner wherein unequal parties are set against each other and the judge is more leaned towards proof than truth. Primarily, this system steers to the impediment of the weaker party (Sikri, 2019, p.28).

The Judges are expected not to act like a recording equipment to document whatever is being stated by the witnesses; rather, they are conferred with wide powers under Sec.165 of the Evidence Act, 1872 and Sec.311 of the Code of Criminal Procedure, 1973. In the case of Nellore v. Intna Ramana Reddy (1972), the Court said that all criminal trials resemble a voyage in which the unearthing of truth is the pursuit. It is the task of the moderator Judge to investigate every possibility open to him in order to ascertain the truth and to promote the cause of justice (Nellore v. Intna Ramana Reddy, 1972). Thus, the judge is vested with the powers given by Sec. 165 of the Evidence Act, 1872, which gives him the right to put questions to witnesses. The Supreme Court further observed that the outcome of a criminal proceeding cannot be

entirely left in the hands of the parties and it is the duty of the Courts to ensure that the pertinent questions are not left unattended (Raghunath v. State of UP, 1974). The presiding Judge must not be a bystander but should become an accomplice in the trial and educe all congruous materials essential for reaching the right end for finding out the truth (Zahira Habibulla H. Sheikh and another v. State of Gujarat and others, 2004).

Though it is the key principle of the law of evidence that the highest possible degree of proof or the best evidence should be produced before the Court, in the case of Mohan Lal Shamlal Soni v. Union Of India and another (1991), where the best evidence could not be put forward by the prosecution before the Court, the Supreme Court put a serious question on the Judge. The Court interrogated whether the presiding officer is vested with a legal duty of his own, separate from the parties, to take an effective role in discovering the truth or should he merely sit as an umpire and assert at the end of the warfare as to who won and who lost (Shamlal Soni v. Union Of India and another, 1991). The Court furthermore added that the scope and ambit of Sec.311 of the Code of Criminal Procedure, 1973 is sufficiently extensive to cover any Court at any stage or any enquiry, trial, or other proceedings, and that the discretionary power can be administered on any person if it is a requisite to secure new evidence so as to reach a valid and just decision.

The Supreme Court advanced the duty of the Court to detach the wheat from the husk and pointed out that although in each case it must be appraised to what extent the evidence is acceptable, but, just because in few respect, the Court considers the same to be inadequate, the same cannot be discarded or ignored in totality (Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, 2003). As long as the chaff, cloud, and dust remain, they will clog the very truth, and the

criminals will be clothed under a protective layer of 'benefit of doubt.'(Mohan Singh and another v. State of MP, 1999)

The Malimath committee envisaged that even though the foundation of the criminal justice system is investigation by the police, but, adversarial system does not compel the judge to undo the anomalies in the investigation with the endeavor of discovering the truth (Malimath, 2003, p.25). In *Samaj Parivartan Samudaya and Ors. v. State of Karnataka and Ors.* (2012), it was held that the fundamental principle of an investigation is to extract the truth by conducting fair and appropriate investigation, in harmony with law and to make certain that the culpable are penalized. The Court must insure that powerful persons are not able to abuse or usurp the investigation so as to suffocate a fair investigation, the consequence being an escape route for offenders (*Samaj Parivartan Samudaya and Ors. v. State of Karnataka and Ors.*, 2012). Similarly, in the case of *Mithilesh Kumar Singh v State of Rajasthan* (2015) it was held that in an adversarial system of administration of justice, fairness of investigation is the very first requirement for fairness of trial and a trial based on one-sided and biased investigation can hardly be fair (*Mithilesh Kumar Singh v State of Rajasthan*, 2015).

Considering several lacunas in the adversarial system, the Malimath Committee in its 2003 report laid down the foundations for a restructured criminal justice system. The committee focused on adopting certain features of the inquisitorial system in our justice delivery mechanism to improve upon the existing vice.

Recommendations of Malimath Committee

The Malimath Committee was constituted for a thorough review of the whole criminal justice system of the country so that methodical reforms may be made to recover the existing legal depravity. The Committee

dwelt on several aspects of the system including the primary principles of justice administration.

Truth as the core focus: The committee indicated that nothing but truth must be the cornerstone of the Criminal Justice System (Malimath, 2003, p.28) since justice is defeated if truth does not prevail (Malimath, 2003, p.29). The committee addressed the fact that in an adversarial system of justice administration, the Judge, being too apprehensive to preserve an unprejudiced position, never takes the lead to determine the truth. However, in an inquisitorial system, the Judge is conferred with an affirmative duty to unleash the truth and the judicial police are required to assemble evidence for and against the accused, in an unbiased manner, under the direction of an independent Judicial officer, "the Judge of instructions." (Malimath, 2003, p.25) After all, to recoup the missing confidence of common mass on Judiciary, the Courts must become vigorous seekers of truth and everyone should lend a hand to the Court in its pursuit for truth.

Attributes of inquisitorial system to be embraced: It is imperative that our system adopts some features of the inquisitorial system with necessary modifications since inquisitorial system is more proficient in the sense that the investigation is directed by the judicial magistrate ensuing good number of conviction. The committee alerted the Courts to seek out truth, to assign a more dynamic role to the Judges, to render instructions to the investigating officers and prosecution agencies in matters of investigation, and to lead evidence with the purpose of realization of truth (Kumar, 2018, p.265).

To confer duty on every Court to discover truth: The committee envisaged that ample authority has been given to the Judges by virtue of Sec. 311 of the Code of Criminal Procedure, 1973 wherein the Court is given discretion to summon any person

as a witness or re-call and re-examine any person who has been previously examined if it is necessary for arriving at a just decision(Malimath,2003,p.31).The committee pointed out that ‘just decision of the case’ does not equate to ‘the duty of discovering the truth’ and in reality, when the witnesses are examined, the Courts scarcely interrogates. Furthermore, the trend of decisions is that the power under Sec. 311 should be exercised with immense caution(Malimath, 2003, p.32). Thus, the committee suggested necessary amendments to this section imposing a duty on every Court to “suo moto cause production of evidence for the purpose of discovering the truth”.

Justice to victims: The committee pointed out that the criminal justice system at hand is heftily in favor of the accused and it does not sufficiently focus on justice to the victims. The victim is the one who’s right has been pervaded by the accused, but he is not given any right to partake in the criminal trial, except as a witness(Malimath,2003,p.20). It recommended that the victim should be given the right of active participation in a trial so that he may furnish such information which would aid the Court in unearthing the truth or ensuring the production of new evidence necessary to render justice(Malimath,2003,p.35). It further endorsed that victims must have the right to prefer an appeal against acquittals(Malimath,2003,p.80) and right to compensation(Malimath, 2003, p.265).

To shift the trends in “burden of proof” and “standard of proof”: The committee specified that it is the obligation of the Courts to discover the ultimate truth and pass judgments accordingly. Since India follows adversarial system of justice, the Judge acts as a referee to see whether the case has been proved “beyond reasonable doubt” by the prosecution. By shifting the trends in “burden of proof” and “standard of proof”, the unreasonable burden on

the prosecution may be reduced. This in turn will block the escape routes for the criminals, who have been taking huge advantage of the lacunae of this system for years(Malimath,2003, pp.23-24). The committee suggested that the standard proof be set at a midway between “proof beyond reasonable doubt” (as followed in India) and preponderance of probabilities (as followed in Europe). It called for a ‘clear and convincing standard.’(Malimath, 2003, p.269)

To reverse “presumption of innocence” and “right to silence”: The committee indicated that “presumption of innocence” of the accused and “right to silence” are inter alia well recognized principles of criminal jurisprudence. “Right to silence” of the accused is a fundamental right which germinates from the right against self-incrimination conferred by Article 20(3) of the Indian Constitution. While explaining the accurate range and meaning of “right to silence”, the committee referred to examination of the accused under Sec.313 of the Code of Criminal Procedure, 1973. It emphasized on the fact that sec.313 will not contradict the right of the accused against self-incrimination because he may decline to respond to the questions put to him and no coercion is involved herein. Thus, the Court is empowered to place any questions to the accused during trial which would give him a chance to clarify the state of affairs appearing against him in the evidence and if the accused willingly makes self-incriminatory statement, it may be taken into account, either in favor of him or against him(Malimath,2003,p.42). However, the fact that the accused may reject to answer the questions put to him not only results in immense bigotry to the prosecution, but also hampers the pursuit for truth. Thus, the committee suggested that Sec. 313 should be substituted by Sec.313A, 313B and Sec.313C and that he should file a statement to the prosecution revealing his stand(Malimath,2003,p.267).

In fact, in similar lines, the Supreme Court of India has held that in case the accused remains numb to the questions put to him by the court under Sec.313 of Cr.P.C., 1973, wherein he is expected to come out with an clarification, leads to an unfavorable inference against the accused (Prahlad v. State of Rajasthan, 2018).

The extensive recommendations given by Malimath Committee were atypically straightforward in the sense that common people have indeed lost trust in the present criminal justice system, and that victims feel disregarded and unattended. However, a glance at the criticisms against Malimath report posed by Upendra Baxi propagate that, most of the recommendations in the report are based on knee jerk reactions and not on sound legal propositions. For example, Prof. Baxi maintains that, the report has significant acquaintance with what has been already stated. At the outset of the report, Andre Gide's quote "Everything has been said already, but as no one listens, we must always begin again" assuages the readers into considering that the report is a compiled version of existing acumen. (Baxi, 2003, p.6)

Baxi maintains that reversing the "presumption of innocence" and "right to silence" would challenge the cardinal principle of criminal justice administration. In fact, "presumption of innocence" is an essential right under the International Covenant on Civil and Political Rights. The same has been incorporated under Article 20(3) of the Indian Constitution. Reversing presumption of innocence through prompt action, without establishing an evidence-based relationship between high rates of acquittals vis-à-vis presumption of innocence, questions the credibility of the Malimath report. (Baxi, 2003, p.18)

Besides, the report talks about incorporation of certain good points of inquisitorial system presuming that it "may" strengthen the present adversarial system. However,

not much of research has gone into that presumption. Prof. Baxi argues that the only jurisdiction referred herein is France which is ruled by jury system and where offices of Magistrates and Prosecutors are interchangeable. Whether such a system is feasible for India has not been clarified in the report. (Baxi, 2003, p.25)

The Committee emphasizes on the quest for truth and warrants the judges with extraordinary powers. However, court room trials centre on facts, and established facts lead a judge towards educated guesses to what really happened. (Rodell, 1949, p.115) Under such circumstances, the place of truth remains dubious.

Other critics have questioned the very constitution of the Committee with judges, bureaucrats, police, academician etc. In fact, it had no women members; nor prominent criminal law attorneys. (Nagaraj and Batra, 2003) Moreover, the Committee sidelined its discussion on the rights of poor and marginalized sections like dalits who are victimized at the hands of the system. Though the Committee advanced on the assumption that greater conviction rate shall meet the ends of justice; yet critical human rights concerns, like wrongful arrest and detention, torture and custodial violence, crisis in legal aid, and growing number of under-trials, remained unaddressed. (Narain, 2003, p.2)

True that the concerns flagged by Malimath regarding a less-than-functional criminal justice system in India have been slammed on grounds of being hasty, flawed, and ambiguous; yet, it cannot be disregarded that the Committee made efforts towards revamping the entire system on the brink of collapse. The three major apparatus of the criminal justice machinery in India, the police, the court, and the prison, need discrete but coordinated reforms to induce tangible changes (Krishnaswamy, Sivakumar and Bail, 2014, p. 17). Though legislative intent relies more on facts than popular opinion,

Malimath's recommendations, and rightly so, concluded that Indian criminal justice administration will proceed towards a new track bearing better justice dispensation once and for all, if the rights of the victims are recognized and established, along with the rights of the accused.

Response To Malimath- Little Done, Vast Undone

Out of the several recommendations made by the Malimath Committee, barely a few have been acted upon. These include, inclusion of victim compensation scheme through Sec. 357A of Cr.P.C, 1973; insertion of victim protection through Sec. 357C of Cr.P.C, 1973 which talks about providing treatment to victims free of cost; amendment to Sec. 372 of Cr.P.C, 1973 which provides the victim with the right to prefer an appeal against any order passed by the Court acquitting the accused or imposing lesser sentence or inadequate compensation; insertion of sub-section (8) to Sec.24 Cr.P.C, 1973 which gives a right to the victim to engage an advocate of his choice to assist the prosecution and infusion of sub-section (5) to Sec. 313 of Cr.P.C, 1973 wherein the Court is given the power to take assistance from the prosecution and defense to prepare relevant questions to be put before the accused.

However, the changes have made little difference to the conviction rate (Ranjan, 2017, p.46). Thus, decade and a half later since the Malimath Committee gave its recommendations; the situation still remains grim as ever.

Even though the Judge is vested with inquisitorial powers as inculcated under Sec.165 of the Evidence Act, 1872, and Sec.311 of the Code of Criminal Procedure, 1973 that allow a Judge to seek any information necessary to obtain proper proof of relevant facts and to ask for production of vital evidence or examination of a witness who is not a part of the

prosecution or defense case, the Court, time and again, has talked about the 'caveat' that this power, which is vast and wide, should be exercised judiciously and with immense caution (Natasha Singh v. Central Bureau of Investigation, 2013; Rajaram Prasad Yadav v. State of Bihar and another, 2013). The Court emphasized that though the discretion to examine witnesses under Sec. 311 Cr.P.C, 1973 is wide, but, the width requires corresponding vigilance (Himanshu Singh Sabharwal v. State of M.P., 2008). The Court even warned that Sec. 311 Cr.P.C, 1973 or Sec.165 of the Evidence Act, 1872, cannot be exercised "to fill a lacuna in the prosecution case" and it must be perceived as an innate flaw in the milieu of prosecution, the benefit of which should in effect go to the accused (Rajendra Prasad v. Narcotic Cell, 1999). Thus, in a situation where the evidence is concluded or where the prosecution has closed the case, Sec.165 of the Evidence Act, 1872 would have no application even though the prosecution fails on a material aspect (Omprakash Shankarlal Sharma v. State of Maharashtra, 1993). The Court has furthermore held that once a witness is examined-in-chief and cross-examined, such witness cannot be recalled and re-examined under Sec.311 of the Code of Criminal Procedure, 1973 to deny evidence, even though the witness had given inconsistent statement before any other Court or forum (State of MP v. Vinod Mudgal and Ors., 2008). Similarly, recalling an investigating officer after the closure of the evidence has been refused on the ground that such is not essential to arrive at a just decision (Chandran v. State of Kerala, 1985).

The Court has held that "lacuna in the prosecution case" should not be treated as irreparable and the Court should be liberal in allowing such errors to be ameliorated (Rajendra Prasad v. Narcotic Cell, 1999). Thus, Sec.311 of Cr.P.C, 1973 or Sec.165 of Evidence Act, 1872 can be exercised with the intention of discovering the truth in

order to facilitate the court to arrive at a just decision of the case (U.T. of Dadra and Nagar Haveli and another v. Fatehsinh Mohansinh Chauhan, 2006). In fact, the Court has inherent power to recall a witness under Sec.311 of Cr.P.C. 1973, if he is ready to give evidence materially dissimilar from what he has given in the trial (Raj Deo Sharma v. State of Bihar, 1999); but ironically, the Court found it helpless to give justice to a polio-ridden child rape victim; although it was proved that she was sexually assaulted by the accused, a police officer. (K. Venkateshwarlu v. State of Andhra Pradesh, 2012) Lamenting on the acquittal, the Court said:

“The demeanor of Aruna, the tears in her eyes, her walking out of the Court after looking at the appellant, pricks the judicial conscience....” (K. Venkateshwarlu v. State of Andhra Pradesh, 2012)

Similarly, where a six year old girl was taken to a field by the accused, who seduced her with sweets, and thereafter committed rape on her, and smashed her face with bricks, the Supreme Court maintained the acquittal of the accused by the lower Courts on the ground of grave lapses by the investigation or prosecution including non-examination of material witness and elimination of vital evidence (State of Gujarat v. Kishanbhai, 2014). The sheer anguish of the Court, though palpable in the judgment, could not serve the cause of justice to an innocent child or her immediate family.

In *Lalu v. State of MP* (2003), the Court held that the evidence adduced by the prosecution was not considered worthy of credence because the prosecution failed to adequately ascertain the culpability of the accused. The wife of the deceased, who was sitting by his side, when the deceased received knife blows, avoided and evaded all questions put to her in cross-examination and thus, her testimony, was discarded completely and the conviction of the trial Court for the offense punishable under Sec.

302 of the Indian Penal Code, 1860, was set aside.

Similarly, in the case of *Babu v. State of Kerala* (2010), where the deceased died within 15 days of her marriage due to cyanide poisoning which was procured by the accused appellant who manipulated the deceased to take it as an oral contraceptive, and where the High Court of Kerala set aside the acquittal of the accused by the trial Court on the ground that all the circumstances necessary to establish guilt against the appellant was proved by the prosecution, the Supreme Court of India emphasized on “the principle of presumption of innocence” and “benefit of doubt”. Highlighting the statement of the accused which was furnished under Sec.313 Cr.P.C, 1973, that he had seen the deceased along with another man in a compromising position, the Supreme Court held that the trial Court’s judgment was adequately reasoned as the sequence of circumstances were found patchy. Accordingly, the accused was acquitted on the ground of material contradictions in the prosecution case, though the truth appeared far from it.

In similar lines, the Supreme Court in the case of *Joydeb Patra v. State of West Bengal* (2013) held that since the prosecution could not prove its case beyond reasonable doubt that the deceased died due to poison administered by the accused persons, the lower Courts should not have declared the appellant guilty simply because they could not elucidate under what situation the deceased had died. In fact, the Court stressed that Sec.106 of the Indian Evidence Act, 1872 do not alleviate the prosecution from justifying the case “beyond reasonable doubt.” Only after the prosecution proves the case “beyond reasonable doubt,” the burden in relation to such facts which was within particular knowledge of the accused may be transferred to the accused for explaining the same (*Joydeb Patra v. State of West Bengal*, 2013). In a like manner,

where it was proved that the deceased had died due to several burn injuries in her body and that she was brutally assaulted by her husband and in-laws for want of dowry, the Supreme Court chose to rely on the evidence given by the appellant husband where he claimed to have been acquainted with the handwriting and signature of his wife, and affirmed that the chit which was discovered from the dressing table was indeed a suicide note from his deceased wife where she clearly mentioned that nobody but she alone was responsible for her death (*Vipin Jaiswal v. State of Andhra Pradesh*, 2013). The Court stressed on the onus of the prosecution “to prove beyond reasonable doubt” the ingredients of section 498A and section 304B of the Indian Penal Code, 1860. It furthermore held that the Trial Court and the High Court could have compared the handwriting and signature of the alleged note with some of the other handwritings of the deceased under Sec.73 of the Indian Evidence Act or could have gone for an expert’s opinion under Sec. 45 of the Evidence Act, but they never resorted to these provisions (*Vipin Jaiswal v. State of Andhra Pradesh*, 2013).

In *Niranjan Panda v. State of Orissa* (2011), where the victim was a minor girl under the age of 12 years who in her evidence testified that a man dragged her into the place of occurrence which was dark and raped her, the High Court of Orissa retained the conviction by the Sessions Court on the ground that the evidence on record could not prove the charges “beyond reasonable doubt”. The Court stressed on the right of innocence and furthered that every man is presumed innocent until contrary is proved; the burden of proving everything which is necessary for the establishment of charge lies with the prosecution (*State of Rajasthan v. Mohan Lal*, 2009). Correspondingly, in *Lakhan Hari Yadav v. State of MP*(2007), after appreciation of evidence in the trial Court, when the appellant was held guilty of the offences of rape and criminal

intimidation, the High Court of Madhya Pradesh held that since after the alleged act, the prosecutrix as well as the accused wore their respective undergarment and lungi, the probability that the prosecutrix was actually a consenting party to the act, cannot be precluded. Thus, benefit of doubt was given to the appellant and the conviction was set aside. So was the case of *Md. Ali v. State of U.P.*(2015), where the Supreme Court set aside the conviction of the appellant by the lower Courts on ground of benefit of doubt which arose due to the delay in lodging F.I.R, non-examination of witness, medical evidence, testimony of the prosecutrix and allied circumstances.

In the *Pipili Gang Rape* case, where the deceased victim was a 19 year old Dalit girl, the Court acquitted the accused persons of rape on account of lack of evidence (*Mohapatra*, 2018). When the family of the deceased faced constant threats to not give evidence in the Court, the case was transferred to Bhubaneswar(*Babuli Behera v. State of Odisha*, 2014) and eventually the *Pipili* incident melted into thin air. Similarly, in the case of *State of Gujarat v. Kishanbhai* (2014) where the trial Court held that the prosecution has “proved the case beyond reasonable doubt” and sentenced the convict with death for committing rape and brutal murder of a child as young as 6 years, the High Court acquitted *Kishanbhai* giving justification like deficiencies in investigation and incongruity in the prosecution case. Aggrieved by the order of the High Court, the State of Gujarat approached the Supreme Court wherein it was held that the investigating officers had miserably failed in discharging their duties and the misery of the victim’s family remained unaddressed. Regretting the acquittal due to evident blunder in the investigation and prosecution of the case and material inconsistencies in the evidence produced; the Court concluded by stating that-

“A heartless, merciless criminal, who has committed an extremely heinous crime, has gone scot-free...We are trained to adjudicate without taking sides, and without being mindful of the consequences...We could not serve the cause of justice to an innocent child...” (State of Gujarat v. Kishanbhai, 2014)

More than 15 years have passed since the Malimath Committee gave its recommendations. Still, the above discussion poses real questions on the existing approach of the judicial system towards dispensation of justice which is far away from truth.

6. CONCLUSION

The quest for truth is an eternal quest of mankind. It has its basis in the philosophy which tries to comprehend the very nature of ‘truth’. However, in legal context, the truth-inquiry the Courts delve into is different in the sense that, the questions revolve around finding the correct answer to the questions posed before it; for example: did the accused do the act? A system which forms decisions on the basis of competing version of events is anything but true; it is a sort of ‘weak deflationist understanding of

truth’ (Klein, 2016,pp.1-2). The Malimath Committee emphasized on this very aspect of decision making premised on traditional principles of criminal jurisprudence and procedural fairness as negating the quest for truth and, in a sense, of justice. In fact, plethora of decisions delivered by the Courts has indicated a failure of truth and consequently, justice, either because of shoddy investigation, or absence of evidence, or some other material lapses. In each of the cases, over-emphasis on the presumption of innocence, right of silence, right against self-incrimination, proof beyond reasonable doubt etc. on one hand, and the Judge’s perceived neutrality on the other, have tilted the balance unjustifiably in favor of the accused, causing grave injustice to the injured party. It has also generated a sense of void, insecurity, and diffidence in the society and towards the criminal justice system as a whole. Time is ripe for an overhaul in the system as there can be no justice without truth. To quote the words of Rabindranath Tagore, ‘Facts are many, but the truth is one’; and thus, the purpose of the justice system should be towards securing that truth which shines clear and constant.

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REDESIGNING OF URBAN SAFETY MEASUREMENT MODEL ANALYSING CRIME STANDPOINTS

Rajesh Kumar*

Abstract

The objective of this study is to present a blueprint; how to test the safety status of a city. It applies the proposed model to investigate the first list of Indian smart cities. It measures the safety status of select cities by analyzing the crime standpoints and attempts to enquire; Are smart cities safe cities? The method creates five crimes categories based on relative nature and severity. Further, it assigns different value points for different crime categories to develop the city's safety point as a determinant which constructs a more balanced tool. The study prima facie confirms that none city found safe as per the scale set forth. The applied model is one of the modules which may supplement to a broader assessment framework. Through a review of studies, it endorses the identical elements that will enrich the evaluation process and also be the topics of future investigations.

KEY WORDS

Urban safety; Measurement model; Indian smart cities; Ranking of safe cities; Crime statistics.

Introduction

The growth of urbanization is taking place at a faster rate in India since before its independence. The population of an urban area was 11.4 percent according to 1901 census which increased to 28.53 percent in 2001 and crossed 31.15 percent; according to 2011 census 377 million people living in urban areas and in 2018 this number rose to 449 million, accounting for 33.2 percent of India's population and urban population projects to increase to about 600 million by 2030. (Worldometers, 2018)

The two peculiarities of congested cities attract attention; first, several slums rise rapidly, 37.14 percent decadal growth recorded in the number of 'slum' households. Almost two-thirds of statutory towns in India have 'slums' and 13.75 million households live in them. (Housing and Land Rights Network, 2014, p.1) By 2017, slum population of India will surge to

104 million, this means urban planners will face escalating challenges and consequences ahead as these slums will mostly proliferate in sleepy towns (Das, 2013) Contrary to above, GoI (Government of India) launched SCM (Smart Cities Mission) in June 2015 to develop 100 smart cities nationwide with the budget of 2031.72 billion for infrastructure development. However, it will impact 99630069 lives (Ministry of Housing and Urban Affairs, 2015) but eventually, the situation is awfully weird.

The village dweller moving towards an urban area because of many reasons, primarily for a livelihood. While they move to a city, an obvious question arises in their mind. How much is this city safe? How much will they be safe in the city? The individual keeps the safety as a topmost priority and in that case, safety studies influence their mind. To find an answer to these questions, it becomes inevitable to understand the

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safety evaluation process. Their concerns have to be addressed appropriately. Hence, the primary aim of this study is to develop a basic and reliable evaluation approach.

Objectives of the Study

The explicit objectives of this study are to highlight the present crime statistics of select cities; propose a model to evaluate the safety status of a city; find overall CSP (City's Safety Points) as a determinant by categorising crimes by nature and severity and identify a few more supportive components for evaluation.

Review of Literature

The population density and compactness, (Lehmann, 2016, p.2) and crime rate, both are significant components for safety and security of cities. The twelve select smart cities average populate 33.9 lakhs; (Smart Cities Mission, 2015, June) ICC (Incidence of Cognizable Crimes) -12101 and RCC (Rate of Cognizable Crimes)-454 each city whereas the incidence of national cognizable crimes is 7326099 with AIR (All India Rate of Cognizable Crimes) of crimes-581.8. These cities embrace 40680000 lives that's 3.36 percent of national (1210854977) and 10.79 percent of urban (377106125) respectively. (National Crime Records Bureau, 2015).

A few evaluations study on the city's safety and ratings are available. Further, notice that these studies result from spontaneous action, and later such studies become self-victim due to the dearth of standard operating procedures. The investigators raise questions on the validity of parameters and instruments used for the studies. Several studies examined by various viewpoints but none found suits to the Indian context. A study presents that at the aggregate level, reporting efficiency stood around 73 % (27 % under-reporting) (Chaudhuri, Chaudhuri and Kumbharkar, 2015, p.13) which shows an under-reporting of cases comprises a high ratio. Another study shows that reduced crime rates improve public safety

and general citizen well-being, (IHS Markit, 2017) which highlights the significance of crime rate, used as a standard index. Hence, instead of numerous contrary facts, the data on crime remains a prime tool and rate of crimes applied as an index for such evaluation studies. In 1958, the FBI created a national crime index to serve as a general indicator of criminality in the United States. (Federal Bureau of Investigation, 2004) An international study based on an index composed of forty-nine quantitative and thirty-one qualitative indicators. These indicators are a diverse mix of four thematic categories: on the relative level of safety of four main categories, for example, digital security, health security, infrastructure safety, and personal safety. (Economist Intelligence Unit, 2017) But this study applies different assessment tools than the EIU study. Ironically, there is no such basic evaluation research work found which have used standardized parameters.

The traditional crime rate does not provide information on the overall seriousness of crimes, further propose Crime Severity Index for Canada using data on police-reported crime by considering the relative severity of a particular crime compared to other crimes. The seriousness of each offense (weights) is derived from actual sentences handed down by courts. (Wallace, et al. 2009) The conventional crime evaluation determines by the RCC but this study develops nRCC (new Rate of Cognizable Crimes); allocates different value points to different categories of crimes by assessing their severity.

Methods

A present study is a well-defined act of quantitative research measuring the safety status of a city. It follows the descriptive, and analysis method and present results in order.

Source of Data

The first list of smart cities declared by the SCM, Ministry of Housing and Urban

Affairs, GoI recorded from its website whereas the study restricts to smart cities. It records the prerequisite crime data from the annual report: 'Crime in India 2015 Statistics'. (National Crime Records Bureau, 2015) It uses the data figures mentioned as RCC under different crime heads during 2015 for both IPC (Indian Penal Code) (refer table 4) and SLL (Special and Local Laws) (refer table 5) comprising 52 and 56 crime heads respectively. It excludes some crime heads which comprises a zero value and reflects no relevance form the study.

Data and Study Limitations

Many questions arise while conducting this study that 'which component: digital security, health security, infrastructure safety, and personal safety' to analysis. After a review of the literature, the study observes that data on personal safety is more significant among above all components. Further, the data on personal safety reviewed; i.e., pre-measured data to prevent crime; data on a post-crime investigation and policing procedures; and trial, judgment and convictions rate, etc. Apart from the above, the data on other facets which may indirectly influence the

safety, i.e., preventive data on the natural disaster, terrorist attacks, human errors etc. reviewed, and as noticed that these facets comprise insufficient data. Ultimately, the study focuses on crimes data where a uniform data found in an annual report 'Crime in India' which is one of the prime documents on crime statistics in India. The rate of crime is a standard unit for measurement; crime reported per lakh person in the target population. It uses the data on cognizable crimes as it is, available in the report and RCC considered as an index for calculations and comparisons.

The SCM declared smart cities on 28 January 2016 on the factsheet of the year 2015 that also included safety and security aspects. Therefore, the ground realities of safety and security of these cities must test. Hence, the study accumulates the data of the select cities for the same year. The eight cities out of twenty smart cities comprise inadequate data, focused the study to twelve cities only.

As compare in table 1; the ICC of cities; Jaipur, Indore, and Ahmedabad gained top unsafe rank; in order to RCC, the rank order

Table 1 - List of cities in order of RCC.

Smart City Rank*	City*	ICC#	Safety Rank: ICC# index	Population# (In Lakhs)	RCC#	Safety Rank :RCC# index
4	SU-Surat	3985	2	45.8	86.9	1
18	CH-Chennai	13422	6	87.0	154.3	2
13	CB-Coimbatore	3827	1	21.5	177.9	3
19	LD-Ludhiana	4012	3	16.1	248.6	4
6	AM-Ahmedabad	15964	10	63.5	251.3	5
2	PN-Pune	15349	9	50.5	303.9	6
8	VP-Visakhapatnam	6005	4	17.3	347.1	7
5	KC-Kochi	13781	7	21.2	650.7	8
7	JB-Jabalpur	9253	5	12.7	729.7	9
20	BP-Bhopal	14857	8	18.8	789.0	10
11	ID-Indore,	18463	11	21.7	852.0	11
3	JP-Jaipur	26288	12	30.7	855.5	12

Source: * Smart Cities Mission, (2015) # Crime in India 2015 Statistics

changed to Jaipur, Indore, and Bhopal and so on as table 1 depicts. But equal weightage or equalized RCC for all crimes is not justifiable which half-finished evaluation process appears. A heinous or accidental crime can't be equally weighted; allocating a different value to a different nature of crimes considering its severity become vital.

Design and Development of Assessment Model

The following assumed categories of crimes assigned the value points under their severity. The study carefully drives the severity (value) of each crime by weighing the actual award of punishment under IPC and SLL; further on the merit of the expert's advice.

First; a list of eligible crimes prepared separately for SLP and SLL along with their AIR and RCC. AIR of cognizable crimes denoted as the national base index for the rate of crime. Then as below-proposed, it

Crime Category	Most Heinous Crimes	Heinous Crimes	Major Crimes	Minor Crimes	Incidental Minor Crimes
Value Points	5	4	3	2	1

uses the formula to get nRCC under the above value points.

$$1. \text{ Average RCC} = \frac{\text{AIR}}{\text{Value points of crime category}}$$

$$2. \text{ nRCC} = \frac{\text{RCC}}{\text{Average RCC}}$$

For example, Average RCC = (AIR of Murder) 2.6 / Value points of crime category 5=0.52 nRCC= (RCC of Ahmedabad) 1.4 / (Average of RCC) 0.52= 2.69 (Please refer table 4)

The above formula is a new experiment to gain nRCC. The same results can be carried out by the following formula also.

$$3. \text{ i.e., murder in Ahmedabad } (1.4 / 2.6 \times 5 = 2.69)$$

Analysis and Discussion

By applying the proposed formula, nRCC of each city for each crime under IPC and SLL separately (refer table 4 and 5 respectively)

retrieved; overall nRCC corroborated to gain CSP for ranking of cities in order to determine the safety status. (See table -3)

Table 2 - Calculations of CSP.

S.N.	IPC		SLL		Overall	
	CSP Score in +	CSP Score in -	CSP Score in +	CSP Score in -	CSP Score in +	CSP Score in -
1	94.02	-39.11	65.64	-0.01	159.66	-7.37
2	75.21	-79.44	82.60	-6.90	157.81	-17.19
3	58.24	-46.71	73.99	-68.26	58.23	-33.33
4	34.12	-106.86	46.11	-8.52	34.88	-57.55
5	68.36	-76.91	38.96	-35.17	27.22	-67.9
6	1.15			-10.84	0.1	-254.55
7	17.98			-177.64		
Av	349.08/7	-349.03/5	307.3/5	-307.34/7	-437.9/6	-437.89/6
Mn	=49.87	= 69.81	=61.46	= 43.91	= -72.98	= -72.98

The Average Mean of all cities nRCC carried out, i.e., 147.24 for IPC; 129.50 for SLL and 276.74 for overall.

The average mean (AvMn) of overall nRCC:

4. nRCC (IPC)+nRCC (SLL)=overall nRCC calculated by applying the following formula, i.e.

5.

$$\text{Average mean} = \frac{\sum \text{nRCC (3320.87)}}{\text{city counts (12)}}$$

(Overall) (see table 3 ; similarly AvMn

calculated for IPC and SLL)

Further, nRCC is converted into CSP to determine the safety status of the cities.

6. (See table 3; similarly CSP of other cities calculated as per IPC, SLL and overall)

7. a)

Average mean of overall city's CSP in (+)

$$= \frac{\sum \text{of city's CSP (437.90)}}{\text{city counts (6)}}$$

b)

Average mean of city's CSP in (-)

$$= \frac{\sum \text{of city's CSP (-437.89)}}{\text{city counts (6)}}$$

Similarly, the above method applied to get nRCC and CSP for both IPC and SLL.

Refer table 2: the seven cities found CSP in + and five cities in - under IPC; five cities found CSP in + and seven cities - under SLL and as overall equal cities six found in + and - both.

Further, the cities divided into following five safety statuses as per the gained CSP.

Safe City Status

It assumes the city's safety level as per IPC as...

If CSP=0 then the city is considered as 'Safe'

If 49.87<CSP then the city is considered as 'Relatively Safe'

If 0<CSP≤49.87 then the city is considered as 'Unsafe'

If 0<CSP≤-69.81 then the city is considered as 'Relatively Unsafe'

If -69.81<CSP then the city is considered as 'More Unsafe'

It assumes the city's safety level as per SLL as...

If CSP=0 then the city is considered as 'Safe'

If 61.46<CSP then the city is considered as 'Relatively Safe'

If 0<CSP≤61.46 then the city is considered as 'Unsafe'

If 0<CSP≤-43.91 then the city is considered as 'Relatively Unsafe'

If -43.91<CSP then the city is considered as 'More Unsafe'

It assumes an overall city's safety level as...

If CSP=0 then the city is considered as 'Safe'

If 72.98<CSP then the city is considered as 'Relatively Safe'

If 0<CSP≤72.98 then the city is considered as 'Unsafe'

If 0<CSP≤-72.98 then the city is considered as 'Relatively Unsafe'

If -72.98<CSP then the city is considered as 'More Unsafe'

The CSP score assists the comparison among cities and ranks them in order as depicted in table 3. An ideal condition assumed for a safe city; the city which obtained zero (0)

Safe → Relatively Safe → Unsafe → Relatively Unsafe → More Unsafe

Table 3 - Overall safety status of smart cities in order.

		IPC			SLL			Overall			
Rank	City	nRCC#	CSP ^	Status	nRCC#	CSP ^	Status	nRCC#	CSP ^	Status	Rank
4	SU	53.22	94.02	Relatively Safe	63.86	65.64	Relatively Safe	117.08	159.66	Relatively Safe	1
6	AM	72.03	75.21	Relatively Safe	46.90	82.60	Relatively Safe	118.93	157.81	Relatively Safe	2
18	CH	89.00	58.24	Relatively Safe	129.51	-0.01	Relatively Safe	218.51	58.23	Relatively Safe	3
2	PN	186.35	-39.11	Relatively Safe	55.51	73.99	Relatively Safe	241.86	34.88	Relatively Safe	4
8	VP	113.12	34.12	Unsafe	136.40	-6.90	Relatively Unsafe	249.52	27.22	Unsafe	5
13	CB	78.88	68.36	Relatively Safe	197.76	-68.26	More Unsafe	276.64	0.1	Unsafe	6
19	LD	146.09	1.15	Unsafe	138.02	-8.52	Relatively Unsafe	284.11	-7.37	Relatively Unsafe	7
5	KC	129.26	17.98	Unsafe	164.67	-35.17	Relatively Unsafe	293.93	-17.19	Relatively Unsafe	8
11	ID	226.68	-79.44	More Unsafe	83.39	46.11	Unsafe	310.07	-33.33	Relatively Unsafe	9
7	JB	193.95	-46.71	Relatively Unsafe	140.34	-10.84	Relatively Unsafe	334.29	-57.55	Relatively Unsafe	10
20	BP	254.10	-106.86	More Unsafe	90.54	38.96	Unsafe	344.64	-67.9	Relatively Unsafe	11
3	JP	224.15	-76.91	More Unsafe	307.14	-177.64	More Unsafe	531.29	-254.55	More Unsafe	12
Av		1766.83/1			1554.04/1			3320.87/1			
Mn		2=147.24			2=129.50			2=276.74			

*Smart Cities Mission, (2015) Ranking; # See table 4 and 5; ^ See table 2

CSP score considered a safe city and zero (0) CSP score set as an index for the safe city. The obtained CSP score by the cities in plus and in minus appropriately assigned safety status in table 3. The city's safety status presented as per the obtained CSP score for IPC, SLL and overall separately. It depicts the safety level in decreasing order from safe to unsafe. (From city SU to JP) Prima facie, none city found safe as per the scale set forth. Inconsistency noticed in smart city rank and safety status of the cities while comparing CSP score as per the IPC, SLL and overall.

Concluding Remarks

The study observes no consistency in the

rank of a smart city and a safe city. Hence, the rank of smart cities irrelevant to their status of safety. While comparing, two safer cities as per RCC of table 1 found a place in the top three safer cities as per nRCC in table 3. Identically all five top unsafe cities of table 1 found the place among top five unsafe cities in table 3 but in a changed order. Hence, results of this study are along the line which proved its worth by filling the proportional gaps which observed in table 1 and by applied to the proposed model; it presents refined results in table 3. By applying the model anyone can find the safety status of a particular city and can rank them by comparing among other

uniform cities. The method used in this study may be an example to other similar studies or will add value to more exhaustive studies. The study will draw the attention of think tanks, government agencies, and individuals who involve in research, policy making, and execution of decisions. Further, it will encourage them to develop benchmarks for the evaluation processes.

It is acknowledged that the results are significant even though there are many limitations to the study. It recommends a holistic evaluation framework comprising personal safety, digital security, health security, infrastructure safety, a safety measure for the natural disaster, and human errors, etc. Further, an integrated uniform crime reporting platform (to lodge FIR) is in the want of dealing with under-reported cases. Standardization of crime statistics recording and reporting is substantially essential to compare identical and contrary

figures for better evaluation model. Through the literature review, it identifies the above components that may enhance the evaluation procedure and could be the topics for future research. Further, standardization of crime data from local to international level is highly requisite for a more structured and elaborative evaluation method.

* Due to non-availability of AIR, lowest RCC of the city considered as AIR for that particular crime.

Note: 1. The calculated values are rounded up to one decimal and two decimals for RCC and nRCC (in bracket) respectively; hence an approximate value is used for analysis.

2. While conducting a study for other cities, existing crime may be removed or added new crime(s), sub-crime(s) or category as require

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Table 4: IPC-Crimes, Sub-crimes with AIR, Value points of crime category, and city's RCC with nRCC in (bracket)

Sr	Crimes	Sub-Crimes	AIR	Value points	AM	BP	CB	CH	ID	JB	JP	KC	LD	PN	SU	VP
1	Murder	Murders	2.6	5	1.4 (2.69)	2.9 (5.58)	1.2 (2.31)	1.6 (3.08)	3.2 (6.15)	3.2 (6.15)	3.7 (7.12)	0.5 (0.96)	4.5 (8.65)	2.5 (4.81)	2.2 (4.23)	1.4 (2.69)
2		Attempt to Commit Murder	3.7	4	0.8 (0.86)	4.0 (4.32)	1.8 (1.95)	2.4 (2.59)	9.1 (9.84)	9.7 (10.49)	3.4 (3.68)	0.9 (0.97)	4.2 (4.54)	3.6 (3.89)	0.4 (0.43)	2.8 (3.03)
3	Homicide	Culpable Homicide not amounting to Murder	0.3	4	0.1 (1.33)	0.3 (4)	0 (0)	0.1 (1.33)	0 (0)	0.3 (4)	0.2 (2.67)	0.1 (1.33)	0.7 (9.33)	0.2 (2.67)	0.1 (1.33)	0 (0)
4		Attempt to Commit Culpable Homicide	0.5	4	0 (0)	0.5 (4)	0 (0)	0 (0)	0.1 (0.8)	0.1 (0.8)	0 (0)	1.1 (8.8)	0 (0)	0 (0)	0 (0)	0 (0)
5	Rape	Rape	5.7	5	0.9 (0.79)	7.1 (6.23)	0.1 (0.09)	0.3 (0.26)	3.5 (3.07)	6.5 (5.7)	9.1 (7.98)	2.4 (2.11)	6.3 (5.53)	5.3 (4.65)	0.9 (0.79)	5 (4.39)
6		Attempts to Commit Rape	0.7	4	0 (0)	0.2 (1.14)	0 (0)	0 (0)	0.1 (0.57)	0.2 (1.14)	0.1 (0.57)	0 (0)	1.1 (6.29)	0 (0)	0 (0)	0.1 (0.57)
7	Kidnapping & Abduction	for Murder	0.1	3	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
8		for Ransom	0.1	3	0.1 (4)	0 (0)	0 (0)	0.1 (4)	0 (0)	0 (0)	0.1 (4)	0 (0)	0 (0)	0.2 (8)	0.2 (8)	0 (0)
9		of Women to Compel her for Marriage	5.2	3	3.1 (2.38)	11.9 (9.15)	0 (0)	0.1 (0.08)	2.6 (2)	7.3 (5.62)	2.8 (2.15)	0.4 (0.31)	13.4 (10.31)	0.8 (0.62)	1.5 (1.15)	0 (0)
10		Other Kidnapping & Abduction	3.9	3	2.1 (1.62)	10.9 (8.38)	0.3 (0.23)	0.3 (0.23)	18.2 (14)	21.3 (16.38)	17.6 (13.54)	0.2 (0.15)	3.6 (2.77)	13 (10)	3.7 (2.85)	10.9 (8.38)
11	Dacoity	Dacoity with Murder	0	5	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
12		Dacoity	0.3	4	0.1 (1.33)	0.1 (1.33)	0.2 (2.67)	0.1 (1.33)	0.2 (2.67)	0.2 (2.67)	0 (0)	0.4 (5.33)	0.1 (1.33)	0.8 (10.67)	0.4 (5.33)	0 (0)

13		Preparation and Assembly for Dacoity	0.3	2	0 (0)	0.5 (3.33)	0.1 (0.67)	0 (0)	0.6 (4)	0.2 (1.33)	0.2 (1.33)	0.3 (2)	1.9 (12.67)	0.6 (4)	0.1 (0.67)	0 (0)
14		Robbery	2.9	4	2.0 (2.76)	7.9 (10.9)	5.6 (7.72)	0.8 (1.1)	11.9 (16.41)	8 (11.03)	10.2 (14.07)	1.6 (2.21)	1.1 (1.52)	14.5 (20)	0.7 (0.97)	1.7 (2.34)
15	Criminal Trespass /	Criminal Trespass / Burglary	6.9	3	6.7 (2.91)	0 (0)	5.0 (2.17)	2.5 (1.09)	52.6 (22.87)	29.7 (12.91)	33.6 (14.61)	3.4 (1.48)	0.3 (0.13)	16.9 (7.35)	4.5 (1.96)	16.0 (6.96)
16	Burglary	House Trespass & House Breaking	2.2	3	2.3 (3.14)	47.2 (64.36)	1.3 (1.77)	0.6 (0.82)	0 (0)	6.5 (8.86)	7.1 (9.68)	1.2 (1.64)	13.8 (18.82)	6.7 (9.14)	0.7 (0.95)	2.9 (3.95)
17		Auto Theft	15.8	3	26.8 (5.09)	126.9 (24.09)	9.6 (1.82)	2.3 (0.44)	183.1 (34.77)	42.8 (8.13)	177.4 (33.68)	5.2 (0.99)	10.7 (2.03)	53.3 (10.12)	19 (3.61)	20.8 (3.95)
18	Theft	Other Theft	21.3	2	12.4 (1.16)	40.4 (3.79)	12.8 (1.20)	9.8 (0.92)	68.7 (6.45)	26.1 (2.45)	63.1 (5.92)	10.1 (0.95)	24.8 (2.33)	46.5 (4.37)	6.4 (0.6)	37.7 (3.54)
19		Unlawful Assembly	0.9	2	0.4 (0.89)	0 (0)	2.4 (5.3)	2.6 (5.78)	0 (0)	0 (0)	9 (20)	5.5 (12.22)	0 (0)	0.1 (0.22)	0.1 (0.22)	0 (0)
20		Riots	5.2	4	1.9 (1.46)	2.8 (2.15)	1.8 (1.38)	1.7 (1.31)	2.2 (1.69)	5 (3.85)	2.3 (1.77)	2 (1.54)	0 (0)	5.1 (3.92)	2.5 (1.92)	0.3 (0.23)
21		Criminal Breach of Trust	1.5	3	2.6 (5.20)	1.7 (3.4)	0.6 (1.2)	0.8 (1.6)	2.0 (4)	0.6 (1.2)	6 (12)	0.8 (1.6)	2.3 (4.6)	2.1 (4.2)	0.5 (1)	3.9 (7.8)
22		Cheating	9.2	1	2.8 (0.30)	9.0 (0.98)	7.2 (0.78)	3.1 (0.34)	6.0 (0.65)	6.9 (0.75)	176.5 (19.78)	26.6 (2.89)	27.9 (3.03)	15.5 (1.68)	7.8 (0.85)	29.9 (3.25)
23		Forgery	1.1	2	0.4 (0.73)	0.1 (0.18)	0.1 (0.18)	1.7 (3.09)	1.2 (2.18)	0.4 (0.73)	0.1 (0.18)	0.5 (0.91)	0.1 (0.18)	0.1 (0.18)	0.8 (1.45)	0.6 (1.09)
24	Counterfeiting	Offences Reltd to Coin/ Government Stamp/ Currency & Bank Notes	0.1	3	0.1 (3)	0.5 (15)	0 (0)	0.8 (24)	0.2 (6)	0 (0)	0 (0)	0.3 (9)	0 (0)	0.2 (6)	0.1 (3)	0 (0)
25		Arson	0.8	4	0.2 (1)	1.4 (7)	0.6 (3)	0.2 (1)	2.6 (13)	0.5 (2.5)	0.7 (3.5)	0.3 (1.5)	0.4 (2)	1.1 (5.5)	0.1 (0.5)	0.9 (4.5)
26	Grievous Hurt	Grievous Hurt	7.4	3	2.7 (1.09)	1.4 (0.57)	1.0 (0.41)	0.5 (0.2)	3.4 (1.38)	7.3 (2.96)	0.3 (0.12)	3.9 (1.58)	12.3 (4.99)	12.9 (5.23)	3.8 (1.54)	4.2 (1.7)

27		Acid Attack	0	4	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0.1 (0)	0 (0)	0 (0)	0.1 (0)
28		Attempt to Acid Attack	0	3	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
29		Dowry Deaths	1.3	5	0 (0)	0.5 (1.92)	0 (0)	0.1 (0.38)	0.8 (3.08)	1 (3.85)	1 (3.85)	0 (0)	0.2 (0.77)	0.3 (1.15)	0 (0)	0.4 (1.54)
30		Sexual Harassment	4.0	4	1.2 (1.20)	17.1 (17.1)	0 (0)	0.1 (0.1)	4.2 (4.2)	5.3 (5.3)	1.6 (1.6)	6.6 (6.6)	3 (3)	5.8 (5.8)	0.9 (0.9)	3.8 (3.8)
31	Assault on Women with Intent to	Use of Criminal Force With Intent to Disrobe	1.4	3	0.1 (0.21)	0 (0)	0 (0)	0 (0)	0.1 (0.21)	0.9 (1.93)	0.8 (1.71)	0 (0)	0.8 (1.71)	0.4 (0.86)	0 (0)	1.4 (3)
32	Outrage her Modesty	Voyeurism	0.1	1	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0.3 (3)	0.1 (1)	0 (0)	0.1 (1)	0.1 (1)	0 (0)	0.4 (4)
33		Stalking	1.0	2	0.3 (0.60)	0 (0)	0 (0)	0 (0)	1 (2)	3.2 (6.4)	0.7 (1.4)	0 (0)	0.4 (0.8)	3 (6)	0.1 (0.2)	2.2 (4.4)
34		Others	7.0	1	0.7 (0.10)	0 (0)	0.6 (0.09)	0.6 (0.09)	4.5 (0.64)	5.6 (0.8)	7.4 (1.06)	0 (0)	3.8 (0.54)	4.5 (0.64)	0.1 (0.01)	7.1 (1.01)
35		At Office Premises	0	2	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
36		Other Places Related to Work	0.1	2	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0.4 (8)	0 (0)	0 (0)
37	Insult to Modesty of	In Public Transport System	0.1	2	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
38	Women	Places other Than above Places	1.2	2	0 (0)	1.0 (1.67)	0 (0)	0 (0)	4.8 (8)	1.5 (2.5)	0 (0)	0.9 (1.5)	0.4 (0.67)	1 (1.67)	0 (0)	0.5 (0.83)
39		Cruelty by Husband or His Relatives	18.7	3	9.4 (1.51)	16.7 (2.68)	1.9 (0.30)	2.3 (0.37)	9.9 (1.59)	11.1 (1.78)	36.2 (5.81)	5.8 (0.93)	7.9 (1.27)	7.5 (1.2)	5.7 (0.91)	22.1 (3.55)
40		Importation of Girls from Foreign Country	0	3	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
41	Causing Deaths by	Deaths Due to Rash / Negligent Driving	10.3	4	5.8 (2.25)	8.8 (3.42)	12.0 (4.66)	10.0 (3.88)	10.3 (4)	17.6 (6.83)	28.2 (10.95)	6.4 (2.49)	17.0 (6.6)	9.2 (3.57)	5.6 (2.17)	22.4 (8.7)
42	Negligence	Deaths Due to other	0.4	5	0.1	0.8	1.3	1.2	1	1.5	0.2	0.1	0	0.8	0	1

		Causes			(12.5)	(10)	(16.25)	(15)	(12.5)	(18.76)	(2.5)	(12.5)	(0)	(10)	(0)	(12.5)
43	Offences	Sedition	0	4	0	0	0	0	0	0	0	0	0	0	0	0
					(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
44	Against State	Others	0	3	0	0	0	0	0	0	0	0	0	0	0	0
					(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
45	Offences	On Ground of Religion, Race, Birth Place, etc.	0.1*	3	0	0.1	0.4	0.1	0	0	0	0	0	0	0	0
	Promo -ting				(0)	(3)	(12)	(3)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
	Enmity															
46	Between Different Groups	Imputation, Assertions Prejudicial to National Integration	0	4	0	0	0	0	0	0	0	0	0	0	0	0
					(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
47		Extortion	0.8	4	0.7	0.6	0.9	0.9	1	2.1	0.5	0.3	0.5	1.4	0.3	0.6
					(3.5)	(3)	(4.5)	(4.5)	(5)	(10.5)	(2.5)	(1.5)	(2.5)	(7)	(1.5)	(3)
48		Disclosure of Identity	0	2	0	0	0	0	0	0	0	0	0	0	0	0
					(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
		of Victims														
49		Causing Injuries under Rash Driving/Road Rage	35.8	3	37.9	178.9	58.3	74.9	198.8	159.2	76.1	495.8	0.2	26	12.2	80.1
					(3.18)	(14.99)	(4.89)	(6.28)	(16.66)	(13.34)	(6.36)	(41.55)	(0.02)	(2.18)	(1.02)	(6.71)
50		Human Trafficking	0.1	4	0	0	0	0	0	0	0	0	0	0	0	0
					(0)	(0)	(0)	(0)	(4)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
51		Unnatural Offences	0.1	3	0	0.3	0	0	0.2	0.2	0.1	0	0.8	0.3	0.1	0
					(0)	(9)	(0)	(0)	(6)	(0.6)	(3)	(0)	(24)	(9)	(3)	(0)
52		Other IPC Crimes	77.4	2	125.0	286.8	50.4	31.5	243.6	337.1	179.2	67.0	83.7	41.1	5.3	65.8
					(3.23)	(7.41)	(1.3)	(0.81)	(6.29)	(8.71)	(4.63)	(1.73)	(2.16)	(1.06)	(0.14)	(1.7)
		Total nRCC			(72.03)	(254.1)	(78.88)	(89)	(226.6)	(193.9)	(224.15)	(129.2)	(146.0)	(186.3)	(53.5)	(113.12)
)	0)))	8)	5))	6)	9)	5)	2))

Table 5: SLL-Crimes with AIR, Value points of crime category, and city's RCC with nRCC in (bracket)

Sr	Crimes	AIR	Value points	AM	BP	CB	CH	ID	JB	JP	KC	LD	PN	SU	VP
1	Arms Act, 1959	4.2	3	1.6 (1.14)	49.6 (35.43)	0	0.1 (0.07)	39.6 (28.29)	31.0 (22.14)	7.8 (5.57)	0.2 (0.14)	2.3 (1.64)	2.2 (1.57)	0.5 (0.36)	0.1 (0.07)
2	NDPS Act	4	4	0.1 (0.1)	0.8 (0.8)	4.8 (4.8)	1.4 (1.4)	0.9 (0.9)	4 (4)	0.7 (0.7)	30.9 (30.9)	30.2 (30.2)	1.1 (1.10)	0.1 (0.1)	1.7 (1.7)
3	Gambling Act	10.3	2	20.8 (4.04)	72.7 (14.12)	14.2 (2.76)	2.6 (0.5)	42.9 (8.33)	103.9 (20.17)	44.2 (8.58)	2.3 (0.45)	22.7 (4.41)	8.2 (1.59)	17.9 (3.48)	1.4 (0.27)
4	Excise Act	16.4	2	0	132.7 (16.18)	0	0	58.2 (7.1)	133.2 (16.34)	32.8 (4)	0	26.8 (3.27)	0	0	3.1 (0.38)
5	Prohibition Act	39.8	2	205.1 (10.46)	0	124.5 (6.35)	101.1 (5.16)	0	0	0	191.8 (9.79)	0	27.2 (1.39)	903.9 (46.12)	0
6	Explosives & Explosive Substances Act	0.3	4	0.9 (12)	0.1 (1.33)	0.1 (1.33)	0.1 (1.33)	0.5 (6.67)	3.9 (52)	0.5 (6.67)	0.1 (1.33)	0	0	0.3 (4)	0.5 (6.67)
7	Immoral Traffic (Prevention) Act	0.2	4	0.1 (2)	0.2 (4)	1.7 (34)	2.3 (46)	0.4 (8)	0	0.7 (14)	2.8 (56)	1.3 (26)	1.2 (24)	0	2.0 (40)
8	Indian Railways Act	0.1*	2	0	0	0	0	0	0	0	0.1 (2)	0	0	0	0
9	Registration of Foreigners Act	0.1*	3	0	0	0	0	0	0	0.1 (3)	0.1 (3)	0	0	0	0
10	Protection of Civil Rights Act	0.2*	2	0	0	0	0	0	0	0	0	0	0.2 (2)	0	0
11	Passport Act	0.1	2	0	0.1 (2)	0	0.8 (16)	0	0	0.1 (2)	0.2 (4)	0	0	0	0
12	Essential Commodities Act	0.4	2	0	0.6 (3)	0	0	0.3 (1.5)	0	0.1 (0.5)	0.8 (4)	1.1 (5.5)	0.7 (3.5)	0	0.3 (1.5)

13	Antiquities & Art Treasures Act, 1972	0	2	0	0	0	0	0	0	0	0	0	0	0	0
14	Dowry Prohibition Act	1.6	3	0	0	0	0	0	0.9 (1.69)	0	0	0	0	0	0
15	Indecent Representation of Women (Prohibition) Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
16	Copy Right Act, 1957	0.4	2	0.6 (3)	0.7 (3.5)	6.2 (31)	4.8 (24)	0.2 (1)	0.4 (2)	0.9 (4.5)	0.5 (2.5)	2.5 (12.5)	1.0 (5)	0.3 (1.5)	0.8 (4)
17	Protection of Children from Sexual Offences Act	3.3	4	3.0 (3.64)	5.5 (6.67)	1.3 (1.58)	1.6 (1.94)	8.7 (10.55)	10.7 (12.97)	0.5 (0.61)	0.4 (0.48)	0	0	3.0 (3.64)	0.1 (0.12)
18	SC/ST (Prevention of Atrocities) Act	2.2	2	0.3 (0.27)	0	0	0.1 (0.09)	0	0	0.4 (0.36)	0.1 (0.09)	0.2 (0.18)	0.1 (0.09)	0	7.9 (7.18)
19	Forest Act	0.3	3	0	0	0	0	0	0	0.4 (4)	0	0.1 (1)	0	0	0
20	Prohibition of Child Marriage Act	0.1	2	0	0	0	0	0	0	0	0	0.1 (2)	0	0	0.1 (2)
21	Protection of Women From Domestic Violence Act	0.1	3	0	0	0	0	0	0	0	0.2 (6)	0	0	0	0
22	Information Technology Act	0.6	3	0.4 (2)	0.7 (3.5)	0.4 (2)	0.3 (1.5)	1.4 (7)	1.8 (9)	14.9 (74.5)	1.0 (5)	1.2 (6)	0.3 (1.5)	0.3 (1.6)	13.9 (69.5)
23	Official Secrets Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
24	Electricity Act	7.8	2	0	0	0	0	0.1 (0.03)	0	6.1 (1.56)	0	0	0	0.1 (0.03)	0
25	Wildlife Protection Act	0.1	3	0	0	0	0	0	0	0.1 (3)	0	0	0.1 (3)	0	0.1 (3)
26	Bonded Labor System (Abolition) Act	0.1*	3	0	0	0	0	0	0	0	0	0.1 (3)	0	0	0
27	Environmental (Protection) Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
28	Air (Prevention & Control of Pollution) Act, 1981	0.1*	3	0	0	0	0	0	0	0.1 (3)	0	0	0	0	0

29	Water (Prevention & Control of Pollution) Act, 1974	0	3	0	0	0	0	0	0	0	0	0	0	0	0
30	National Security Act	1.2*	4	0	0	0	0	1.2 (4)	0	0	0	0	0	0	0
31	Unlawful Activities (Prevention) Act	0.1	3	0	0	0	0	0	0	0	0.2 (6)	0	0	0	0
32	Young Persons (Harmful Pub.) Act	0.1	3	0	0	0	0	0	0	0	0	0	0	0	0
33	Railway Property (Unlawful Possession) Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
34	Prevention of Damage To Public Property Act	0.4	3	0	0	1.3 (9.75)	0.4 (3)	0	0	1.5 (11.25)	1.0 (7.5)	0	0.8 (6)	0	0
35	Transplantation of Human Organs Act	0	4	0	0	0	0	0	0	0	0	0	0	0	0
36	Trade Marks Act	0.1*	2	0.1	0	0	0.1	0	0	0	0	0	0	0	0
				(2)			(2)								
37	Prevention of Insults To National Honor Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
38	State Emblem of India (Prohibition of Improper Use) Act, 2005	0	2	0	0	0	0	0	0	0	0	0	0	0	0
39	Lotteries (Regulation) Act	0.3	2	0	0	15.5 (103.33)	3.0 (20)	0	0	0	0	3.4 (22.67)	0	0	0
40	Citizenship Act, 1955	0	3	0	0	0	0	0	0	0	0	0	0	0	0
41	Foreigners Act	0.2	3	0	0	0	0	0	0	0	0	0.1 (1.5)	0.1 (1.5)	0	0
42	Place of Worship (Spl Provisions) Act	0	2	0	0	0	0	0	0	0	0	0	0	0	0
43	Religious Institution (Prevention of Misuse) Act	0	2	0	0	0	0	0	0	0	0	0	0	0	0

44	Representation of the People Act	0.1	3	0	0	0	0	0	0	0	0	0	0	0	0
45	Emigration Act	0.5*	3	0	0	0	0	0	0	0	0.8 (4.8)	0.5 (3)	0	0	0
46	Juvenile Justice (Care And Protection of Children) Act	0.1*	3	0.2 (6)	0	0	0	0	0	5.3 (159)	0.4 (12)	0.5 (15)	0.1 (3)	0	0
47	Infant Milk Substitutes, Feeding Bottles And Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
48	Anti-Hijacking Act, 1982	0	4	0	0	0	0	0	0	0	0	0	0	0	0
49	Atomic Energy Act, 1962	0	4	0	0	0	0	0	0	0	0	0	0	0	0
50	Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act	0	5	0	0	0	0	0	0	0	0	0	0	0	0
51	Safety of Civil Aviation Act	0	4	0	0	0	0	0	0	0	0	0	0	0	0
52	Safety of Maritime Navigation & Fixed Platforms On Continental Shelf Act	0	4	0	0	0	0	0	0	0	0	0	0	0	0
53	Manual Scavengers & Construction of Dry Latrines (Prohibition) Act	0	2	0	0	0	0	0	0	0	0	0	0	0	0
54	Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act	0	3	0	0	0	0	0	0	0	0	0	0	0	0
55	The Maritime Zones of India (Regulation of fishing by foreign vessels) Act, 1981	0	2	0	0	0	0	0	0	0	0	0	0	0	0
56	Other SLL Crimes	258.9	2	32.1 (0.25)	1.3 (0.01)	111.9 (0.86)	843.9 (6.52)	2.7 (0.02)	3.4 (0.03)	43.9 (0.34)	1125.4 (8.69)	19.5 (0.15)	35.4 (0.27)	392.4 (3.03)	1.6 (0.01)
	Total nRCC			(46.9)	(90.54)	(197.76)	(129.51)	(83.39)	(140.34)	(307.14)	(164.67)	(138.02)	(55.51)	(63.86)	(136.4)

ATTITUDE TO PRISON REFORMS: AN EMPIRICAL SURVEY

Upneet Lalli*

ABSTRACT

Today there is the need of reformation in the prison system throughout the world. Internationally, prison reforms have been taken seriously. The Indian prison system is still administered under the colonial Prisons Act of 1894. In the Past, there have been many attempts to improve the condition of Prisons in India but unfortunately, a very little appears to have changed at the grass-roots level. The present study provides the empirical data to study the attitude of the public, prison staff and advocates towards the issue of prison reforms. Apart from the empirical data, the paper also examines the historical background of prison reforms and problems faced by prison system in India. Finally, the paper concludes with the suggestions and conclusion of the author drawn from the analysis made in this research article.

KEY WORDS

Prison reforms, Human Rights, Public Opinion, Rehabilitation, Work Programs.

Introduction

Deeply rooted in history and tradition, the correctional system of any country reflects the attitudes of the public shaped by evolving morals, ethics and social cultural norms. The very inception of the idea of prison reform can be attributed to two factors – recidivism and the prison system’s failure of effectively rehabilitating prisoners.¹ However, in present times the slow but steady movement through retribution, deterrence and mere incapacitation towards more progressive ways of dealing with prisoners have started being explored and established by the penal estate.²

Historical Background of Prison Reforms

The word “Reform” is derived from the Latin word ‘*reformato*’, which denotes the improvement or amendment of what is wrong and unacceptable. As per the Cambridge dictionary, the word reform means “an improvement, especially in

a person’s behaviour or in the structure of something”. Therefore, prison reform is an attempt to bring legal changes in the prison system. It also indicates establishment of an efficient penal system and the implementation of alternatives to imprisonment. However, prison reforms is hardly a priority as compared to economic reforms, since it does not seemingly affect the common person.

Earlier prisons were thought of as a more humane form of punishment. Prison reform ideas included humane prison conditions, access to legal counsel and protection against cruelty and violence. The most notable prison reformer was John Howard. Regarded as the founding father of prison reforms, he toured Europe to observe prison conditions. In fact the oldest penal reform organisation in the world the ‘Howard League for Penal Reform’ charity in the United Kingdom, is named after John Howard. While the Quakers in the

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¹O’Brien, P. (1995) ‘The Prison on the Continent: Europe 1865–1965’ in N. Morris and D. Rothman (eds) *The Oxford History of Prisons: The Practice of Punishment in Western Society*. New York: Oxford University Press, pp. 178–201.

²Kirkpatrick, A. M. (1960) ‘Prisoners’ Aid and Penal Reform’, *Crime & Delinquency*, 6(4), pp.383–390.

UK spearheaded prison reform during the Victorian Age, America saw a series of riots at Attica in 1970's which ameliorated the prison system through judicial activism.

As early as the freedom struggle in India, prisons have been institutions of notoriety. Prisons at that time housed the most prominent leaders in the struggle for Indian Independence from Bhagat Singh to Mahatma Gandhi and Jawaharlal Nehru. Nehru in his book *The Discovery of India* condemned prison life as the most unpleasant experience.³ Since Independence from the colonial masters, the Indian prison system has seen a sea change. Even though progressive judicial interventions by the Indian judiciary has stressed on reformation, a lot still needs to be done to bring in desired reforms and their implementation.

Problems Faced by Prison System in India

The judiciary in India has been instrumental in making prisons more humane by abolishing solitary confinement and the archaic and cruel practice of whipping. Nevertheless, several problems still plague the prisons today.

- **Overcrowding**

Some of the problems include overcrowding, increasing number of undertrials, inhuman prison conditions, lack of hygiene, mental health issues etc. Overcrowding is a key concern in the prison systems and the rapid growth of the prison population is a cause of concern. In prisons across India, there are 4,50,696 prisoners against the capacity of 3,91,574 as of 2017. The prisons are overcrowded at 15.1% against the authorized capacity. Out of which 4,31,823 (95.8%) inmates were men and 18,873

(4.2%) were female inmates. A total of 6,634 inmates lodged in various jails in India were mentally ill which accounts for 1.5% of the total inmates. The percentage of undertrial prisoners in 2017 was 68.5% while in year 2000 it was 71.2%. Even though the percentage of undertrial prisoners has decreased, Indian prisons are still facing overcrowding, due to a high percentage of undertrials in the prison population (NCRB, 2017).⁴ On the contrary, in a welfare state like Sweden, prisons are being shut down owing to not only a dwindling prison population but also because an emphasis on non-institutional alternatives to punishment including conditional sentences, probation for first-time offenders and the more extensive use of fines.

There is clear deficiency of ideas in justice administration in India. While public officials and social workers are agreed upon the need to reduce overcrowding, there is barely any endeavour onto reduce overcrowding. Obviously there is fear of backlash against the move to decriminalize certain offences (Raghavan, 2018).⁵

Low priority to prison reforms

While police reforms have been actively taken up by the government owing to public involvement, prison reform fails to find a place in the election agenda in India. Prison reforms have no political leverage. As prisoners do not have right to vote, so they neither win nor lose votes for any political party and hence their issues get neglected in poll manifestoes. During the winter session 2017-18 of the Parliament, Members of Parliament raised 16 questions regarding issues relating to prisons and prisoners. These questions pertained to issues related to prison conditions and

³Shreya Goswami, *Bhagat Singh to Jawaharlal Nehru, here's what our leaders experienced in British jails*, 13 August 2017, *India Today*. Available at: <https://www.indiatoday.in/lifestyle/people/story/indian-leaders-british-prisons-independence-struggle-bhagat-singh-mk-gandhi-jawaharlal-nehru-lifest-1029351-2017-08-13>

⁴National Crime Records Bureau. (2017) 'Prison Statistics India', New Delhi: Ministry of Home Affairs

⁵Raghavan, R.K. (2018) 'Ripe for prison reform', *The Hindu*, 22 October.

prisons monitoring, legal aid for prisoners, women prisoners, bail and hearing of cases, SC & ST prisoners and foreign national prisoners (CHRI, 2018).⁶ In the following Winter Session of 2018 - 19, 32 questions on prisons on a variety of issues such as deaths in custody, torture, legal aid, Indian nationals in foreign custody, and prison conditions, among other things were again raised (CHRI, 2019).⁷ Prison being a closed institution remains a low priority area for the political and executive leadership. Some countries are able to effectuate prison reform due to large public involvement. Norwegian prisons for example, have been designed with three core values in mind – normality, humanity and rehabilitation, making them a leader in dramatic prison reforms.

- **Resettlement issues of prisoners ignored**

The Indian prison system is a legacy of the British colonial rule and is based on the Prison Act of 1894. The purpose of the imprisonment has moved from punishment to reformation and rehabilitation of prisoners. However, this is not the case in India where resettlement of prisoners is still not an agenda. In the UK, the HMPPS under the Ministry of Justice is at the heart of the justice system in relation to prisons. Extensive programmes of analytical and research based work is undertaken by them to ensure reintegration of prisoners in society. The National Offender Management System (NOMS) and the Offender Assessment System (OASys) the new offender management system touted as “one of the most advanced system in the world” uses actuarial and dynamic risk

assessment to assess individual needs of offenders.⁸ Clearly, while the colonial rulers have incorporated advanced methods to help reforming prisoners, the prison system in India is still unchanged.

- **Change in nomenclature – but no actual change – need for structural changes**

With jails now being called “correctional homes/facilities”, it is clear that the government’s attitude is leaning towards reformation rather than mere punishment. However, a thought to ponder upon is whether the government really is inclined towards reformation and rehabilitation of prisoners or is it just a change in nomenclature? The goal of the Draft National Policy on Prison Reforms and Correctional Administration in 2007 stated “prisons in the country shall endeavour to reform and re-assimilate offenders in the social milieu by giving them appropriate correctional treatment.”⁹ Despite having this as a mission statement, no real structural changes have been effectuated by the government. There is a need is to implement the recommendations and bring in tangible structural changes. There is no after care and post release follow up of released prisoners and no policy for the reintegration of prisoners.

- **Prison staff issue**

Another cause of concern is the issue of understaffing. The role of prison staff is to ensure the safety and security of premises and inmates, administration of inmates and correctional and rehabilitation activities (Bureau of Police Research & Development, 2007).¹⁰ There is a constant need to change the existing inadequate

⁶CHRI. (2018) *Jail Mail: Prisons and Parliament*, Commonwealth Human Rights Initiative.

⁷CHRI. (2019) *Jail Mail: Prisons and Parliament – Winter Session 2018*, Commonwealth Human Rights Initiative.

⁸Research at MOJ (GOV.UK, Ministry of Justice) Available at: <https://www.gov.uk/government/organisations/ministry-of-justice/about/research> (Accessed 5 August 2018).

⁹Bureau of Police Research and Development (2007) *National Policy on Prison Reforms and Correctional Administration*, Available at: <http://www.bprd.nic.in/writereaddata/userfiles/file/5261991522-part%20i.pdf>

¹⁰Bureau of Police Research & Development. (2007) *National Policy on Prison Reforms and Correctional Administration*. New Delhi: BPR&D.

prison system to some new and better state (Silvia, 2003).¹¹ This calls for betterment of not just the prisons, but also we must pay attention to the very guardians of the prisons. The prison staff ratio at national level in India was 7 inmates per staff in all jails. Jharkhand has the highest prison staff ratio of 21 inmates per staff while Uttar Pradesh and Chhattisgarh have 14 and 11 inmates per staff respectively. The number of correctional staff is extremely low. Some states have no correctional staff. Women staff ratio is also very low. There were 25897 vacant posts in the prison as on 31 December 2017 (NCRB, 2017). According Lalli (2019a)¹² in most of the states the staff strength is inadequate. The guarding staff is underpaid, has poor service conditions, with limited or no promotions, and hence may be more vulnerable to corruption.

Public Perception Issues of Prisons

- **Less information on prisons**

In a survey of Britain, it was asked from the public that how much they knew about various branches of criminal justice such as police, courts, prison, probation service etc. It was observed that the British public knew less about prisons than the other branches of criminal justice. Less than one-third British public knew a great deal or a fair amount about prisons (MORI, 2003).¹³

Prison reforms in India- History

Prior to independence, numerous committees had been formed in India to bring about changes and reforms in prisons. Despite the Prisons Act, enacted in 1894 and various Committees that were set up to review the functioning of the prison system and propose reforms, problems persisted. The first such committee was the All India Jail Committee (1919-1920) which

identified rehabilitation and reformation of the offender as the main purpose of prison administration.

Prison is a state subject in the country under the Seventh Schedule. Dr. W.C. Reckless in his "Report on Jail Administration in India (1951-52)" made a plea for the reformatory approach in prison administration. Another landmark committee, which worked exclusively on prison reforms in the country, was the All India Committee on Jail Reforms (1980-83), also known as Justice Mulla Committee. It had made more than 600 recommendations related to various aspects such as living conditions, prison buildings, security and discipline, system of classification, medical services, work programmes and vocational training, undertrial prisoners, issues related to prison staff development and aftercare of prisoners. However, many of these recommendations still remain as dead letters. Various states have also set up their own prison reform committees from time to time. Some states have been able to usher in prison reforms to some extent while others have lagged behind. In the year 1987 Justice V. R. Krishna Iyer Committee on Women Prisoners recommended separate institutions for women offenders and that the staff for these institutions should comprise of women employees only.

It is, however, the courts in India that fill the gap between the prisoners' rights and prison jurisprudence by emphasizing the right to life that is available to each prisoner. In *Ramamurthy vs State of Karnataka*¹⁴ the Supreme Court observed that there were nine major problems, which afflicted the prison system in India and required immediate attention. These were: overcrowding, delay in trial, torture and ill-

¹¹Silvia, P. J. (2003) 'Throwing away the Key: Measuring Prison Reform Attitude. *Journal of Applied Social Psychology*', 33(12), pp.2553-2564.

¹²Lalli, U. (2019a) 'The sordid inside story', *The Tribune*, 10 May, pp.9

¹³MORI. (2003). *Public Confidence in Criminal Justice System*. London: MORI.

¹⁴Rama Murthy Vs State of Karnataka, AIR 1996 SC 424

treatment, neglect of health and hygiene, insubstantial food and inadequate clothing, prison vices, deficiency in communication, streamlining of jail visits; and management of open-air prisons. The Supreme Court in its judgement directed the concerned authorities to take appropriate steps, which included enacting a new Prisons Act to replace the century-old Prisons Act, 1894 and framing a new Model All India Jail Manual.

In *T. K. Gopal v. State of Karnataka (2000)*¹⁵ the Supreme Court advocated a therapeutic approach in dealing with the criminal tendencies of prisoners. It was pointed out that there could be several factors that lead a prisoner to commit a crime but nevertheless a prisoner is required to be treated as a human being entitled to all the basic human rights, human dignity and human sympathy.

On 13th June, 2013 former Chief Justice of India R.C. Lahoti, wrote a letter to Chief Justice of India and invited attention to the inhuman conditions prevailing in 1382 prisons in India as reflected in a news article published in the *Dainik Bhaskar*. The letter was registered as a public interest writ petition (PIL) and named as *Re-inhuman Conditions in 1382 Prisons*.¹⁶ In this case the Supreme Court has drawn attention to four issues regarding prisons. The four issues are: (i) Overcrowding in prisons; (ii) Unnatural death of prisoners; (iii) Gross inadequacy of staff, and (iv) Available staff being untrained or inadequately trained. A series of discussions have been given by Supreme Court in this PIL. The Supreme Court further issued guidelines relating to prison reforms in the country. It said, "prison reforms have been the subject matter of discussion and decisions rendered by this Court from time to time over the

last 35 years. Unfortunately, even though Article 21 of the Constitution requires a life of dignity for all persons, little appears to have changed on the ground as far as prisoners are concerned and we are once again required to deal with issues relating to prisons in the country and their reform." This judgement led to the setting-up of the most recent committee on prison reforms. Headed by former judge, Justice Amitava Roy, to look into overcrowding and other issues concerning prisoners. The Supreme Court also directed an Under Trial Review Committee to be set up in every district and recommended the release of undertrial prisoners and convicts who have undergone their sentence or are entitled to be released from jail due to bail or remission granted to them. The need of updating of Model Prison Manual was stressed by the Supreme Court. The MHA will conduct an annual review of the implementation of the Model Prison Manual 2016 for which considerable efforts have been made not only by senior officers of the MHA but also persons from civil society.

Objectives of the Research Study:

The main objectives of the research are to-

1. Study the perception and attitude of prison staff, advocates and the general public on the issues of prison reforms.
2. Compare the attitude of prison staff, advocates and the general public on the issues of prison reforms.
3. Study attitudes of prison staff, advocates and the general public on the retention of Capital punishment.

METHODOLOGY

Method of Data collection: In the present study, questionnaire has been used to collect primary data. The questions in

¹⁵*T.K. Gopal v. State of Karnataka, (2000) 6 SCC 168*

¹⁶*Re - Inhuman Conditions in 1382 Prisons [Writ Petition (Civil) No. 406 of 2013]*

the questionnaire have been derived from Prison Reform Attitude Scale by Paul J. Silvia (2003) in his study “*Throwing away the Key: Measuring Prison Reform Attitude*”.¹⁷ In the scale, some items and words have been changed to match the sensibilities of the Indian prison system. Several studies with diverse samples found that the scale has a consistent factor structure, good reliability, and a coherent pattern of relationships to other psychological variables. The scale appears to be a promising tool for studying how people want to treat those who have been officially rejected by society.

Sample Description: Both Convenience and purposive sampling techniques was adopted for selecting respondents. The data collected from advocates, public and prison staff was compared so that the differences in their opinion could be assessed/measured. Sample comprises of 51 advocates, 99 prison staff comprising 48 assistant superintendents, 32 deputy superintendents and 19 Superintendent from states of Punjab, Haryana, Himachal Pradesh and Delhi in the age group from 25 to 57 years (average age of Assistant Superintendent was 37 years, of Deputy Superintendent was 48.3 years and of Superintendent was 50 years.) The sampling of prison staff was incidental as all of them were attending training courses at the Institute of Correctional Administration, Chandigarh. Each participant was informed of the participation in this study was voluntary, confidential and anonymous. The sample from public comprised 102 which included students and other general public. There was not much difference between the opinion of students and the general public so their average percentage is combined.

Discussion of Results

The items of the questionnaire cover various aspects of prisons. The results are divided into various dimensions such as basic needs, better facilities, gender, capital imprisonment, staff, public’s interest in prisons, reformatory role, tough, alternatives to imprisonment and accountability. The study aims to assess the public, advocates and prison staff’s attitudes toward various prison reforms and measures.

Reformatory Role

Role of prisons has changed. Its role is not to just give punishment to the offender but to reform the offender and make him/her law-abiding person in the community once again. According to a survey by Russonello & Stewart (2001)¹⁸, most of the people were of the view that Prison teaches inmates to become criminals, so a system that locks up non-violent offenders will only lead to more crime, not less. In present research, it was observed that most of the respondents agreed that prison helps in reform offenders. There was not much difference between the response of advocates, public and prison staff. In an online survey by Lalli (2005)¹⁹, it was asked: “Do prison help reform offenders?” In this survey, 32.11% agreed while 33.48% disagreed and 13.3% slightly agreed and 13.3% slightly disagreed.

Basic Needs			
Contents	Advocates	Public/ student	Prison Staff
Prisoners should have better access to health care	94%	94%	98%
Educational programmes should be compulsory for all prison inmates	90%	84%	98%

¹⁸Russonello, B. & Stewart. (2001) ‘*Optimism, Pessimism, and Jailhouse Redemption: American Attitudes on Crime, Punishment, and Over-incarceration: Findings from a national survey conducted for the ACLU*’, Washington, DC: Belden Russonello & Stewart Research and Communications

¹⁹Lalli, U. (2005) *Modalities to Reduce Undertrial Prisoners in Prison*. New Delhi: Bureau of Police Research & Development.

Table 1 highlights the opinion of public advocates and prison staff on the basic needs of prisoners such as better access to health care and Educational programmes for prisoners. It was observed that there was not much difference between their opinion as 98% of prison officers and 94% advocates and public agreed that Prisoners should have better access to health care.

Better Facilities for Prisoners

Better facilities for prisoners include such as minimum wages for the labour, leisure activities, counselling facility etc. It was found that 89% of prison staff agreed that Prisoners should be paid at least minimum wages for their labour. Wage rates differ from one state to another and wages are given only to convicts who work in prison. Wage rates are classified as wage rate for skilled convicts, wage rate for semi-skilled and wage rate for unskilled. As per NCRB (2017) report on Prison Statistics among all the States / UTs, Delhi has provided highest wages of Rs 361, 328 and 297 per day to skilled convicts, semi-skilled convicts and unskilled convicts respectively during 2017. Wages of prisoners at Chandigarh Prison has been revised from Rupee 40/-, 50/- and 60/- to Rs. 60/-, 70/- and 80/- for unskilled, Semi-skilled and Skilled respectively. Similarly, in Punjab also wage rates have been revised as 60 for skilled, 50 for semi-skilled, 40 for unskilled per day.

In Sunil Batra vs Delhi Administration,²⁰ the Supreme Court observed that there was prevalence of legal illiteracy among prisoners. The Court suggested that there is need to get ready a Prisoners' Handbook in the regional language and make them freely available to the inmates. During the field visits to various prisons it was found in many prisons the library facilities were inadequate specially for women inmates. Even in the

only women prison at Ludhiana, there was no library. The idea of better libraries facilities for prisoners has a broad-based support as the majority of advocates (98%), public (83%), prison staff (94%) favoured it. Only 43% of prison officers agree that better facilities in prisons will lead to an increase in crime rate. This means most of the prison officers disagreed that better facilities in prisons will lead to an increase in crime rate. However, there was the difference in opinion among all the categories of respondents as only 56% public and 54% advocates agreed to it. In a research study by Lalli (2003) the perceptions of prison inmates on the question of whether "more facilities inside prison will encourage more offenders to commit crimes" were recorded. It was found that only 31.5% of prison inmates in Delhi Prison agreed that more facilities inside prison will encourage more offenders to commit crimes.²¹

In present research also it was observed that most of the respondents whether advocates (98%), public (96%) and prison officers (87%) supported the counselling facility for prisoners. Prison staff during various training programmes have also expressed that prison should have a trained counsellor. Since, they are unable to deal with the psychological problems especially among the drug addicts.

Women Prisoners with Children

In India, there are 4.2% women prisoners out of the total prison population. Because of their small number, their issues get neglected by the system and practically unknown to society at large. Many women live in prison with their children (below 6 years of age). Various research studies have shown that prison environment is not conducive to the normal growth and development of children. Imprisonment

20. *Sunil Batra vs. Delhi Administration* [1980 AIR 1579, 1980 SCR (2) 557]

21. Lalli, U. (2003). *Impact of Human Rights Training Programme on Prison Staff*. UK: British Council.

of mothers has an adverse impact on their children. According to Bhandari (2015)²² in a study of Central Jails of Rajasthan, 59% of the women inmates believe that the prison environment hinders their child's normal growth. They believe that the prison atmosphere is rife with profanity and this could have a bearing on the child's upbringing. Almost all (90%) women feel that children are bound to suffer from behavioral issues due to spending their childhood in the prison.

As per NCRB report on Prison Statistics India, there were 1,454 woman prisoners with 1,681 children inside prison in 2017. The age limits for the children who live with incarcerated mothers vary from one country to another. For instance, countries such as Ethiopia, Nigeria, Japan, and South Korea permit children to remain in prison until they are 18 months old. (Goitom, 2014).²³

In *R.D. Upadhyay vs. State of Andhra Pradesh & Ors*²⁴ the Hon'ble Supreme Court of India issued various guidelines and directions about various issues concerning imprisoned mothers and their children. The Bangkok rules²⁵ also provide for prisoners' children. As these children are not prisoners, they should not be treated as such. Prison services must provide for the full range of needs of children in prison with their mothers, whether medical, physical or psychological.

Table given above shows 80% of prison staff agreed that Women Prisoners should

be allowed to keep their children, While 68% advocates and 72% public agreed to it. During fieldwork also it was stated by many advocate respondents that if children were to live with their mother in prison than it would have a negative impact on the psychological well being of children.

Table: 3 Women Prisoners with Children

Agree			
Contents	Advocates	Public/ student	Prison Staff
Women Prisoners should be allowed to keep their children up to 6 years with them inside the prison	68%	72%	80%
	90%	84%	98%

Capital Punishment

As per the NCRB data, 121 prisoners were awarded capital punishment during the year 2017 and only 83 Prisoners' sentence was commuted to life imprisonment. In 142 countries, the capital punishment has been abolished in law and practice. In India, the death penalty is still used in 46 crimes under various penal provisions (Mustafa, 2019).²⁶ The Law Commission of India in its 262nd report preferred the elimination of the death penalty for all crimes except those related to terrorism (Mustafa, 2018).²⁷ Over 1,414 convicts in India have been executed since Independence. The last capital punishment to take place in India was of Yakub Memon, in 2015. He was convicted for his role in the 1993 Bombay blasts case.²⁸ In Martin Luther King's words,

²²Bhandari, A. (2015) 'Socio-Legal Status of Women Prisoners and their Dependent Children: A Study of Central Jails of Rajasthan', *Social Criminol*, 3 (1),pp.1-8.

²³Goitom, H. (2014) *Can Children Live in Prison with a Parent?* [Online]. Available at: <https://blogs.loc.gov/law/2014/08/can-children-live-in-prison-with-a-parent/>(Accessed: 14 January 2019).

²⁴R.D. Upadhyay vs. State of A.P, AIR 2006 SC 1946

²⁵UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders- Bangkok Rules (2010) Available at:https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf (Accessed: 25 January 2019)

²⁶Mustafa, F. (2019) 'When SC has ruled on life & death', *The Indian Express*, 11 March.

²⁷Mustafa, F. (2018) 'Death for child rapists will not be a deterrent', *Hindustan Times*, 01 May.

²⁸Bagriya, A. (2017) 'To hang or not to hang? Debate begins on capital punishment, alternative methods', *Hindustan Times*, 17 October.

“The arc of the moral universe must bend towards a more empathetic version of justice rather than a retributive one.”

Supreme Court in its landmark judgement of *Bachan Singh vs. State of Punjab* (1980)²⁹ held that the normal sentence for murder is life imprisonment and that the sentence of death can be imposed in very exceptional cases, described as the ‘rarest of rare cases’.

In *Shatrughan Chauhan and Anr. Vs. Union of India and others* (2014),³⁰ the rejection of mercy petitions by the President was challenged by the fifteen criminal convicts sentenced to the death penalty on the grounds of undue delay in disposal of their mercy petitions, mental illness, and solitary confinement as supervening grounds. The Supreme Court commuted the death sentences of 13 prisoners on the basis of undue delay while commuting the sentences of 2 prisoners on grounds of their mental illness. The Supreme Court also provide guidelines in the judgement for safeguarding the interest of death row convicts and to adopt a more humane process committed to the rule of law until the very end in carrying out death sentences.

After the *Nirbhaya incident*³¹ public demanded harder punishment for the criminal. Even the Government approved amendments to the Protection of Children from Sexual Offences (POCSO) Act, 2012. The changes prescribe stringent punishment, including death penalty for aggravated penetrative sexual assault of children.

In the present study, it was observed that most of the participants agreed that capital punishment must be retained as a punishment. However, the percentage of advocates favouring capital punishment was more in comparison with public and prison staff. The research study conducted in Belarus showed public opinion about capital punishment. When asked about death penalty abolition, more than half of respondents (63.8%) said they supported capital punishment. The opinion about death penalty varied depending on the respondents’ age and religious beliefs.³²

Table: 4 Showing Respondents’ Attitude towards Toughness in Prisons

Contents	Agree		
	Advocates	Public/ student	Prison Staff
Prisons should be much tougher for inmates	50%	54%	53%
Prisoners should be forced to do hard labour	22%	41%	41%

According to the research, conducted by Hart (2002), it was analyzed that public opinion on crime and criminal justice has significantly changed over the past few years. Today, the public prefers to deal with the roots of crime and rehabilitation of prisoners over strict sentencing.³³ In the present research study, it was found that slightly more than half of the respondents agreed that Prisons should be much tougher

²⁹*Bachan Singh vs. State of Punjab* (1980) (2 SCC 684)

³⁰*Shatrughan Chauhan and Anr. Vs. Union of India and others* (2014) 3 SCC

³¹A 23-year-old female physiotherapy intern was beaten, gang raped, and tortured in a private bus in which she was travelling with her friend. There were six others in the bus, including the driver, all of whom raped the woman. Thirteen days after the assault, she died during her treatment. The incident was widely condemned, both in India and internationally. Subsequently, public protests against the government for failing to provide adequate security for women took place in the country. Since Indian law does not allow the press to publish a rape victim’s name, the victim has become widely known as Nirbhaya.

³²Penal Reform International (2013). *Crime and Punishment: Public Perception, Judgment and opinion*. London: Penal Reform International (PRI) SATIO Group of Companies, Department of Sociological and Marketing Research.

³³Hart, P. D. (2002) *Changing Public Attitudes toward the Criminal Justice System*. The Open Society Institute Available at: <https://www.prisonpolicy.org/scans/CJI-Poll.pdf> (Accessed: 12 July 2018).

for inmates. Majority of the respondents disagreed that prisoners should be forced to do hard labour. Especially the advocate respondents strongly opposed to force prisoners to do hard labour.

In State of Gujarat vs. Hon'ble High court of Gujarat³⁴ court observed that there are two categories of prisoners the under-trial prisoners and convicted prisoners. Besides them, there are those detained as a preventive measure, and those undergoing detention for default of payment of fine. The Court stated that only convicted prisoners can be required to do labour in prison. Therefore, jail authorities can by law impose hard labour on only those convicted prisoners who are sentenced to rigorous imprisonment. The Court further noted that a person sentenced to simple imprisonment cannot be required to work unless he volunteers himself to do the work.

This definition of hard labour has also changed. Breaking stones or grinding flour is not hard labour but work programmes should be provided. Work programmes gives them a chance to develop marketable skills that will increase their potential for rehabilitation and meaningful employment on release. In many prisons, proper work programmes are not being provided to the prisoners.

Staff Development

The Mandela Rules³⁵ focussed on the necessity of training for staff prior to entry into service as well as ongoing in-service training. Rule 75 (3) of Mandela Rules reads that the prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel,

after entering on duty and during their career.

Table: 5 Showing Respondents' Attitude towards Staff Development

Agree			
Contents	Advocates	Public/ student	Prison Staff
Development of staff is essential for improvement	84%	92%	92%

The development of staff included the training of prison staff and various sensitization programmes etc. Majority of the respondents from all the strata agreed that development of staff essential for improvement.

Table: 6 Showing Respondents Attitude towards Alternatives to Imprisonment

Agree			
Contents	Advocates	Public/ student	Prison Staff
More Money should be spent on alternatives to prisons	64%	74%	80%
Undertrials should not be confined in prisons	54%	67%	36%
There is a need to consider different alternatives to prisons	66%	73%	84%
Community Service Scheme should be introduced for petty issues	88%	88%	86%
There is a need to have more prisons	70%	51%	84%

It is generally perceived that the public is not concerned about prisoners and prison matters. So it was asked that the public should be concerned with what happens to

³⁴State of Gujarat vs. Hon'ble High court of Gujarat, (1998) 7 SCC 392

³⁵UN Standard Minimum Rules for the Treatment of Prisoners - Nelson Mandela Rules (2015) Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf (Accessed: 18 April 2018).

the prisoners. 74% advocates, 79% public and 86% prison officers agreed that the public should be more concerned with what happens to prisoners. However, there was the difference in the opinion on the question of Society has things to do that are much more important than guarding prisoners' human rights. Interestingly 74% and 73% advocates and prison officers respectively agreed that society has things to do that are much more important than guarding prisoners' human rights while only half of the public studied in the present study agreed to it.

Table: 7 Showing the Responses to items on Public's Interest in Prisons in terms of agree percentage

Agree			
Contents	Advocates	Public/ student	Prison Staff
The public should be more concerned with what happens to prisoners	74%	79%	86%
Society has things to do that are much more important than guarding prisoners human rights	74%	56%	73%
Society needs to remember that prisoners also have human rights	82%	91%	96%

The table above given indicates that 80% of the prison staff agreed that more money should be spent on alternatives to prisons while 64% advocates and 74% public also agreed to it. A similar kind of opinion was also observed in the question that there is a need to consider different alternatives to prisons. It was also suggested by one of the advocate respondents that various alternatives like reform centers should be

established for prisoners and should be provided with counselling facility. In the research study by Lalli (2005), it was found that there was a difference of opinion among Judges, Prison inmates and Prison staff regarding alternatives to imprisonment. While 82% prison inmates expressed desire to do community service, only 22% Judges under study were in favour of community service and 34.7% prison staff were in favour of community service as an alternative to imprisonment. It means Judge and prison staff is less keen to alternatives in comparison to prison inmates.

As per Prison Statistics India 2017, there 3,08,718 undertrial prisoners out of the total 4,50,696 inmates in various jail in the country which amounts 68.5% of total prison population. These undertrials continue to remain ideal and deprived of earning, as undertrials are not given any work. On the question of undertrials should not be confined in prisons there was a varied opinion where 54% advocate respondents and 67% public respondents agreed that undertrials should not be confined in prisons. As there is non-availability of work for undertrial prisoners so it has been suggested that they should be encouraged to engage them in some voluntary work inside the prison (Chowdhury, 2002).³⁶ While only 36% of prison officers agreed that undertrials should not be confined in prisons, most of them disagreed to it. Most of the respondents agreed that the Community Service Scheme should be introduced for petty cases. The opinion regarding need to have more prisons also varies between respondents. The prison staff (84%) and advocates (70%) were more in favour of having more prisons as compared to public (51%).

³⁶Chowdhury, N. R. (2002). *Indian Prison Laws and Correction of Prisoners*. New Delhi : Deep & Deep Publications PVT. LTD.

Attitude Difference among Various Ranks of Prison Staff

There was some distinction of opinion among different ranks of prison staff. In the data analysis, it was found that 41% prison officers agreed that prisoners should be forced to do hard labour. However, there was a difference of opinion in all the ranks where only 24% assistant superintendent agreed that prisoners should be forced to do hard labour while 47% deputy superintendent and 53% superintendent agreed that prisoners should be forced to do hard labour. It was also observed that 52% prison officers agreed prisons should be under greater public scrutiny. Only 43% of prison officers agree that better facilities in prisons will lead to an increase in crime rate. This means most of the prison officers disagreed that better facilities in prisons will lead to an increase in crime rate. However, there was the difference in opinion among all the ranks as only 29% assistant superintendent agreed to the statement whereas only 53% deputy superintendent and 47% superintendent agreed to it. 66% agreed that Non-Official visitors are useful to prisoners. Model Prison Manual 2016 has also provisions for the visits to prison by Non-official visitors appointed by the prison administration. As per the manual, the Non-official visitors after their appointment must be sensitised and trained about their duties, roles and responsibilities.

The results are discussed as per different domain such as staff issues, public's interest in prisons as well as an alternative to imprisonment and accountability. Since the last few years people supported reformation but still, it is not sufficient to bring quality change in the prison system. There is no role of the public in the reformation process. To bring the desired results community involvement is a major

challenge. In some countries, the general public is against spending so much money on prison reforms but here in this study, it was found that the public was in favor of issues related to prison reforms. Prison staff was also keen about prison reforms. But much more steps need to be taken by the government and collaboration with civil society will be helpful. Prison staff also needs to be involved in the reform process.

Conclusion

Internationally, prison reforms have been taken seriously. The Standard Minimum Rules for the Treatment of Prisoners (1955) were revised in 2015 as the Nelson Mandela Rules to honour the former South African President Nelson Mandela. These rules are used globally to maintain the standards and framework relating to the treatment of prisoners. The 122 Mandela Rules include various issues dealing with prisoners such as respect and dignity of prisoners, medical and health services, custodial death, access to legal representation and training of staff. They have even been discussed at international forums and these have been incorporated in the Model Prison Manual 2016. The result of the implementation of the said manual has not been followed-up sincerely. The fact that the prison system of our country is still plagued by numerous problems and the lack of critical structural changes and implementation issues that the government has failed to rise up to, should motivate us further to draw inspiration from not only our former colonial rulers but also other countries.

Active role engagement of criminologists in prison reforms is required to make the public aware of prison conditions and responses to policy changes. Reintegration of prisoners is only possible if they would get public support and positive stories shared by the prison officials and concerned persons.

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- *Sunil Batra vs. Delhi Administration* (1980) AIR 1579
- *T.K. Gopal v. State of Karnataka*, (2000) 6 SCC 168

RECIDIVISM AMONG PRISONERS IN TIHAR JAIL AND CONTRIBUTING FACTORS: A QUALITATIVE STUDY

S. Manikandan* and K. Jaishankar**

ABSTRACT

Recidivism is one of the major social and legal problems which is mostly underestimated and not appropriately addressed because the rate of recidivism in India is low (which is 6.4% according to the National Crime Records Bureau). This study is aimed at studying the factors contributing to recidivism, and the study is carried among prisoners in Tihar Jail, New Delhi. Data were collected from the prisoners who are convicted more than once, and in-depth interview method was used collection data. The prisoner's interviews were recorded, transcribed, member-checked and analyzed using Creswell's data analysis process in the form of themes. The findings of this study revealed that the factors contributing for recidivism are: substance abuse, financial instability, unemployment and poor living conditions, lack of parental care and supervisions, societal reaction and non-acceptance, peer pressure and influence, migration from village to city, early school dropout, Broken relationship/no relationship, lack of rehabilitation, reintegration and aftercare programme, labeling and stigmatization.

KEY WORDS

Recidivism, Repeat Offenders, Contributing Factors for Recidivism, Tihar Jail

Introduction

It has been believed historically that harsh punishment given to offender creates deterrence among them which prevents crime in the future. The founding fathers of classical school of criminology Cesare Beccaria and Jeremy Bentham administered this thought and strongly believed that deterrence works. It is also believed by most of the common people that justice can only be sought through harsher punishment to offenders. Reformation and rehabilitation of offenders came into existence only in the recent past, and this is growing gradually all over the world. However, on the other hand, recidivism is one of the major social problems and is growing all over the world.

Recidivism has become a serious issue for many countries, and even developed countries like the United States and the United Kingdom have a higher rate of recidivism. It is evident that many countries will be affected due to recidivism if this problem is not controlled and reduced. Notably, the recidivism rate in India is lower than other developed countries and according to "Crime in India 2016" and the current rate of recidivism is 6.4%. National Crime Records Bureau (NCRB) the rate of recidivism in India has been decreased from 8.1 percent (2015) to 6.4 percent (2016).

The low rate of recidivism is not because India has well-maintained rehabilitation techniques or aftercare programme but because of the low conviction rate. According

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to National Crime Records Bureau (NCRB), the current conviction rate in India is 46.8% (Crime in India, 2016) which includes the only cases registered under Indian Penal code (IPC) and excludes cases registered under special and local laws. On the other hand, the pendency of cases registered under IPC for the year 2016 is 87.4%. This affects both the rate of conviction as well as the rate of recidivism in India.

There is no functional organization or agency in India which deals with the recidivists and work towards reducing the recidivism rate, apart from prison authorities. As discussed earlier, the recidivism rate in India is not low because of Indian prisons effectiveness in rehabilitating and reintegrating offenders but involves many other reasons and this study aims to address the same. The purpose of this study is to explore and address various factors contributing to recidivism among prisoners in India.

Literature Review

In a report by Ministry of Justice, UK (2014) which is focused on reducing re-offending by addressing the key factor related to re-offending such as drug misuse, attitudes to offending, and accommodation and employment problems but the report did not address one of main key factor which legal labelling offender “ex-prisoners or ex-convicts” which indeed make them go back to criminal career even if they want to reintegrate to society which is well explained in labelling theory of criminology (Miller, 2009, p. 220)

In a book chapter (Unnithan, 2013) authors make a stand that the recidivism rate is much lower in India compare to Japan and the United States which is because of Indian cultural principles of dharma. Also in a report (Sandhu, 1987) author claims that the lower rate of recidivism India is because of strong social control that is family. Indian Cultural principles of dharma and Indian family as social control might have impacted

on preventing ex-convict from re-offending but there is no empirical evidence on this fact. The authors are ignorant of the fact that Rate of recidivism in India is based only on the cases registered under Indian Penal code (IPC) and does not includes cases registered under special and local laws.

Palakkappillil and Karunakaran Prasanna (2017) studied criminality of individual and recidivism which revealed that lack of psychological support has drastically affected reformation process and behavior of the offender. The authors also pointed out that the correctional institution in India has become a breeding ground for hardcore criminals due to the lack of proper reformation, re-integration and rehabilitation which is very much acceptable viewpoint with respect to the present study.

In a study conducted among 120 recidivists (Murty, 2012) from three central prisons (Visakhapatnam central prisons, Chenchalguda central prisons, and Nellore central prisons) of Andhra Pradesh (constitute both Andhra Pradesh and Telangana state) found factors causing recidivism which are disorganized families and broken homes, deteriorated localities, presence of sub-cultural traits, lack of legitimate opportunities, labeling and stigma of ex-convict, poor level of education and employment opportunities, and poor level of family support and contact. Apart from these factors, the author also added that present condition of penal institutions and lack of rehabilitation services has aggravating recidivism largely (Murty, 2012).

Maruna and King (2009) explain the “Redeemability” of an offender to lead a normal life. The authors stated that criminal justice managers and correctional administration staffs should have “Redeemability belief” on the offender in order to make them reintegrated to society to lead a normal life as well as to make the offender clearly understand that they can be

reintegrated. Moreover, the criminal justice managers and correctional administration staffs should provide a positive environment and confidence level to offenders to come out of the criminal career.

The effectiveness of rehabilitation of the prisoners can be analyzed from the reduced rate of recidivism by implementing proper reintegration process so that the offender back into society and to include in a social inclusion process. Wartna and Nijssen (2006) tried to gather a large scale data on recidivism in 33 European countries, but out of 33 countries only 14 countries have had a national study on recidivism, but the effect of the study did not serve the purpose that is reducing or preventing the recidivism.

In a longitudinal study among young prisoners from six different prisons in northern Germany (Hosser, Windzio and Greve, 2007) examined to what extent feelings of shame and guilt experienced during a prison term influenced recidivism after release? The authors concluded that soon after the beginning of their prison term only 13.71 % and 48.16 % of the inmates stated that they frequently felt shame and guilt, respectively. Feelings of shame and guilt decreased rapidly during the first weeks of imprisonment and continued to decrease during imprisonment; this indicates that young prisoners adopt the prison subculture very quickly. The most commonly encountered form of exclusion in the case of former prisoners is that on the labour market. Many of them say that there is a strong link between the existence of jobs and committing crimes: when individuals have a job, it is unlikely that they will commit crimes. It is therefore essential to make every effort to promote the employability of prisoners when they leave prison (Mellow et al., 2008).

Baldry et al (2006) examined to what extent ex-prisoner housing and other related social are relevant for the re-integration in Australia. The primary aim of this

study was to examine the likelihood of re-imprisonment of ex-prisoners due to post-release homelessness. In this study, data was collected from Australian ex-prisoners to examine their housing and other social matters as well as their post-release experiences. Interview methods were adopted to gather data from the ex-prisoners started from pre-release and subsequent a follow-up interview were held at three, six and nine months post-release. Based on the data analysis, it has been found that there existed significant differences between states; chronic homelessness, poverty and lack of support in the participant's lives. It has been concluded that the homelessness and family environment instability were significant contributors which increased ex-prisoners return to prison.

Objectives

1. To explore various contributing factors for recidivism among the prisoners in Tihar Jail.
2. To understand the lifestyle of the re-offenders in the Tihar Jail.
3. To find out various strategies for preventing and controlling prisoners from relapse into criminal career.

Research Questions

1. What are the various contributing factors for recidivism among the prisoners in Tihar Jail?
2. What are the various strategies for preventing and controlling prisoners from a relapse into criminal career again?

Conceptual and Operational Definitions of Recidivism and Recidivists

The term recidivism originates from the Latin "recidere" which means to fall back (Payne, 2007). According to the National Institute of Justice (2019) defines recidivism as a person's continued criminal behaviour after receiving some sanctions

or undergoing intervention for a previous crime. According to the National Crime Records Bureau, India recidivism is defined as the tendency of relapsing into crimes by the criminals.

In the present study, the term recidivism is operationally defined as a prisoner who is convicted or serving imprisonment in the Tihar jail for the second time or more than once. In the case of under-trial prisoners, who are already convicted or served imprisonment twice in the past.

Methodology

Research Design, Sampling and Participants

The study is based on exploratory design. The study focuses on exploring various contributing factors for recidivism among the prisoners in Tihar Jail and understanding the lifestyle of the re-offenders in the Tihar Jail. Using exploratory design, qualitative research method was adopted. As this study focused on exploring various contributing factors for recidivism, the lead author opted to collect data in Tihar jail, New Delhi. After getting formal permission from jail authorities, the lead author was allowed inside the jail no. 4 of the Tihar jail and collected data with the inmates who are re-offenders.

Purposive sampling was adopted to select the area and population as the study is conducted among the prisoners who are re-offenders in the Tihar jail. Selection of individual participants for the study is based on convenience sampling as research was conducted on the particular population living inside the jail for which based on the availability and accessibility of the prisoners, data was collected in jail no. 4 of Tihar jail with the help of jail authorities.

A total of 21 respondents, who are inmates of jail no. 4, Tihar jail, participated in the study. Among 21 respondents, 15 were convicted inmates, and 6 were under-trial

inmates. In the 21 respondents, 12 were in the age group of 18-30, eight were in the age group of 31-45, and only one inmate was in the age group of 46 & above. All 21 respondents were males, and no females were included in this study because of entry into women prison and time constraint.

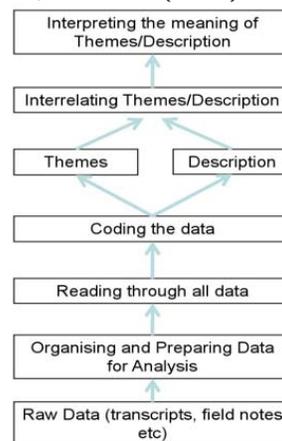
Data Collection and Analysis

After obtaining formal permission from the prison authorities, the lead author visited jail no. 4 of Tihar jail for the data collection. Data were collected using a simple background detail questionnaire and an in-depth interview individually with the re-offending inmates. An interview prompt sheet and a background detail questionnaire were constructed for the study based on a pilot study conducted with four prisoners in Tihar jail.

In this study, Creswell's qualitative analysis technique was adopted to process and analysis data. The data were presented in the form of themes followed by interpretation of themes. Grounded theory Approach was also used to analyze the themes further to find interconnection and developed them into a theoretical model.

Figure 1: Data Processing and interpretation chart

Source: Research Design: Qualitative, Quantitative, and Mixed Methods Approaches, Creswell (2009)



Ethical Consideration

The lead author applied and got formal permission from Tihar jail authorities for entry into the jail for data collection. Before starting the interview, the lead author explained about the research objectives and purpose of this interview verbally as well as each respondent was provided with a Participant Information Sheet which explained the purpose of the research. The lead author also took written consent from each respondent, who participated in this study. The respondents were assured of confidentiality and anonymity of the data collected for this study.

Limitations/Challenges in Data Collection

Following are the limitations/challenges faced by the lead author during the data collection which are as follows:

1. Entry into the jail was one of the biggest challenges which the lead author encountered. It took around two weeks for the lead author to get permission for data collection inside the jail.
2. Most of the inmates are employed in prison and getting them out to talk during the work is not appreciable and the lead author waited until the inmates got free from their work.
3. Few inmates were not comfortable sharing about their life experience and criminal career due to purported fear that the information they give might be used against them as some of them still have pending cases in court.
4. No women inmates were included in this study because of entry into the women jail was not permitted.

Findings and Discussion

Using Creswell's qualitative analysis technique collected data were organized, coded and themes were made out of coded data. Further, interrelated themes were arranged and organized together to analyze and interpret.

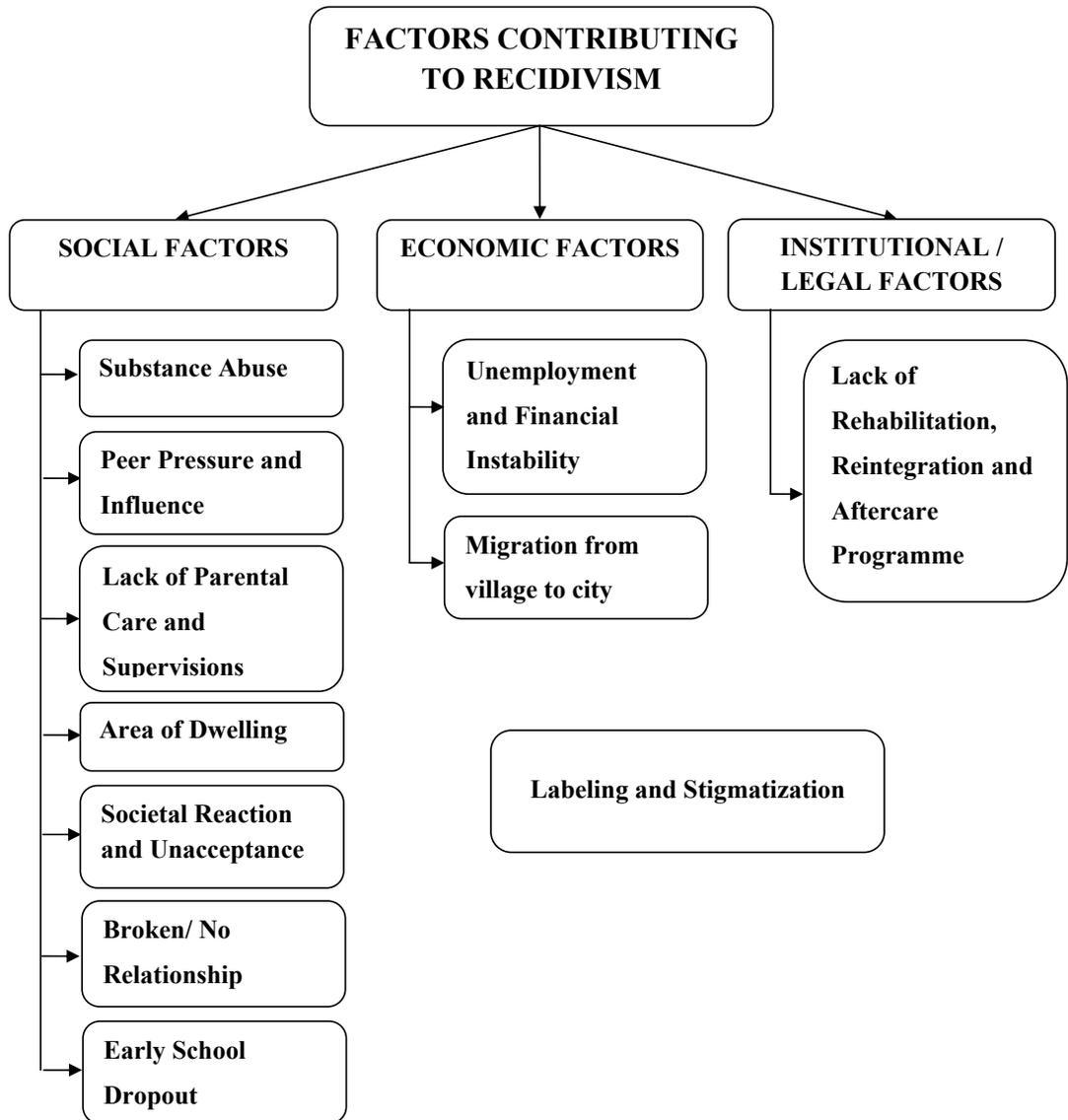
I. Socio-demographics of the Participants

A total of 21 respondents, who are inmates of jail no. 4, Tihar jail, participated in the study. Among 21 male respondents, 15 were convicted inmates, and 6 were under-trial inmates, and 12 were in the age group of 18-30, eight were in the age group of 31-45, and only one inmate was in the age group of 46 and above.

From the 21 respondents, ten were imprisoned two times, four were imprisoned three times, two were imprisoned four times, and five were imprisoned more than five times. No participant has studied more than primary education level, i.e., 15 participants and six were never gone to school. Ten participants were married, nine were unmarried, and two were separated. Out of 21 participants, 19 were used or addicted to drugs like alcohol, ganja/ cannabis and within this 19, few participants have used drugs like N10 (kind of sedative tablets) and smack/ brown sugar (power form of heroin).

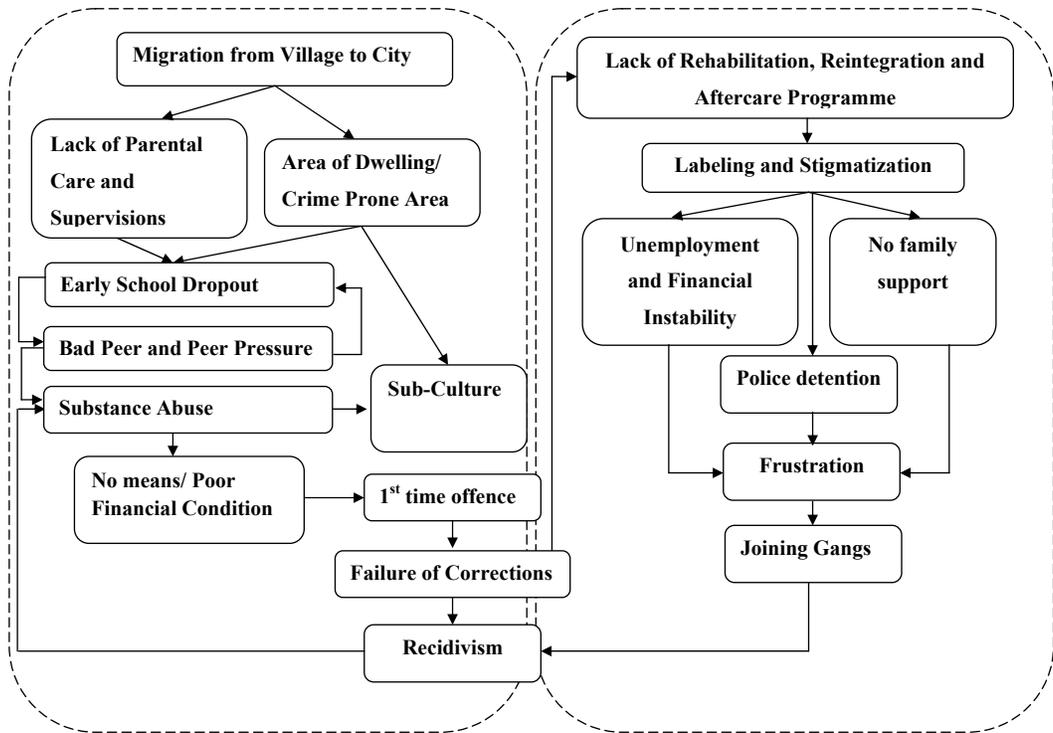
Out of 21 participants, eight were brought up by both the parents, nine were brought up by single parents, three were brought up by relatives, and 1 was a street child. From the 21 participants, 15 were convicted of property offence, i.e., theft and burglary and six were involved in body offences like murder, attempt to murder, fighting, knife crime, and sexual harassment. Within these 21 participants, few were involved in possession of a firearm and illegal drugs.

Figure 2: Factors Contributing to Recidivism chart



Source: Created by authors from findings of the research

Figure 3: Recidivism Model



Source: Created by authors from findings of the research

II. Factors contributing to Recidivism

1. Substance Abuse

One of the significant factors that contribute to recidivism is substance abuse. From the data, it has been found that out of 21 participants, 19 were used or addicted to drugs as well as 16 out of 19 participants were drugged during the commission of the crime. Even though the sample size is relatively smaller, some of the association exists with the use of drug and commission of the crime which has been revealed during the in-depth interviews. A participant said that “in our area smack and ganja are very cheap and easily available; many outsiders come to our area only to buy these drugs.” He also mentioned; “first time I used smack during school time for biting with one of my friends.” It is clear that easy availability of drug and peer pressure makes a person to use the drug

which ultimately becomes an addiction over time. Due to addiction and lack of resource to buy drugs, people commit property offences like theft and burglary “In childhood, I was very happy, but, when I started using drugs my life got spoiled, because, I started stealing money from my parents and neighbourhoods for buying drugs. When I was caught by my parents they threw me out of the house and I became a criminal and started involving in theft and burglary.”

A 45 year old respondent was convicted for many property offences around 20 times from the age of 13 years. He grew up as a street child in Delhi and happened to get addicted to smack/brown sugar. He said:

“I was living in Hanuman temple, Connaught place and this place very famous for drugs compared to all other places I lived. First time, I stole pooja utensils from temple to

fulfill my video game addiction, and after that, I started stealing small items to fulfill my basic needs. Through one of my friend who was also a street child, I used drug because everyone was using it. From where I started using regularly and for which I need money, so I starting stealing more to fulfill my drug needs.”

2. Peer Pressure and Influence

Peer pressure and its influence contribute a lot to recidivism both directly and indirectly. The lead author interviewed a respondent who was involved in the Rohini court shootout. The first time he was convicted as a juvenile for the attempt to murder and after that he got into contact with local gangs in their area through friends. The local gang leader encouraged him to be a part of a gang and also he also started working for the gang from where he started handling the gun as well as learned shooting. The respondent said:

“He is like my brother and helped me when I was financially very weak. One day he was upset, and he called three of the gang members including me, and asked us to shoot a person (an under trial prisoner) at Rohini court, who was enemy to him who killed his uncle. We all agreed based on brotherhood only, but unfortunately, I shot a wrong person at Rohini court.” It is very clear from the narratives that the respondent was entirely influenced by the peers.

Most of the respondents used drugs, mostly because of peer pressure and influence. Many respondents said they committed theft only because they do not have money to buy drugs. There is an apparent chain reaction for the crime.

Figure 4: Peer Pressure and its Influence



Source: Created by authors from findings of the research

3. Lack of Parental Care and Supervision

Parental care and supervision are very much necessary for a person to become a law-abiding citizen. When a child is not given proper parental care and supervision, there is a high chance that the child would get into deviant behaviour. Family or parents are the principal institutions for socialization, and if this socialization process does not happen correctly, there is a very high chance that the child gets into deviant behaviour. For example: If a child does anything wrong through the peer influence or imitating adults, and if the parents do not care or supervise the child by explaining what is wrong and right, will lead to the child gets into deviant behaviour.

On the other hand, over supervision of parents is also not good for a child as it may lead a child to be more violent and lead to the path anti-social behaviour. A respondent said:

“My mom loves me a lot and also my father. When I was in around 12 or 13 years old, I was got caught by my father while smoking cigarette with one of my friend. My father took me from that place; beat me with his belt and he beat my mother when she tried to stop him. He also said to my mother not to send me to school, and this made me feel very bad after that I ran away from my home to Delhi.”

From the above narrative, it is evident that extreme or violent parental supervision as well as lack of parental supervision both contribute to a child being a deviant or ground for criminal behaviour which leads to recidivism in future.

4. Area of Dwelling

Area of dwelling plays a vital role in extending criminal behaviour even after a person gets any sanction or convicted for any offence. From the interviews, it has been identified that few place or area where crime and criminal behaviour are followed like a culture and also crime is believed to be normal in their culture which is known as subculture (Piquero, 2016). Area of dwelling plays an essential role in the process of socialization of any individual, internalizing the social norms and values and being a law-abiding citizen. When the socialization takes place, they are oriented and believed criminal behaviour as normal, and which also gives them certain respect in their area and these contribute to recidivism. This subculture includes violence as a form of dispute mechanism, easy availability of illegal drugs and weapons, gang formation/availability and availability of motivating factor for criminal behaviour.

One of the respondents said “sir, in our place everything is available very easily and if you give me just 2000 Rupees I can buy a country made gun for you.” From the above narrative, it is apparent that the easy accessibility of weapons is also one of the contributing factors for recidivism.

5. Lack of Rehabilitation, Reintegration and Aftercare Programme

One of the significant contributing factors for recidivism is lack of rehabilitation, reintegration and aftercare programme by prison authorities. It is very evident that the Indian prison does not have a proper and systematic rehabilitation, reintegration, and aftercare programme. This makes ex-convicts left without any support and rehabilitation post-release from the jail which makes them difficult to go back to society and live a normal life. As per the data collected, all the respondents said that the prison authority does not provide any post-release support which also crossed verified with the NGO

who is working with Tihar prison and try to give some aftercare programme. Murty (2012) has strongly pointed condition of penal institutions like lack of rehabilitation which prevent ex-convicts from re-integrating to the societies and their families which aggravates recidivism.

6. Migration from village to city

Generally, people migrate from village to city because of poverty and for survival purposes. When people migrate to the city they are forced to stay or dwell in places which are mostly slums or streets or platforms. This condition creates relative deprivation (Piquero, 2016, p. 210) or status frustration (Piquero, 2016, p. 209) among youths, which make them vulnerable to deviant behaviour as well as prolonged criminal behaviour. It is found that due some issue with their parents, four of the respondents have ran away from their homes or village to Delhi city and happened to live in conditions which forced them to commit crimes for their basic needs.

7. Societal Reaction and Non-acceptance

Societal reaction and non-acceptance are one of the contributing factors for recidivism. The societal reaction involves society rejects a person by labelling a person being ex-convict or criminal. If society rejects a person, even when that person wanted to reintegrate back to society it becomes very difficult for him/her and that leads to returning to criminal career or joining any local gangs under pressure or frustration. A respondent said:

“Sir, I committed first when I was at the age of 14 years and which was because of the situation. Once I return from observation home, everybody around my area was looking at me differently, and many of them stopped talking me in extreme case. It is normal that society does not accept people me and even people refuse to give jobs to people. In this case, we use to look for an alternative way to earn money like joining any gang or stealing, etc.”

8. Labelling and Stigmatization

Labelling is one of the significant contributing factors for the recidivism which has been explained well in the labelling theory of Edwin Lemert (Piquero, 2016, p. 274). Even if an ex-convict wants to reintegrate in the society, labelling creates a situation in which a first-time offender is forcefully pushed again to criminality. More importantly being labeled as ex-convicts, police arrest them even if they are not involved in any crime and in some extreme form they are also charged for false case which is described in the following narrative:

“Sir, first I convicted for fighting with one of my friends when I was 16 years old, and I were sent to observation home. However, after that, I tried not to involve in any kind of crimes, but this society and police never allowed a person like me to lead a normal life. Many times police detained me in the lockup cell, even when I did not commit any crime. This also affected my personal life and nobody was willing to marry me. Sometimes, I feel that it better to kill a few police officers who are creating this kind of false accusation and become a life convict in jail.” From the above narrative, it is also evident that labelling and stigmatization create frustration and anxiety among ex-convicts as well as influence them to commit a more violent crime like murder.

9. Unemployment and Financial Instability

Unemployment and financial instability are also one of the major contributing factors for recidivism. Factors contributing to recidivism are interrelated to each in a way that one-factor influence to others. Labelling and societal non-acceptance create a situation in which ex-convicts are forced to remain unemployed which leads to financial instability or lack of resource, due to which ex-convicts commit property offence, and sometimes they join gangs for

the financial resource. A respondent said:

“If a person once enters into jail, it is challenging for him/her to reintegrate to society and usually we do not get any good job because of the label being ex-convict. I was working as labour in a construction field after releasing from jail for the first time, and somehow the contractor came to that I was released from jail then he asked me to leave the job.”

Another respondent said: “Sir, I usually do not reveal that I was an ex-convict because it is very common that nobody wants to give the job to an ex-convict.” From the above narratives, it is evident that ex-convicts have to hide their identity to get a job and this is common among most of the respondents.

10. Early School Dropout

Early school dropout contributes to recidivism indirectly in many ways like having bad peers, committing the status offence, status frustration and financial instability due to lack of education. A respondent said that “my biggest mistake in life was to discontinue my schooling, if I would have studied well I would never be like this and I would be living normal life like others.” it is evident from the above narrative that due to lack of education or school dropout people get deviated and when they grow up, it creates status frustration among them which contributes to criminal behaviour as well as recidivism.

11. Broken Relationship/No Relationship

If a person is having a relationship or married life, which force him/her to be more responsible in their life. When a person does not have a relationship or in a broken relationship which leads to lack of commitments as well as lack of love and affection which make them vulnerable to anti-social behaviour like drugs and alcoholism etc.

Conclusion and Recommendations

The findings of this study reveals that the factors contributing for recidivism are: substance abuse, financial instability, unemployment and poor living conditions, lack of parental care & supervision, societal reaction and non-acceptance, peer pressure & influence Migration from village to city, early school dropout, broken relationship/ no relationship, lack of rehabilitation, reintegration and aftercare programme, labeling and stigmatization. These are pushing factors for ex-offender to re-offend. It is concluded from the findings that to reduce or to prevent recidivism among ex-convict most crucial thing is to designate an effective, efficient and sustainable socio-economic reintegration, systematic rehabilitation and after programme to ex-convict upon their release. This will also make an active participation of family's convicts, community, government as well as nongovernmental organizations in the process of reintegration.

The following are the recommendations:

1. There is a need for effective, efficient and sustainable socio-economic reintegration, systematic rehabilitation and after programme giving to every prisoner upon release by the prison authority.
2. It is found that few areas itself make children prone to crime. So it recommended that a collective responsibility can be taken by police, education department, community, and NGO to educate such children and their parents about crime and criminal life. By this, we can prevent juvenile delinquency and other anti-social behaviours.
3. Government or prison authority should create a psychological cell for giving psychological counselling to prisoners (the Gujarat model may be adopted) as well as to listen to their concerns which contribute to good mental health as well as make them live normal life post-release.
4. The government should mandate all schools to educate students about the basics of criminal behaviour and criminal justice and include criminology and law as a paper. This will help students to know about the crime and criminal behaviour and will help them to become law abiding citizens.
5. The government should also take steps to implement an effective and systematic intervention to the children in conflict with the law. It will prevent juveniles from becoming an adult offender or recidivists in future, as they are more vulnerable to continue criminal behaviour.

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ADJUSTMENT OF CHILD IN CONFLICT WITH LAW: AN EMPIRICAL STUDY

Lakshmi Pandey*

ABSTRACT

The study was conducted on a sample of 200 male adolescents drawn equally from Child in Conflict With Law (CICL) and non-CICL group. The CICL (100) consisted of those who had violated the law and were lodged in the observation homes. The non-CICL counterparts (N=100) consisted of those who had not committed any crimes. The subjects selected for the two samples were compared with each other in terms of their adjustment status. The Adjustment Inventory developed by Sinha and Singh (1984) was used to assess the adjustment status under study. The statistical comparison of different groups of CICL and non-CICL with each other in terms of their levels of adjustment and its dimensions revealed that all the groups of CICL were not found to differ significantly between themselves in terms of their adjustment scores but they differed significantly with their non-CICL counterparts. Moreover, it was found that different groups of CICL showed poor social, emotional and educational adjustment as compared to their non-CICL counterparts with a significant margin. Findings revealed that CICL and non-CICL differed significantly in terms of their social, emotional and educational adjustment indicating that CICL had poor adjustment in these areas than those of the non-CICL group.

KEY WORDS

Child in Conflict With Law, Non-CICL, Adjustment and Bihar

Introduction

The children form almost half of the world's population. They are the expectation of society and the asset of the nation. They derive past and they are themselves the prospect. They have the right to exist and flourish as children. Though, as the children themselves are not conscious of their rights, they become the tools of abuse or offender. Child offence is one of the major forms of social maladjustment in children. Some psychiatrists suggest that it is a pattern of behaviour manifested by children and adolescents who violate the laws of the land and the accepted mores, and that are an antisocial character. In India, the Juvenile Justice (Care and Protection) Act 2000, provides for special dispensation concerning children associated in criminal

activity. This recognizes any person under the age of 18 years as a juvenile. This Act has recently been renewed by the Juvenile Justice (Care and Protection) Act 2015. This unique JJ Act 2015 has not only stopped the differential use of the word 'juvenile' and 'child' but also the term 'juvenile in conflict with law (JJCL)' has been replaced by 'child in conflict with law (CICL)'. The JJ Act 2015 provides for extended prerequisites for both the children in need of care and protection (CNCP) as well as the children in conflict with law. As per the Juvenile Justice (Care and Protection of children) Act, 2015, CICL involves any child who has not completed eighteen years of age on the date of charge of such offence provided if, a child in conflict with law under the age group of 16-18 years who alleged to seem to have performed any heinous offence, will be interpreted being

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an adult. The unique JJ Act 2015 classifies the offence committed by children into three sections viz petty, serious and heinous. Towards this, the present study is intended to determine the adjustment status of CICL as compared to the non-CICL group.

In a psychological context, adjustment refers to the “processes through which people manage or cope with the demands and challenges of everyday life” (Weiten et al. 2011). The adjustment pattern and process are indicators of an individual’s personality and behavioural patterns. According to Crowe (1974), the important components of adjusted behaviour are the possession of (i) a wholesome outlook of life (ii) a realistic perception of life (iii) emotional and social maturity, and (iv) a good balance between inner and outer forces that activate human behaviour. A failure to achieve these are likely to be conducive to maladjustment which may, in turn, lead to a variety of behaviour pathologies like emotional disorders, antisocial activities, deviant and delinquent behaviour. Psychologists have tried to study the adjustment pattern of an individual in different areas like home, health, emotional, social, school and so on. The mental troubles and emotional maladjustments are strong factors in the delinquency. It is a matter of fact that a well-adjusted person would show less offending behaviour and vice-versa. According to Eysenck (1970) “antisocial conduct is evidence of a lack of proper socialization” and socialization is nothing but learning of behavioural patterns approved by society. Failure to adjust these norms and expectations may lead one toward crime and offence. Several studies on adjustment of CICL and criminals have confirmed this relationship. Agarwal (2014) found that delinquents have scored significantly higher in home, emotional and social adjustment areas as compared to the non-delinquents. Morison and Cosden (2015) have cited some studies that reveal there is a link between poor adjustment of delinquents and learning disability,

ineffective linguistic skills, dropping out of high school and denial of their weakness (Hoffman et al. 1987; Speakman et al. 1992). Zimbardo (1972) said that there were some pieces of evidence that delinquents and criminals might be more emotionally disturbed than the general population.

Adjustment is multidimensional and hence it involves home, health, social, emotional and other similar dimensions. Singh (1976) and Nirmal (1977) observed a positive correlation between deviant behaviour and home, emotional and social maladjustment. Singh (1979) found that the murderers showed a poor home, social and emotional adjustment. Singh (1980) revealed that juvenile delinquents have a lower adjustment on all the five dimensions, namely, health, home, occupation, social and emotional adjustments as compared to the non-delinquents. Krishna (1981) held that truants in comparison to non-truants were significantly more maladjusted in the areas of the home, social and emotional adjustments than the normal subjects. Sharma (1982) demonstrated delinquents to be lacking in normal adjustment. Husain (1984) reported that criminals, as a group, were more maladjusted than normals in all areas of adjustment. There was a significant difference between the scores of criminals and normals with regards to home, health, social and emotional adjustments. Prasad and Reddy (1990) found that delinquents possessed significantly low personality adjustment than non-delinquents. This view has been supported by numerous investigators (Krishna, 1993; Singh and Ambastha, 1997; Singh and Singh, 1989; Agarwal, 2014)

Besides, Picken (2012) has cited several studies carried out by Wooldredge, 1999; Zamble and Porporino, 1990; Dhami et al., 2007; MacKenzie, 1987 which found that, for inmates, coping strategy and adjustment depends on specific institutional opportunities or changes. The prison

environment and prisoner's pre-prison characteristics have long been recognised a considerable debate to which an inmate's adjustment to imprisonment is influenced (Dhami et al., 2007). Further, the experience of social isolation by inmates is one of the main factors which influence their adjustment to imprisonment. It has been also found that detachment from family is a primary reason given for suicidal tries in prison (Kupers, 1999). Numerous studies have also noticed a tie between regular visits from family and friends, to positive prison adjustment (Cobean and Power, 1978). Furthermore, inmates appear to accommodate healthier to imprisonment if they have supported some measure of control beyond their immediate surroundings (McNulty and Huey, 2005), recommending that weaker protection prisons allow for higher adjustment. Besides, maladaptation to imprisonment is delineated by anxiety, depression, aggression, violence and suicide etc. (Dye, 2010). Some measures of sick adjustment to prison are high rates of disciplinary breaches, and time consumed in solitary confinement (McShane and Williams, 1989). McShane and Williams (1989) used 6 concepts in their study to estimate adjustment: outside contact, unit assignment stability, good-time earning ability, security classification, work history and disciplinary history.

The studies on adjustment of CICL with respect to their social, health and home adjustments are scanty. Thus, it appears that studies relating to adjustment of criminals and CICL have yielded fruitful but inconsistent results. Inspired by the aforementioned considerations, the present research has been undertaken.

Objectives of the Study

The present study has focussed on institutionalized male CICL. By institutionalized CICL is meant here only those children who have violated the law and lodged in some institutions, such

as observation homes. Non-CICL having no criminal antecedents have also been included to examine whether CICL and non-CICL differ in their adjustment status.

Hypothesis

1. Different groups of CICL will not differ significantly between themselves in terms of adjustment score.
2. The CICL and non-CICL will significantly differ between themselves on scores of emotional adjustment.
3. The CICL and non-CICL will significantly differ between themselves on scores of social adjustment.
4. The group of CICL and non-CICL will significantly differ between themselves in terms of their scores on educational adjustment.

Method

Sample

Sample of the present study was consists of 100 CICL divided into petty (40), serious (44) and heinous (16) criminals and an equal number of non-CICL (100). The CICLs were chosen for the study by the purposive method of sampling, where a simple random sampling method was used for selection of non-CICL. Sample of CICLs was selected from different observation home and non-CICL were belongs from the different district in Bihar. All the respondents were between 13-16 years of age and inhabitants of the rural areas. Besides, all of the respondents were boys and had a basic understanding of reading and writing in Hindi. The respondents came from families lacking in literacy and education with a poor socio-economic background.

Instruments

Adjustment Inventory: Sinha and Singh's (1984) adjustment Inventory for Hindi knowing school students of India, ranging in age from 14 to 18 years, was used to assess

the adjustment status in the subjects. The inventory consists of 60 items with forced-choice responses. It measures adjustment in three areas- emotional, social and educational. The possible score one could achieve on the test ranged between 0 and 60. Lower the score on the test, the greater

Results

Statistical analysis was done with the help of the Statistical Package of Social Sciences (SPSS). Table 1 consists of the findings of the statistical comparison between different groups of CICL and non-CICL in terms of their level of adjustment.

Table1: Comparison of different CICL and non-CICL groups and their relative standing in terms of their level of adjustment

Groups	N	Mean	SD	t-ratio			F Value		
				B	C	D	B	C	D
A	40	29.14	8.51	.090(NS)	.45(NS)	8.87**	.306(NS)	.85(NS)	5.0*
B	44	28.97	7.93	x	.37(NS)	8.95**	x	.23(NS)	9.35**
C	16	30.06	8.83	x	x	6.96**	x	x	8.69**
D	100	18.14	5.89	x	x	x	x	x	x

Note: A= Petty criminals, B= Serious criminals, C= Heinous criminals and D= Non-offenders; NS= Not significant, * significant at .05 level, **Significant at .01 level

was the level of adjustment in the respective dimension. Reliabilities of the test by the split-half, test-retest and KR methods were found to be 0.95, 0.93, and 0.94, respectively. Validity was also satisfactory.

Procedure: As some of the respondents were simply literate, the scale was first transformed into an interview schedule so that the task of data collection could be easily accomplished. Mainly, to ensure the collection of their genuine and honest responses, an attempt was made to establish a rapport with them before starting the interview procedure. The process of rapport building lasted at least for 15 minutes for each of the subjects. Consequently, the subjects extended their sincere participation and full cooperation because they were convinced of the intention of the investigation,. This was quite evident from their willingness to participate in the study, as well as their often searching enquiries about the findings thereof.

Preliminary analysis of the result as mentioned in table 1 shows that different group of CICL, as compared to non-CICL, were found to have significantly lower levels of adjustment. The results further revealed that petty, serious and heinous group of criminals did not differ significantly between themselves but they had marked the significant difference with non-CICL counterparts. Moreover, it was found that the non-CICL had relatively a higher level of adjustment pattern followed by serious, petty and heinous criminals.

Table 2 records the summary of the findings of the statistical comparison between different group of CICL and non-CICL in terms of their level of emotional adjustment. There existed no significant differences between petty and serious criminals ($t=.33/p<.05$), petty and heinous criminals ($t=.99/p<.05$), and between serious and heinous criminals ($t=.71/p<.05$), in terms of emotional dimensions of adjustment score. However, all the groups of CICL, such as petty, serious and heinous criminals differed

Table 2: Comparison of different CICL & non-CICL groups and their relative standing in terms of their level of emotional adjustment score

Groups	N	Mean	SD	t-ratio			F Value		
				B	C	D	B	C	D
A	40	9.37	2.52	.33(NS)	.99(NS)	8.93**	.62(NS)	3.1(NS)	2.83(NS)
B	44	9.57	2.84	x	.71(NS)	9.20**	x	1.14(NS)	7.45**
C	16	10.19	3.33	x	x	7.34**	x	x	11.82**
D	100	5.69	2.07	x	x	x	x	x	x

Note: A= Petty criminals, B= Serious criminals, C= Heinous criminals and D= Non-delinquents; NS= Not significant, * significant at .05 level, **Significant at .01 level

significantly from the group of non-CICL counterparts ($t=8.93/p<.01$; $t=9.20/p<.01$ & $t=7.34/p<.01$ respectively) on emotional dimensions of adjustment.

An examination of the table 3 showed that the different group of CICL namely petty, serious and heinous criminals have significantly higher mean score as

Table 3: Comparison of different CICL & non-CICL groups and their relative standing in terms of their level of social adjustment score

Groups	N	Mean	SD	t-ratio			F Value		
				B	C	D	B	C	D
A	40	9.62	2.89	.054(NS)	.73(NS)	8.23**	.16(NS)	.06(NS)	9.09**
B	44	9.59	2.86	x	.78(NS)	8.39**	x	.002(NS)	15.18**
C	16	10.25	2.95	x	x	7.22**	x	x	6.86**
D	100	6.16	1.94	x	x	x	x	x	x

Note: A= Petty criminals, B= Serious criminals, C= Heinous criminals and D= Non-delinquents; NS= Not significant, * significant at .05 level, **Significant at .01 level

Table 4: Comparison of different CICL & non-CICL groups and their relative standing in terms of their level of educational adjustment score

Groups	N	Mean	SD	t-ratio			F Value		
				B	C	D	B	C	D
A	40	9.97	2.70	.004(NS)	.03(NS)	8.26**	x	.06(NS)	9.09**
B	44	9.98	3.16	x	.78(NS)	8.39**	x	.002(NS)	15.18**
C	16	10.00	2.34	x	x	6.09**	x	x	.20 (NS)
D	100	6.27	2.26	x	x	x	x	x	x

Note: A= Petty criminals, B= Serious criminals, C= Heinous criminals and D= Non-CICL; NS= Not significant, * significant at .05 level, **Significant at .01 level

compared to the non-CICL group on the social dimension of adjustment. Thus, the results indicated that the CICL had poor social adjustment as compared to their non-CICL counterparts. However, all the groups of CICL, such as petty, serious and heinous criminals differed significantly from the group of non-CICL counterparts ($t=8.23/p<.01$; $t=8.39/p<.01$ & $t=7.22/p<.01$ respectively) on social dimensions of adjustment.

Table 4 demonstrates that the different group of criminals namely petty, serious and heinous have differed significantly in mean educational adjustment score as compared to non-CICL ($t= 8.26/p<.01$; $t= 7.98/p<.01$ & $t= 6.09/p<.01$ respectively) but they did not manifest so between themselves. Results also confirm the fact that the CICL respondents were showed lesser educational adjustment with their curricular and co-curricular programmes as compared to their non-CICL counterparts.

The results further revealed that the heinous criminals had the highest scores on almost all the dimensions of adjustment followed by serious and petty criminals respectively. Non-CICL without any deviation scored lower on each of the dimensions of adjustment. All the groups of CICL, especially heinous criminals were found to be more messed up to adjustment and its various manifestations as compared to their non-CICL counterparts. Further, there existed no significant differences between petty and serious criminals, petty and heinous criminals and between serious and heinous criminals in terms of any of the dimensions of adjustment. Moreover, the statistical comparison made at the intra-group level also exhibits a similar trend. However, all the groups of CICL, such as petty, serious and heinous criminals marked a significant difference from the group of non-CICL counterparts on all the dimensions of adjustment.

Discussion and Conclusion

The results showing all the groups of delinquents, as compared to their non-delinquents counterparts are more messed up to adjustment and its dimensions fairly agree with the earlier findings (Singh and Ambastha, 1997; Singh and Singh, 1989, Agarwal, 2014 & Kumari, 2018). These studies have shown that delinquents, in general, have poorly adjusted to demands and stresses of daily living, emotionally unstable and having difficulty coping with personal relationships as compared to their non-delinquents counterparts.

More recently, Saraswati, Hunshal and Gaonkar (2008) revealed that the majority of institutional children had unsatisfactory adjustment indicating more problems in social, emotional and educational areas. Also, criminals as compared to the non-criminals, are generally characterised as emotionally unstable, impatient, demanding, disobedient, less accommodating, shy, timid, sensitive, insecure, aggressive, worried, troubling, lack concentration and interest in studies, poor memory (Singh, Pandey and Singh, 2003)

Prasad and Reddy (1990) found that delinquents had low personality adjustment than the non-delinquents. Based on the study on the sample of female delinquents Sivanandan (1990) reported that delinquents differed in their personality adjustment as compared to their normal counterparts. Husain, (1984) reported that criminals as a group were maladjusted than normals in all areas of adjustment. Sharma (1982) demonstrated delinquents to be lacking normal adjustment. There was a significant difference between the scores of criminals and normals concerning home, health, social and emotional adjustment. Singh (1981) noted that criminals showed lower home, health, social and emotional adjustment than the non-criminals. Agarwal (2014) noted that juveniles differ in emotional and

educational dimension of the adjustment but not differ significantly in terms of the social dimension of the adjustment score than non-delinquents. Krishna and Kumar (1981) held that truants in comparison to non-truants were significantly more maladjusted in the area of the home, social and emotional than the normal subjects.

The findings of this study may prove that CICL and non-CICL differed significantly in terms of their emotional, social and educational adjustment indicating that CICL had a poor home and family adjustment than the non-CICL. Needless to say,

criminal behaviour committed by children is one of the burning social problems of the day affecting adversely cross-sections of the population. This unlawful act or social problem can't be solved by legislation and government alone. Social participation and awareness or public attitude towards this relevant social issue must also change. Therefore, there is a need to find out the loopholes within society and needs to be analysed comprehensively. However, the present study is a modest approach in this direction.

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RATIONALITY OR OPPORTUNITY: WHAT MATTERS IN CRIME? A DESCRIPTIVE ANALYSIS OF PROPERTY CRIMES REPORTED BY ELECTRONIC MEDIA IN CHENNAI CITY AND ITS OUTSKIRTS.

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ABSTRACT

Rationality and opportunity are the two essential components of crime. Rationality denotes the rationale of the offenders in choosing a target, whereas opportunity indicates the opportunities offered by the environment to precipitate the crime. Rational Choice Theory (RCT) states that the offender's rationality depends on financial gains and the amount of risk involved in the act of crime. Unlike Rational Choice Theory, Routine Activity Theory (RAT) emphasizes that a suitable target and the absence of a competent guardian provides opportunities for offenders. Thus, Rationality and Opportunity are the key factors for an extensive understanding in order to frame an effective crime reduction strategy. This paper attempts to analyse the concepts "rationality" and "opportunity" in the crimes reported in print and electronic media in Chennai city during 2014 and 2015. Through, such analysis, this paper attempts to study the proportion of rationality and opportunity in the commission of crime.

KEY WORDS

Crime, Rationality, Opportunity and Crime Reduction

Introduction

An offender walks through the streets with an intention to commit a crime; after considering many factors, he decides to break open a door, completes the burglary and flies away. Thus, crime is a result of the interaction between the offender and the target. There are many factors involved in this interaction, i.e. it is vital that there is an offender and a suitable target for this interaction to take place. An offender reasons and selects the target and plans accordingly to complete the interaction successfully. Simultaneously, there are also certain factors associated with the target, which make interaction either simple or hard for the offender and based on which the offender makes his decision. The offender's reasonable selection of the target refers to rationality and factors exhibited by

the target to simplify the interaction refer to the opportunity. Thus, rationality and opportunity are the major components of a crime. It is important to understand both of these for the purpose of effective crime reduction.

Rationality

In general, a rational choice means the "process of understanding the options available and then choosing the most preferred one according to some consistent criterion" (Levin & Milgrom, 2011). In crime, rationality refers to the rational selection of a suitable target by the offenders in order to commit a crime. The purpose of being rational is to increase the benefits and avoid associated risks. Benefit mostly means the financial gain and risk means the amount of effort and legal actions involved in the

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commission of a crime. Further, offenders also consider that the benefit should be worth the amount of effort they take. In the process of assessing the cost and benefit, the offenders read cues present in the environment and select their targets accordingly. The study operationalizes factors such as prior preparation, surveillance of targets, analysing the financial gains, and planning the offence in a suitable time. This assessment of the risks involved in crime refers to the rationality of the offender.

Opportunity

As with rationality, the understanding of opportunity is equally important in the study of crime prevention. The opportunity of crime can be simply understood by a question of “why here and not somewhere else.” Opportunity denotes the circumstance that simplifies the act of committing a crime and also expresses the vulnerability of the target to the offender. Whereas rationality involves offenders weighing the risks and benefits of a crime and planning accordingly, opportunity doesn’t involve prior planning, and rather offenders are tempted by the opportunities (Felson & Clarke, 1998). In other words, opportunity helps the offenders to make an impulsive decision about the target. Felson and Clarke (1998) stated that there is no single factor that can be pointed out for the occurrence of the crime; yet, opportunity is above all other factors and the authors claimed opportunity as a root cause of crime. In addition, the authors explained opportunity through three theories: the Routine Activity Theory, Crime Pattern Theory and Rational Choice Theory. Routine Activity Theory emphasizes three factors in crime: a suitable target, the absence of capable guardians and a motivated offender. Further, they argued that the offender is motivated by the opportunity created by a suitable target and absence of a capable guardian. From the

Rational Choice Theory, the authors infer that the offenders select targets that provide an opportunity to satisfy their motives. Hence, it is very apparent that opportunity plays an important role in the commission of a crime.

Kang and Lee (2013) state that the offenders read cues present in the environment to weigh the risks and benefits involved in the commission of a crime. For instance, a secured building/house seems risky for the potential offender to commit a crime than non-secured building/house. On the one hand, the cues help the offenders to weigh the risk and benefits and on the other hand, some cues exhibited or presented by targets tempt the offender to commit a crime. Sometimes, the kind of cues exhibited by the target motivates the potential offender. So, the study operationalizes opportunity as any circumstance provided/exhibited by the target, knowingly or unknowingly, for committing a crime.

This study focuses on the proportion of rationality versus that of opportunity involved in the commission of a crime and which one of them plays a major role. The core objective of this paper is to address the above question. Even though literature on crime prevention reveals that both rationality and opportunity in committing a crime plays a major role in the crime, one cannot say that a crime is committed only because of the opportunity available to or rationality of the offenders. The proportion of these two factors is what matters in facilitating a crime. It is important both these factors be understood to frame an effective crime reduction strategy. Thus, this paper attempts to study the rationality of the offender and the opportunity of crime through the crimes reported in the online media. This paper tries to investigate which of these factors plays a major role in the crime and how it should be addressed to frame an effective crime reduction strategy.

Methodology

The locale of the study is Chennai city. In this study, the geographical area of Chennai is extended to the outskirts of Chennai, which do not come under its jurisdiction but are places very near the borders of Chennai. In order to meet the objectives of the study, property crimes reported in Tamil and English dailies in electronic media from 1 January 2014 to 31 December 2015 (two-year period) were collected. Keywords such as crime, theft, robbery, chain snatching, burglary and housebreaking were used to get data from the English dailies and keywords such as Kollai (robbery), Thiruttu (theft) and chain parippu (chain snatching) were used to get data from the Tamil dailies. Variables such as date of the crime, time of the crime, type of crime, access/entry to the target, security measures, the presence of a guardian, motivating factor, the age of the victim and the offender and the valuables lost were inferred from the reported news items. However, the reporting pattern of every newspaper differs and only very few news items report all the variables. The same incidents reported in multiple newspapers were considered to extract maximum information about a single incident. Opportunity and rationality were measured through frequency and situation of the above-mentioned variables. Statistical Package for the Social Sciences (v16) was used to create frequency tables and the results are discussed in the forthcoming section.

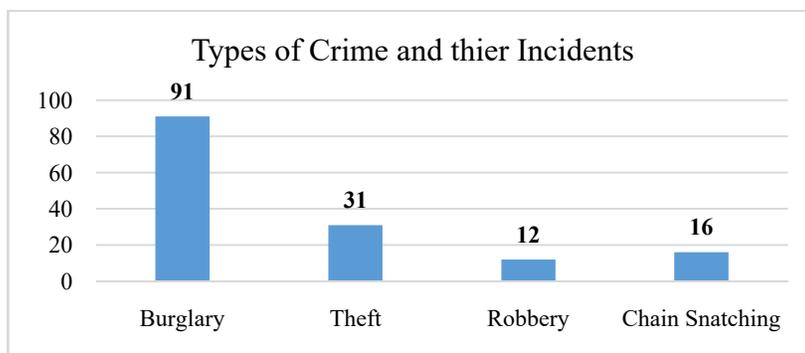
Results and Discussion

The relevance of the collected data is analysed in the following sections. To address the research question, each section addresses the role of opportunity and rationality through the information inferred from the news items and highlights the proportion of one or other in the commission of a crime.

Rationality and opportunity

Figure 1: Types of Crimes and their Incidences

Figure 1 shows the type of crimes reported during 1 January 2014 to 31 December 2015. The numbers reveal that burglary (91 cases, 60.7%) is the most common form of crime among property offences followed by theft (31 cases, 20.7%). Incidents of chain snatching (16 cases, 10.7%) is less compared to burglary and theft. Robbery (12 cases, 8%) is the least common forms of crime shown in the table. The numbers in the table reveal that more emphasis should be given to prevention of burglaries. Burglary involves preparation and is purposeful and calculated (Bernasco, 2006). Bernasco's statement reveals that burglary is a rational crime. Similar to burglary, theft, robbery and chain snatching also involve rationality. For instance, an offender who likes to snatch a chain identifies the target, studies the risk present in the environment and looks for the perfect time and place to commit the offence. This denotes the involvement of rationality



in chain snatching. Likewise, indulging in a robbery is purposeful/rational behaviour. The victim is not selected randomly and this selection involves some rationality. Robbers try to achieve their needs by forceful and illegitimate ways. For this purpose, the robbers make a choice, which involves calculating the risks and benefits. In the process of selecting a target for robbery, the offenders first select a suitable area and subsequently, select a suitable target (Bernasco & Block, 2009). However, this can be applied to other property crimes as well. In theft, offenders select a target which can be easily taken. Thus, among these crimes, robbery and chain snatching are more rational since it involves pre-preparation. There might be opportunity involved in robbery and chain snatching but it is considered as rational only because it involves at least a minimum level of preparation. Whereas in theft and burglary, the offenders are more opportunistic, the reason is that any unoccupied houses or buildings or unguarded valuables can attract an offender. It puts forward the question how the crimes are considered as rational or opportunistic. Both opportunity and rationality may play a vital role in the above-mentioned crimes. They are considered as rational or opportunistic based on which of their proportion outweighs the other. There are other factors important to understanding the role of opportunity and rationality in the commission of a crime and are discussed in the upcoming sections.

Place and crime

The place where a crime is committed has a vital role in rationality and opportunity. The types of crime also differ according to the place. Place here refers to any street, house, or building where the crime occurred. The physical infrastructure and social environment makes one place more vulnerable than the other.

Table 1 : Area-wise Incidents of Crime

Area	Frequency	Percent
Central Chennai	33	22
North Chennai	41	27.3
South Chennai	37	24.7
Outskirts	39	26
Total	150	100

As shown in Table 1, North Chennai tops the list with 27.3% and the outskirts of Chennai records 26% of crimes. South and Central Chennai recorded 24% and 22% respectively. Commission of a crime has a significant relationship with locations; some places are more crime-prone than others (Sherman, Gartin, & Buerger, 1989; Spelman, 1995; & Block, 1995). Crimes are strongly related to socially disorganized and urban setting (Wisburd, Bernasco, & Bruinsma, 2009). The disorganized are more vulnerable and such places will have more prevalence of crime. Vulnerability denotes weak physical infrastructure and social environment, in other words, disorganized environment. North Chennai has recorded 27.3% of the crimes studied, and it is a place in which physical infrastructure and social environment are weak compared to other areas mentioned in the Table 1. A socially disorganized environment provides many opportunities for the commission of a crime. Since the environment is already disorganized and risk for offenders is very less, there is more chance that an offender selects a target from such an environment.

Even though there is not much difference in the number of crimes reported in the south (24.7%) and central (22%) Chennai, these are the places where the environment is comparatively more organized than the north and outskirts of Chennai. Social disorganization theory states that delinquency and crime are common in poor, highly populated and unorganized areas. In line with the social disorganization theory, this study claims that organized places

have less crime and less organized places will facilitate more crime. The outskirts of Chennai are similar to the Zone of Transition in the Concentric Zone theory. This theory explains the zone of transition as a primary zone of deviance, which experiences a high rate of disorganization and dysfunction and this results in crime. Places such as Thuraipakkam, Porur, Seliyur, Guduvancheri, Urrapakkam, Nandambakkam and Thiruvannamiyur can be compared to the zone of transition. These places has similar attributes as zone of transition i.e. migrant population lot of IT sectors and factories and floating population. It also has lot of unused places and dilapidated buildings which provide an opportunity for crime.

Crime – day and time

Similar to the case with places, crimes are more during a certain time and less at other times. These patterns of time in crime are also significant in crime prevention (Johnson, Bernasco, Bowers, & Elffers, 2007). The offender looks for the perfect time to commit a crime after considering the place and type of crime he would like to commit or the target's routine creates a suitable time in which offender can commit a crime.

Table 2: Incidents Reported on Different Days of the Week.

Day of Incidents	Frequency	Percent
Monday	25	16.7
Tuesday	27	18
Wednesday	22	14.7
Thursday	25	16.7
Friday	15	10
Saturday	14	9.3
Sunday	15	10
No info Available	7	4.7
Total	150	100

Table 3: Incidents Reported at Different Times of the Day

Time of the incidents	Frequency	Percent
Night	86	57.3
Day	51	34
Early Morning	10	6.7
Evening	3	2
Total	150	100

The data in Table 2 shows that percentage of crime incidents reported during the days of the week. Tuesday had the highest number (18%) of crimes. Further, 16.7% of crime incidents reported was committed during Monday and Thursday. On Friday and Sunday, the reported incidents are 10% and Wednesday has 14.7% incidence of crime reported and 4.7% of the incidents reported do not have any information about the day of the crime.

Among the 150 crime reports selected for study, the percentage of the sum of crime incidents reported during weekdays is 76.1%. In general, the offender prefers weekdays than the weekends (Blevins, Kuhns, & Lee, 2012). During the weekdays, especially in urban cities like Chennai, most people go to work. In addition, since lot of people work, houses unoccupied and thus provides more opportunity for burglary. Secondly, during work, people are stuck in one place for at least 8–10 hours, which reduces the mobility of the people. Less residential mobility creates an opportunity for a would-be offender (Sun, Triplett, & Gainey, 2004). The weekends, however, are filled with many activities such as social visits, shopping etc., which in turn, increase mobility and deter the offender from indulging in crime (Sarkissian Associates Planners in collaboration with ACT Planning and Land Management, 2000). Moreover, city-centred areas are often considered by offenders as a less suitable target at nights and weekends (Wikström, 2016). During weekends,

houses and streets will be occupied due to the presence of people, which may deter the offender to commit crime. Hence, the offender rationally chooses places, which provide more opportunities for the successful completion of the crime.

Types of target

After considering the day, time and place, offenders choose suitable or vulnerable targets. The suitability or vulnerability differs according to the target and its environment. The offender considers some targets more suitable and some as risky for committing a crime. Newman (1972) claims that the offenders would be reluctant to pick targets which pose a risk or are difficult.

Table 4 : Types of Targets and incidence of crime reported for each

Type of Target	Frequency	Percent
Individual Houses	63	42
Public Places	36	24
Commercial Establishments	16	10.7
Apartments	13	8.7
Public Transports	8	5.3
ATMs	5	3.3
Cars	4	2.7
Religious Places	3	2
Bikes	2	1.3
Total	150	100

The table shows the different types of targets and their vulnerability statistics. Individual houses (42.3%) and open places (24%) seem to be most vulnerable targets. Commercial establishments had 10.7% of crime recorded and other targets recorded less than 10%. Individual houses (42.3%) are selected more often by the offender than other types of target as they are more suitable: the chances of being seen in them are less than that in apartment-type housings. Individual houses are thus often victimized of burglary. Blevins et al. (2012)

through their empirical study of burglars claim that burglars consider factors such as uncollected newspapers, mails or milk packets, isolation of targets from road and neighbour's residence, lighting, hiding places to indicate targets with less effective deterrents and factors such as proximity of the target to other people, which includes those walking, neighbours, occupants (people/persons inside the target), police officers, lack of escape routes, security signs indicating presence of alarms, CCTV camera and dogs as deterrents to the offenders to a large extent. Blevins et al.'s (2012) results explain why individual houses are victimized often. The study by Hakim, Rengert, and Shachmurove (2001) also reveals that individual or single houses are more vulnerable than dense and apartment-type houses as in these, neighbours can watch or notice any break-ins or suspicious activities. About 10.7% of the crime committed was in commercial establishments, which are often unoccupied during nights, thus making it an easy target. It is tough to conclude that a crime is completely rational or opportunistic, it is the proportion of rationality or opportunity that varies. The above discussion reveals that the offenders rationally select targets which provide more opportunity. The study argues that, even though the rationality is involved, the proportion of opportunity's role in crime is considerably more.

The crimes associated with cars, bikes, public transports and other open places occurred either due to the carelessness of the victim or the offender after knowing the victim had something to be stolen and intentionally diverted the victim for financial gains. It is found through the news analysis that, by being careless, the victims provided opportunities for the offender and by intentionally selecting the target, the offender revealed the rationality involved in the commission of crime. However, the victims could have been vigilant and

avoided providing opportunity for crime.

Access to targets

Accessibility of the target is important from the offender's perspective during the target selection process. In case of burglary, the offender has to get access to the house. In other types of crime, the offender needs to get close to the target this is referred as access to the target. Cohen and Felson (1979) state that the suitability of the target is based on Value, Inertia, Visibility and Accessibility, which in turn increase the attractiveness of the target. More attractive targets have the potential of being victimized often (as cited in Madero-Hernandez, & Fisher, 2012).

Table 5: Access to Target

Access to the Target	Frequency	Percent
Door Broke Open	70	46.7
Disguised Entry	21	14
Diverted the victim	8	5.3
Public Places	20	13.3
Forced Entry	18	12
Duplicate Key was used	3	2
Entered through Open Door	3	2
Offender was relative, friend of Servant to Victims	6	4
Info not Known	1	0.7
Total	150	100

Table 5 shows the different ways by which offenders accessed their targets and their frequency of use in crimes reported. Majority of the offenders (46.7%) got access to their targets by breaking through the door. It was observed that 14% of the offenders obtained access by assuming a disguise. Further, 13.3% of the crime incidents occurred in open places such as roads and other public places and 12% of them got access to the target through forced entry. Other types of access are less than 10%.

Once the offender identifies the target, he then looks to gain access/entry to the target. In order to commit a crime successfully,

access/entry to the target is vital factor. In 46.7% of the crimes, the offenders broke open the door to get access. Even though there was no information about the type of locks, most people use simple locks, which can be broken with a hammer. It is very common because if a person lost their key, their next option will be to break open the door with a hammer, stone etc. Bernasco (2006) claims that an offender selects a target that requires very little effort to break in. This also indirectly means the target that is very easy to gain access to. He further states that the offender selects targets that give the impression of no occupancy, no surveillance and where chances of being interrupted and apprehended are low. Bernasco in his argument first states that the offender selects an easy target. From the different types of access to targets shown above, disguised entry (14%), diverting the victim (5.3%), and forced entry (12%) could be attributed to this aspect. Duplicated key used (2%) can be seen from the rationality perspective. For instance, the offender rationally gets access to the target through disguised entry. Similarly, rationality is very much involved in diverting the victim, using duplicate keys and forcing an entry. In these cases, although there might be an opportunity exhibited by the target, rationality has a major role in gaining access to the targets. The access types such as breaking the door open (40.7%), breaking the windows open (14%), open places (13.3%), entering through open door (2%), breaking the back door open (2%) reveal the importance of opportunity in the commission of a crime. There might be a role of rationality, but the reason why these access types are considered as opportunistic is that any would-be offender will get attracted by these factors exhibited by the target.

In the case of the other two factors, the offender was somehow close to the victim so had easy access (2.7%) and friend or relative of victim's servant (1.3%) are considered

as special cases. This can be explained by the rationality and opportunity as well. In 2.7% of the cases, the offender is known to the victim, so they easily get access to the offender; similarly, for the servants to gain access to the target place is easy. There is a chance that they were motivated by the opportunity or they rationally planned and executed the offence. Sometimes, there might be both opportunity and rationality. These show the weaknesses in the target.

Special attention should be given to the access type – door broken open (40.7%). It was earlier mentioned that crime, which comes under this access type is rational. However, the offenders are classified as rational when they plan to break open a door because they should have been equipped with some tool to break open the door or used a duplicate key to open it. So, the offender prepares or plans for the offence, however, the offender is also motivated since the target is unoccupied and unsecured (no security measures, having locks that are easy to break open), which provides an opportunity for the offender. Hence, more than rationality, opportunity contributes to the occurrence of crime. Therefore, more than 40% of the crime can be considered as opportunistic crimes. There is a strong relationship between rationality and opportunity. Bernasco (2006) explains it in two stages: in the first stage, the offender identifies suitable targets, and at the second stage, the offender compares the potential targets and selects the most suitable one for commission of the crime. In methods such as opening locked doors, an unsecured place is often the selected as the most suitable ones. These results support the explanation of Bernasco.

Occupancy and crime

The time of crime, place and occupancy are interlinked factors. In the case of a specific target, at a particular time, there may be no occupancy or less mobility, which may facilitate the crime. The successful

completion of a crime needs a “no occupancy status.” Sometimes, the offender kills the occupant to complete the crime without any interruption. The offender either rationally selects the target that is not occupied or is tempted by targets that are unoccupied and thus provides the opportunity for crime. The presence of a guardian matters a lot in the prevention of crime. Any occupant can act as a guardian. So, no occupancy indicates the absence of guards, which can be considered as a motivating factor for the offender.

Table 6: Occupancy of target

Occupancy	Frequency	Percent
No	109	72.7
Yes	41	27.3
Total	150	100

Table 7: Occupancy vs. type of crime

Occupancy	Occupancy		Total
	No	Yes	
Burglary	75	16	91
Theft	17	14	31
Robbery	9	3	12
Chain snatching	8	8	16
Total	109	41	150

In 72.7% of the crimes (Table 6), there was no occupancy of the target and only 27.3% had been occupied during the occurrence of crime. The Routine Activity Theory (RAT) explains that for the occurrence of crime, there should be a motivated offender, suitable target and absence of a capable guardian. RAT observes that crime occurs when opportunities are created due to the absence of guarding at a specific target. This reveals the importance of occupancy in the occurrence of crime. The theory clearly says that a capable guardian should be present in order to prevent crime. The term capable guardian means anyone who can actively deter the offender or who can prevent the commission of a crime. Further, Bernasco

(2006) supports the rational choice theory by stating that the offender chooses the targets where there is an impression of no occupancy, no surveillance and chance of being interrupted and apprehension is low. In 72.7% of crimes, there was no occupancy which reveals that the offenders often rationally selected the target which had no occupancy. Though 27.3% targets were occupied, 22% (see Table 9) of them were elderly women, elderly men and lone women. These three categories are considered as vulnerable and defenceless targets against offenders who are often dominant males. The selection of unoccupied targets reveals that the offenders rationally select easy targets.

Security measures in crime incidents

It is not possible that a house or any other building always be occupied. However, when the target is not occupied it creates opportunity for the offender to commit a crime. In such a situation, security guard and security gadgets such as CCTV, burglar alarm, sensors, and access control devices help us to secure the targets and increase the risk for the offenders. When the target is unoccupied, such security measures reduce the burden of the owner in securing the target and increase the risk for offenders. Table 8 shows the presence of security measures used in the targets. The below-mentioned security measures were seen only in some of the houses or other building, rest of the targets had not opted for any security measures

Table 6: Occupancy of target

Security Measures (CCTV, Guard, Dog etc.)	Frequency	Percent
No	129	86
Yes	21	14
Total	150	100

Only 21% of the target has some or other kind of security measures – CCTV, security guard and dogs are the most common securities measures used as inferred from the news items on crime incidents. In case of security guards who are old, guarding ATMs and other places, many of us will agree that they can simply be present but cannot deter the offender or prevent the commission of a crime. Some of the houses and shops had CCTVs as security gadgets. The purpose of CCTVs are to deter the offender, but the number of offences in properties with CCTV installations show the deterrent effect of the CCTV is less than expected. The CCTV does not have much to do with crime prevention and it will only help in detection. CCTVs without a person to monitor them may not produce the desired result. It is not possible for all types of targets to engage a person to monitor the CCTV, but it is possible to guard the house or any other building with burglar alarms. But installation of these burglar alarms is accompanied by the question of its cost. However, many of the victims lost more than 50 or 100 sovereigns of gold. The cost of the burglar alarm is affordable when compared to the loss incurred by the victims. In spite of having more valuables, especially without adopting any security measures, the targets provided opportunity and increased the financial gains for the offenders. The victims of robbery, theft and burglary had not installed any security measures to avoid being a victim.

Motivating factors for crime

What motivates the offender to commit a crime is significant in crime. The absence of one or other factors discussed above may become a motivating factor for the offence. Each crime has a motivating factor, in this study, the motivating factors that have been inferred from the news items are shown in Table 9.

Table 6: Occupancy of target

Motivating factors	Frequency	Percent
Locked door	29	19.3
Locked door and victim was out of station	32	21.3
Easily accessible to the offender	11	7.3
Elderly victim	2	1.3
Elderly women	15	10
Lone women	16	10.7
Absence guardian	11	7.3
Attempt failed	2	1.3
Alone victim	10	6.7
Victim was careless	13	8.7
Info not available	9	6
Total	150	100

Locked door implies no occupancy to the offender. Among the motivating factors, shown in Table 9, locked door (19.3%) is a major motivating factor for crime. In about 21.3% of the reported incidents, the motivating factor was that of a locked door and the victim being out of station. It can also be anecdotal that the offender did surveillance of the target. The numbers show that elderly women (10%) and lone women (10.7%) are more vulnerable targets.

Bernasco (2006) in his argument first states that the offender selects an easy target. The above-shown data on different types of such targets, the elderly victim (1.3%), elderly women (10%), lone women (10.7%) and alone victim (6.7%) indicate the rationality of the offender. These targets are considered as weak or expected to show less resistance. So, the offender selected the targets which were less risky and provided an easy opportunity.

Crime and loss

Property related crimes mostly result in a loss. In fact, the purpose of offenders in property crime is to gain financial benefits. This study found the sum of property lost

in the 150 crime incidents studied was roughly 2996.5 sovereigns of gold, Rs. 96,31,180 and other valuables around Rs. 50 lakhs and above. In most of the incidents of crime, victims kept lot of valuables in the house or carried a huge amount of cash or other valuables. Moreover, news reports reveal that in many incidents, the victims have been an easy target and not vigilant. The targets could have been demotivated the potential offenders by simply keeping valuables in the bank locker, being alert or by adopting security measures. Apparently, the victims provided an opportunity by increasing availability of financial gains by being careless.

Conclusion and Suggestions

The study was focused on identifying the role of opportunity and rationality in the commission of a crime. From news items reported in electronic media in Tamil and English dailies from 1 January 2014 to 31 December 2015, 150 crimes were randomly selected to answer the research question. Further, the variables such as the type of crimes, day, place and time of the crime, access type, motivating factors, occupancy and security measures were inferred from the news item and discussed in the above sections. Importantly, both opportunity and rationality are not mutually exclusive. All the discussed factors are interdependent of each other and result in crime. The study reveals that, in many instances, both rationality and opportunity play a role in the crime. However, the study was initiated with the question the role of which factor is more than the other factor in the commission of a crime. Hence the crime is considered as rational if rationality played a major role and opportunistic if opportunity played a major role. The results reveal that the rationality of the offender has a minor role and opportunity has a major role in the commission of a crime. In most of the cases, the rewards for the offenders were high and the targets are not tough enough to deter the

offender or prevent the crime. The targets were very unsecured and careless. In other words, the targets don't seem risky for the offenders. Not being risky also implies the vulnerability of the target. In conclusion, the proportion of opportunity is more than the proportion of rationality. Hence according to the data, the role of opportunity is what matters in crime.

The result indicates the need to address the opportunity in the commission of a crime. Tilley (2009) express that "opportunity plays a major part in shaping the behaviour and ways to reduce the unwanted behaviour is to reduce the opportunity". Kang and Lee (2013) suggest the rational choice theory that increasing risks, increasing effort and reducing the rewards indeed demotivated the potential offenders. Importantly, reducing opportunity and increasing risk should go together to address the crime effectively.

Currently, awareness about crime prevention is needed. People should avoid walking in dark places, should avoid keeping more cash or valuables. Specifically, people can prefer a burglar alarm instead of CCTV, which only help in detection. The burglar alarms are affordable and the cost is less when compared to the loss incurred as the result of a crime. Targets could adapt "4D" layer techniques in physical security. Firstly, the target should deter the offender. Secondly, if the offender gets through the first layer, there should be a mechanism for detecting his presence. Thirdly, if the offender gets through the second layer, the time to acquire a target should be delayed so that someone can interpret the interaction between the offender and the target meanwhile. Lastly, if the offender gets through all the three layers, the target should defend itself. It would be a little hard for the offender to successfully get through all the four layers. These methods suit well for the commercial establishments or other types of targets which can afford to spend money on crime prevention. The

money spent on prevention is always an investment. However, these methods could be followed by others as well. For instance, houses can use a lock which is not easy to break, even if the lock is broken open, the cash or valuables shouldn't be kept in an almirah or locker. Interestingly, in India, women used to keep the cash or other valuables in rice container or other unusual places so that even if an offender broke open a door, his chances of acquiring the target is less. Similarly, women can avoid becoming a victim of chain snatching by walking on the right side of the road so that vehicles come on the opposite side and there is visibility. It is always recommended to use the pavement so the would-be offender who is on the bike to snatch the chain will not get access to his target. Another simple method for women is to hold an umbrella. The reason is that the umbrella extends at least feet away from the body. The would-be offender cannot get close to the body and thus the chance of selecting a woman who is carrying an umbrella is less. Similarly, in order to avoid theft and robbery, people should be more alert and avoid walking in dark and lonely places. These are few techniques for crime prevention methods. However, according to the situation, different methods can be adopted to make it hard to obtain the targets.

Another important issue is that, people think crime prevention is sole the duty of the police and other government agencies. The police and the public should work shoulder to shoulder to address the issue of crime prevention. Apart from police and the public, other government agencies should take crime prevention efforts. For instance, corporation can maintain the streets clean and ensure proper lights in the dark and crime-prone areas. Crime prevention should be a combined effort police, public and other agencies, so that it will bring down the crime rate to a large extent.

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REHABILITATION AND REINTEGRATION POSSIBILITIES FOR RAPE VICTIMS IN INDIA

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ABSTRACT

Our country has witnessed an increase in numbers of rape crimes and so are the victims. Strict sentencing laws and enhanced registration have not deterred the offenders but have instilled fear in the mind of rape victims. The efforts to sensitize criminal justice personnel working for rape victims has not yielded satisfactory results as there is still some element of shame and degradation experienced by the victims in the whole process. There is need to rehabilitate victims to lessen their pain and suffering via fulfilling their needs that arise as a consequence of their victimization. The article discusses in length different forms of rehabilitation to fulfill the victim's needs such as medical, physical, sexual, psychological, occupational, social (formal and informal), and also the possibility of introducing Restorative Justice System, which is relatively new to India, to further deal with the concerns of victims. The article puts forth a reasonable argument that if such rehabilitative and restorative options are developed through the initiative of Government and private machinery could make a huge difference in the life of the victims.

KEY WORDS

Victim; Rehabilitation; Reintegration; Needs; Rape**

Introduction

According to Liz Kelly (2008) rape violates personal, intimate and psychological boundaries what in human rights language is designated human dignity and bodily integrity, and in feminist and critical theory is termed sexual autonomy or sexual sovereignty (Richardson, 2000). As a result, victims have a broad range of needs such as the need to share their stories with relevant others and to lament with them, to acknowledge their harm and to reconnect with themselves and others, and also on personal level, recoup a sense of personal safety and control (Herman, 1992, 2003; Bloom, 1997). The type, intensity, and duration of support and services that are required to address the individual victim's needs may not be same for other

victims whether of same crime or different crimes; the needs may differ based on the requirements of the victims. In the immediate aftermath of victimization, the victims of crime may seek services, support and assistance from mental health and criminal justice professionals, and depending on the sensitivity and care with which these professionals treat victims may play an important role in their recovery process (Mezey, 2007). The mental health and criminal justice workers may inadvertently re-victimize trauma survivors through their insensitive approach towards their needs, by engaging in victim-blaming, or having doubt in the reports of their victimization (O'Sullivan and Fry, 2007). Moreover, when considering the crime of rape within criminal justice and social service crisis intervention, it is critical that

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one considers not only victimization but also survivorship. Therefore, it is no longer adequate to consider the victimization experience without also considering the road victims travel.

Needs of Rape Victim

Medical Needs

A rape can result in physical injury to the victim. Physical signs include difficulty in walking or sitting; stained, or bloody under clothes; complaints of pain and itching; irritation in private parts, bruises or bleeding or abrasion; and venereal diseases and pregnancy. Physical disorders observed in the victims were painful urination, enuresis, and abdominal pain. The rape can cause grave injuries to victim particularly of tender years or weak. As a consequence of violent instances of rape, the victims may suffer from incontinence and vaginal fistula. Rapes are known to cause deep convulsions, epileptic fits and mental derangements. Instant death may even occur as a result of rape from shock due to fright and mental emotion or from injuries resulting from assailant's efforts to overpower the victim such as hemorrhage due to excessive bleeding from severe injuries to the genitals and perineum especially among children (McVary, 2012). Physical health effects include irregular menstruation/ no menstruation (amenorrhea) pregnancy, abortion (in 2.5% of cases), child birth, STDs (Sexually transmitted diseases) such as gonorrhoea, chlamydial infection, bacterial vaginitis, HIV infection, minor or severe bruising, injuries, infection and broken bones (Dubourg et al, 2005, p.34). Such medical problems give rise to medical necessity means health care services suitable for treating these victims.

Physical Well-being

Physical injuries can serve as ongoing reminders of the original trauma and also can cause further trauma in the form of repeated hospitalizations, reconstructive

surgeries, and/or chronic pain (Cohen, 2003). A proper rehabilitation program can reverse many disabling conditions by restoring the victim's physical functions or can help victims cope with deficits that cannot be reversed by medical care, and/or modifying the victim's physical and social environment.

Psychological Needs

Rape is the desire for power (to dominate, subordinate, control) and feelings of hostility (contempt, anger) are vented out on the victims, transforming them from persons to objects and often plunging them in to a 'rape crisis syndrome' (Karmen, 1982). Sexual assault has a devastating effect on victims' psychological and physical health as survivors often experience post-traumatic stress, depression, and somatic symptoms (Koss, 1993). Frazier and Borgida (1992) have established that "rape victims experience more depression, anxiety, fear, and social adjustment problems than women who have not been victimized... [and] that many victims experience PTSD (Post Traumatic Stress Disorder) symptoms following an assault" (p.301). The PTSD criteria reflect "the intense fear that many rape survivors experience, as well as the desire to avoid situations that are reminders of the rape experience" (Boeschen et al, 1998, p.418). One study reported suicide attempts by 19% of a community sample of women who had been sexually raped (Kilpatrick et al, 1985). There is no doubt that the inappropriate and unsupportive responses from family and friends may serve only to exacerbate the negative psychological outcomes of victimization (Davis, 2007). The vast majority of those raped are women, the clinical and empirical literature has focused on their reactions, and much less information is available on male survivors (Koss and Harvey, 1991). Treatment programmes and therapies are needed which especially deal in curing such psychological symptoms and preventing

suicidal ideation, and be necessarily within the reach of the victim.

Sexual well-being

The rapist is likely to infect the innocent victim with a sexually transmitted disease if he suffers from that (Ram and Rice, 2012), this may cause untold misery and defamation. Sometimes the infection spreads so badly in her genitals that could be dangerous for her in the future. Reproductive parts may get damaged. Rape negatively affects the survivor's sexual life; because of that they have less desire to engage in sexual activity (Becker et al, 1984). They may also suffer from sexual dysfunction or dyspareunia (McVary, 2012). The rape survivors become sexually conservative and develop some adversarial sexual beliefs like all sexual relationships are fundamentally exploitative, and the men are untrustworthy, manipulative, cheat, sly and are also opaque to other's understanding (Burt, 1980). The victims need to regain sexual health.

Regain self-control, self-esteem and self-confidence

The victim's previous sense of invulnerability dissipates in a decrease of self-esteem and self-confidence. The victim tends to experience contradictory feelings such as fear, sadness, guilt, and anger all at the same time (Koss and Harvey, 1991). It's necessary for a victim to regain self-control, self-esteem and self-confidence. Self-control is the ability to control oneself, in particular one's emotions and desires, especially in difficult situations. Self-esteem is confidence in one's own worth or abilities; taking pride and confidence in oneself; a feeling that one is behaving with honour and dignity also called self-respect. Self-confidence is a feeling of trust in one's abilities, qualities, and judgement.

Living life with dignity

The rapist inflicts the humiliation, pain and

terror on the victim not just to degrade her but also to strip the humanity from the larger group of which she is a part. The rape of one person is automatically translated into an assault upon the community to which she belongs through the emphasis placed in every culture on women's sexual virtue: the shame of the rape humiliates the family and all those associated with the survivor (Nowrojee, 1996, p.2). Since, the female virginity is highly prized in patriarchal society, so the sanctity of sexual relations before and after marriage. This value is deeply embedded in woman's collective consciousness since her childhood that the rape victim herself literally feels defiled after being criminally assaulted (Griffin, 1982). She faces constant barbs and criticism of chastity, as a result, she feels not just a personal sense of shame, but is also weighed down with guilt for no fault of hers (Ram, 1993).

There is likelihood that she may be disowned by the family, shunned by the relatives and acquaintances, and abandoned to face a fate worse than death (Sarkar, 1994). Negative social reactions were strongly linked to increased psychological symptomatology, delayed recovery, and poorer perceived physical health (Ullman, 1996; Ullman and Siegel, 1995). While some victims get positive support, they also often receive negative social reactions (e.g., blame, disbelief) from those who they tell about their assaults, and receive more negative reactions (Ullman et al, 2007) from informal network members and secondary victimization (e.g., negative treatment) from the medical and criminal justice organizations which women deal with post-rape (Ullman, 2010). The victim can regain her lost honour and dignity if she is treated well by informal and formal networks.

Safety and Security Concerns

Koss and Harvey (1991) noted a change of schema, or organizing structure, cognitively due to rape leading to changes

in beliefs, about trust, safety, and intimacy. Restructuring their activities and changing their jobs and their appearance is not unusual for some survivors of sexual assault (Warshaw, 1988). Relocating to another city or changing their residence is usual. They may even change their phone number. Assurance of safety is important. Some amount of safety can be experienced if proper emotional support is offered. The victim wants to be safe from any kind of threat from the offender or his family. The threat can be from her own family where there is stake of honour involved. It may be argued that a major dimension of trauma is the destruction of meaning: assumptions that an individual has made about the orderliness of the world, about their own personal autonomy, about where they fit in the web of social relationships - all these are dis-rupted by crime and provide an important dimension to the trauma that they experience (Toews and Zehr, 2003, p.264). The sense of security is deeply affected as the victim becomes vulnerable, and loses confidence in her abilities and judgement because of her victimization. The victim needs to reorder her life and find a new meaning in life, and this may require recovery from, and transcend from the trauma (Toews and Zehr, 2003, p.264). Social security from the state is also needed for the victim with an inadequate or no income.

Cyber Security

Sometimes, the offender records the rape act and uses it to threaten the victim to not report the crime to police, or blackmail her to get money, or even rape her again, or for selling it in the market or for offering her as 'booty' to his friends or for other reasons. The victim needs assurance from the police that the recorded clip will be deleted once recovered from the offender; there will not be any record as such. Such rape videos make

it to the market. The customers can either choose from a pornographic catalogue or directly request a 'local film' – a euphemism for videos of rape (Al Jazeera, 2016). Once a rape video reaches one dealer, it spreads like wildfire, through applications such as WhatsApp; in fact, "WhatsApp sex videos" is one term used for rape videos. Sometimes, the videos are stolen from the perpetrator's phone when he takes his device to a shop for repairs.

The rape videos are usually bought for Rs.2,000 to Rs.5,000. The shopkeeper 'clean up' the clips before putting them out in the market. The 'clean up' means that the faces of the rapists are blurred but the victim's face is not. Those that have an audio track (read screams) are more expensive. The trend of filming a rape is gaining ground and most of these are cases of gang rapes. The duration is anything between 10 minutes to 30 minutes and the video clip is sold for anything between Rs.300 to Rs.500, depending on how explicit it is (The Asian Age, 2017). Al Jazeera found several rape videos for sale costing Rs.20 to Rs.200 (30 cents to \$3) across the Uttar Pradesh state. It is a lucrative commodity that can be sold many times over and are transmitted to a customer's mobile phone in a matter of seconds. The sellers in Lucknow claim to sell 100 to 200 "local films" every day (The Asian Age, 2017). The faces of the women are visible in these films. Their voices are clear. The attacks on them are brutal. In more than 50 per cent of rape cases, the victims complain that the act was filmed by the accused, but the police never register the case under IT Act (The Asian Age, 2017). The victim, whose rape video is being sold in the market, might have resorted to committing suicide. There should not be any exploitation of services provided by smart devices in the form of making illegal and obscene clips.

Legal Definition and Frequency/ Characteristics of Rape

Legal Definition

Rape¹.

A man is said to commit “rape” if he—

- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
- (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
- (d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:—

- First — 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 eighteen years of age.

Seventhly

— When she is unable to communicate consent.

Explanation 1.

— For the purposes of this section, “vagina” shall also include labia majora.

Explanation 2.

— Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

¹Section 375 Rape, The Criminal Law (Amendment) Act, 2013.

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

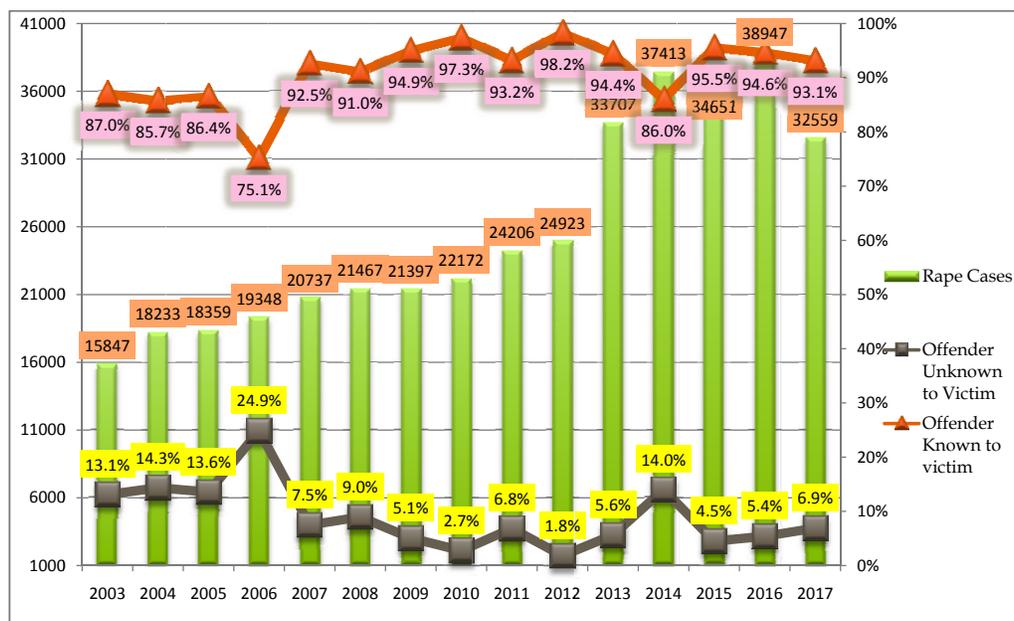
In Sub-section (1) of Section 376 Punishment for Rape, it is mentioned “A man convicted of an offence of rape is punished with imprisonment for a term which shall not be less than seven years but may extend to ten years or for life and shall also be liable to fine.”²

The Protection of Children from Sexual Offences (POCSO) Act, 2012 is a comprehensive law to deal with all kinds of child sexual offences including rapes. The said Act defines a child as any person (both male and female) below eighteen years of age, and defines different forms of sexual abuse, including penetrative and

non-penetrative sexual assault, and deems a sexual assault to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-à-vis the child, like a family member, police officer, teacher, or doctor. The said Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine.

‘Victim’ means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir.³ ‘Rape victim’ should be addressed as ‘victim’ as mentioned in the judgment State of Karnataka vs Puttaraja [2003 (8) Supreme 364]’. Rape victims are

Figure 1. Rape Cases and Offender Known/Unknown to Victims in India.



Data Source: Crime in India Report (2003-2017) National Crime Records Bureau Publications, New Delhi.

²Sub-section (1) Section 376 Punishment for rape, The Criminal Law (Amendment) Act, 2013.

³Sub-section (wa) of Section 2 Definitions, The Code of Criminal Procedure, 1973.

referred to as ‘victims’ or ‘rape victims’. The rape victims are predominantly female and for convenience, I am using ‘she’ for the victim/survivor, although the victim can be both male and female according to law.

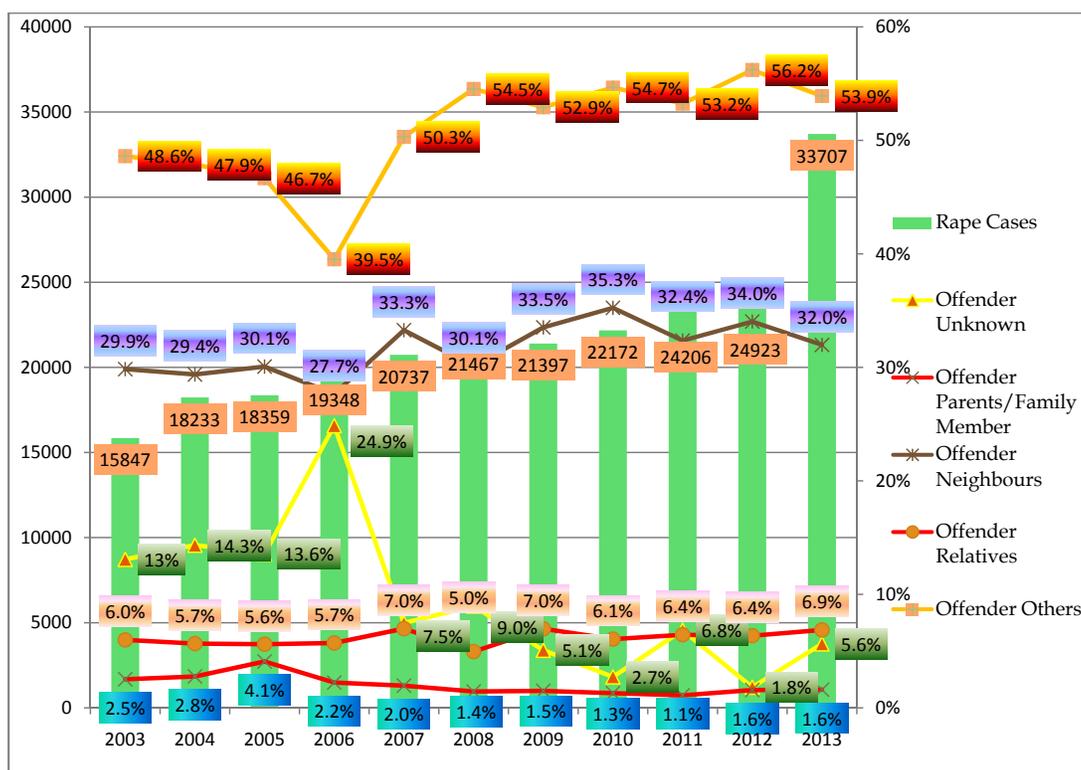
Frequency and Characteristics

A total rape case of 15,847 in 2003 has increased to 32,559 in 2017. Rape cases have increased more than two and a half folds in fourteen years (2003-2017). The Figures and Tables mentioned below shows the trend of rape crime since 2003-2017. Rape data of 2014, 2015, 2016 and 2017 of India have been collected on different criteria to last eleven years (2003-2013) in terms of age group of victims of rape and relationship of the offender with the victim. Therefore, the rape data of these four years could not form

part of figures but are mentioned separately in Table 1, Table 2 and Table 3. The National Crime Records Bureau (NCRB) has not yet released Crime in India report for 2018. The data of child rape cases and child rape victims based on Protection of Children from Sexual Offences (POCSO) Act, 2012 have been collected since 2014 and has been mentioned separately in Table 4.

It can be seen from the Figure 1 that rape cases have reported mixed trend over the last fifteen years (2003-2017) with an increase of 15% in 2004 over 2003, an increase of 0.8% in 2005 over 2004, again an increase of 5.4% in 2006 over 2005, an increase of 7.3% in 2007 over 2006, a substantial increase of 3.4% in 2008 over 2007, a decrease of 0.3% in 2009 over 2008, an increase of 3.6% in

Figure 2. Rape Cases and Relationship of the Offender with the Victim in India.



Data Source: Crime in India Report (2003-2013) National Crime Records Bureau Publications, New Delhi.

2010 over 2009, an increase of 9.4% in 2011 over 2010, 2.7% increase in 2012 over 2011, a whopping increase of 35.5% in 2013 over 2012, an increase of 10.1% in 2014 over 2013, a decrease of 7.4% in 2015 over 2014, an increase of 12.4% in 2016 over 2015 and a decrease of 16.4% in 2017 over 2016. In 2017, there is a new category of data has been added categorized as 'repeated rape on same woman'.⁴ There are 1652 cases reported under this new category 'repeated rape on same woman' on all India level.

From 2003-2006, more than 10% unknown offenders have been involved in the rape case which increased to 25% in 2006. There have been less than 10% of involvements of unknown offenders from 2007-2013 with the lowest figure of just 2% in the year 2012. However, in the year

2014, unknown offenders increased to 14%, which again decreased to less than 7% in three consecutive years 2015, 2016 and 2017. The known offenders are much higher in number in perpetrating rape. The figure shows that in year 2012, the known offender involvement was 98%, the highest and lowest 75% in 2006.

The Figure 2 shows the involvement of known offenders in the form of parents/ family member, neighbours, relatives and others. Other offenders are known to have bigger share in perpetrating rape with the highest value at 56.2% in 2012. Neighbours have been placed second with the highest value at 35.3% in 2010. Relatives have stood third in terms of their involvement with the highest level at 7% in the year 2007 and 2009. Parents/ family member are

Table 1. Rape Cases and Relationship of the Offender with the Victim in India.

YEAR RELATIONSHIP OF THE OFFENDER WITH THE VICTIM	2014		2015		2016	
	Grandfather/Father/Brother/Son/etc.	674	1.8%	488	1.4%	630
Close Family Members (Other than Row 1)	966	2.5%	891	2.6%	1087	2.8%
Relatives (Other than Row 1 and 2)	2217	5.9%	1788	5.2%	2174	5.6%
Neighbours	8344	22.3%	9508	27.4%	10520	27%
Employer/Co-Workers	618	1.6%	557	1.6%	600	1.5%
Live in Partner/Husband (Separated/Ex)	*	*	705	2%	557	1.4%
Known Persons on Promise to Marry the Victim	*	*	7655	22%	10068	25.8%
Other Known Persons	19368	51.8%	11506	33.2%	11223	28.8%
Total No. of Cases in which Offenders were known to the victims	32187	86%	33098	95.5%	36859	94.6%
Offenders Not Identified/known / by Victims	5226	14%	1553	4.5%	2088	5.4%
Total Rape Cases	37413	100%	34651	100%	38947	100%

Data Source: Crime in India Report (2014-2016) National Crime Records Bureau Publications, New Delhi.

⁴Clause (n) of Sub-section (2) of Section 376 Punishment for rape, Indian Penal Code (45 of 1860)

known to have least involvement in rape having highest percentage of 4.1% in 2005. The criteria for data collection of known offenders have changed since 2014. They have included different types of known offenders with additional criteria which are provided in a separate table for the years (2014-2016) (See Table 1). The criteria for collecting data of known offenders have now been reduced to only three categories for the year 2017, hence in a separate Table 2; the data has been mentioned of India.

*The data was not collected for the year 2014.

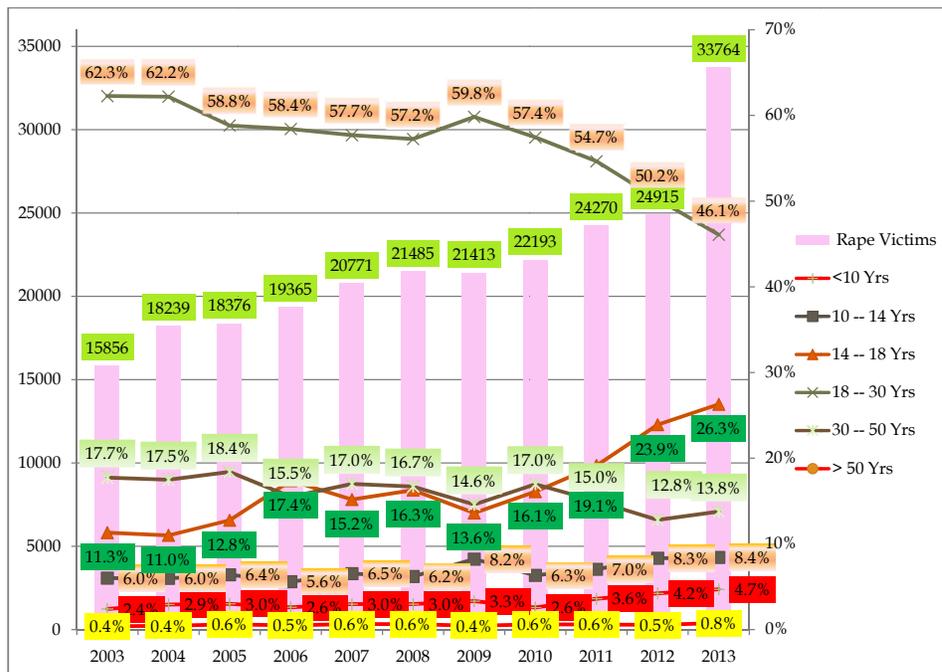
Note: The data of 2015 and 2016 of India have included two new categories of offenders 'Live in Partner/Husband (Separated/Ex)' and 'Known Persons on Promise to Marry the Victim'.

Table 2. Rape Cases and Relationship of the Offender with the Victim in India.

RELATIONSHIP OF THE OFFENDER WITH THE VICTIM	YEAR 2017	
	INDIA	
Family Members	3155	9.7%
Family Friends/ Neighbours/ Employer or Other Known Persons	16591	50.9%
Friends/ Online Friends or Live in Partners on Pretext of Marriage/ Separated Husband	10553	32.4%
Total No. of Cases in which Offenders were known to the Victims	30299	93.1%
Offenders Unknown or Not Identified	2260	6.9%
Total Rape Cases	32559	100%

Data Source: Crime in India Report (2017) National Crime Records Bureau Publications, New Delhi.

Figure 3. Victims of Rape and their Age Group in India



Data Source: Crime in India Report (2003-2013) National Crime Records Bureau Publications, New Delhi.

It can be seen from the Figure 3 that rape victims have reported mixed trend over the last fifteen years (2003-2016) in India, with an increase of 15% in 2004 over 2003, an increase of 0.8% in 2005 over 2004, again an increase of 5.4% in 2006 over 2005, an increase of 7.3% in 2007 over 2006, an increase of 3.4% in 2008 over 2007, a decrease of 0.3% in 2009 over 2008, an increase of 3.6% in 2010 over 2009, a substantial increase of 9.4% in 2011 over 2010, 2.7% increase in 2012 over 2011, a whopping increase of 35.5% in 2013 over 2012, an increase of 11.6% in 2014 over 2013, a decrease of 7.7% in 2015 over 2014, an increase of 12.4% in 2016 over 2015 and a decrease of 13.8% in 2017 over 2016 (2014-2017 data mentioned in Table 3). The (18-30 years) age group has figured the most by occupying highest level at 62% consecutively in 2003 and 2004. The age group (14-18 years) has figured second highest and stood highest at 26% in 2013. The third place has been occupied by the age group (30-50 years) with the highest level at

18% in 2003 and 2005. The age group (10-14 years) has stood at fourth where 8% is recorded highest in three years, i.e. 2009, 2012 and 2013. Age group (< 10 years) has stood at fourth with the highest 4.7% of victims in 2013. Among (<10 years) old and (10-14 years) old rape victims are showing a rising trend for last three consecutive years, i.e. 2011-2013. Very few rape victims were below 50 years. There may be more than one victim in some rape cases reported. The criteria for classification of age group of victims of rape has changed since 2014 and the data has been provided in a separate table from 2014-2017 (See Table 3).

In India, child rape cases has shown overall increasing trend from 2003 to 2016. With minor dip of less than 1% in year 2007, 2009 and 2010. In 2015, there was a significant 5.5% dip but, in year 2016, these incidences increased to 50.7%, a rise of 19.4% over 2015. There was 49.1% howling decrease in child rape cases in 2017. Usually, child rapes constituted less than one fourth of total rape cases till 2010, since then, it has

Table 3. Victims of Rape and their Age Group in India.

YEAR AGE GROUP	2014		2015		2016		2017	
	Below 6 Years	547	1.4%	451	1.3%	520	1.3%	298
6 Years & Above - Below 12 Years	1491	4%	1151	3.3%	1596	4.1%	818	2.4%
12 Years & Above- Below 16 Years	5635	14.9%	4244	12.2%	6091	15.6%	3759	11.2%
16 Years & Above- Below 18 Years	6862	18.2%	5547	15.9%	8656	22.2%	5346	15.9%
Total Girl/Child Victims	14535	38.6%	11393	32.8%	16863	43.7%	10221	30.4%
18 Years & Above- Below 30 Years	16520	43.8%	16966	48.8%	16462	42.1%	16900	50.2%
30 Years & Above - Below 45 Years	5846	15.5%	5677	16.3%	5192	13.3%	5895	17.5%
45 Years & Above - Below 60 Years	690	1.8%	637	1.9%	494	1.3%	503	1.5%
60 Years & Above	90	0.2%	98	0.2%	57	0.1%	139	.4%
Total Women/Adult Victims	23146	61.4%	23378	67.2%	22205	56.9%	23437	69.6%
Total Rape Victims	37681	100%	34771	100%	39068	100%	33658	100%

Data Source: Crime in India Report (2014-2017) National Crime Records Bureau Publications, New Delhi.

increased to constitute overall one third till 2015, whereas in 2016, child rape cases have constituted more than half of total rape cases. "Child" means any person below the age of eighteen years.⁵

Table 4. Child Rape Incidences under Protection of Children from Sexual Offences (POCSO) Act, 2012 in India.

YEAR	2014	2015	2016	2017
CHILD RAPES (POCSO Act, 2012)				
Child Rape Cases	4895	8800	19765	17382
Child Rape Victims	4930	8833	19920	17597

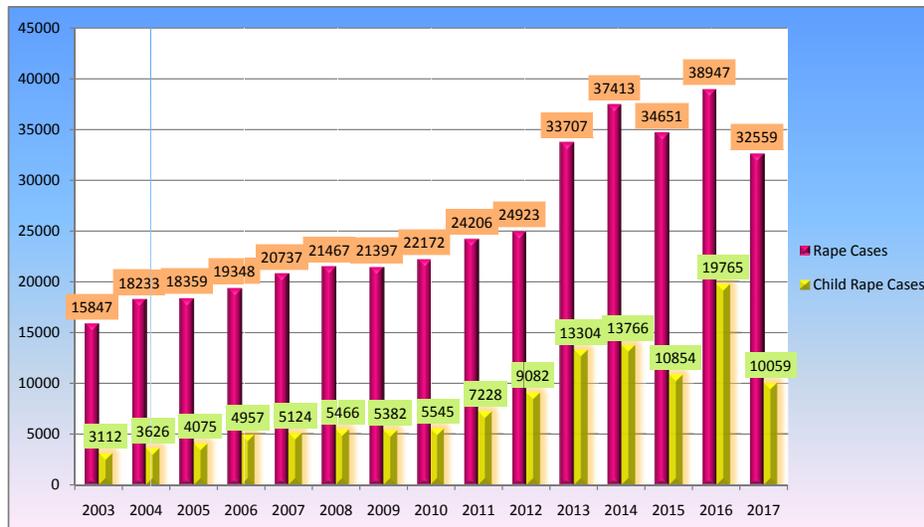
Data Source: Crime in India Report (2014-2017) National Crime Records Bureau Publications, New Delhi.

Note: Since, POCSO Act, 2012 came into existence in the year 2012 so, the child rape cases of 2012 and 2013 based on POCSO

Act on all India level and for Delhi was not collected. The child rape cases based on POCSO Act are available since 2014. The child rape cases have been registered under Sec. 4 Punishment for penetrative sexual assault and Sec. 6 Punishment for aggravated penetrative sexual assault⁶ mentioned in the Protection of Children from Sexual Offences (POCSO) Act, 2012. So, the data mentioned above is the sum of these two sections. Although, the child rape cases constitute of both male and female child rape cases below eighteen years of age according to POCSO Act, 2012, the figures of child rapes mentioned in Table 4 include only female victims.

It can be seen from Table 4 that there is 80% increase in the child rape incidences in the year 2015 over 2014, an enormous increase of 125% in the incidences in the year 2016 over 2015 and a decrease of 12% in 2017

Figure 4. Rape Cases and Child Rape Cases in India.



Data Source: Crime in India Report (2003-2017) National Crime Records Bureau Publications, New Delhi.

⁵Clause (d) of Sub-section (1) of Section 2. Definitions. The Protection of Children from Sexual Offences Act, 2012.

⁶Section 4 Punishment for penetrative sexual assault and Section 6 Punishment for aggravated penetrative sexual assault, Protection of Children from Sexual Offences Act, 2012.

over 2016 on all India level. There is 79% increase in the child rape victims in the year 2015 over 2014, an enormous increase of 125% in the victims in the year 2016 over 2015 and a decrease of 11.7% in 2017 over 2016 on all India level.

Methodology

This article is secondary source based article. The article deliberated that rape crime gives rise to various needs of the victims; so these needs ought to be fulfilled. It has further discussed various types of victim assistance programmes and rehabilitation methods such as medical, physical, psychological, sexual health, occupational, social (formal, informal support and social services), restorative justice and reintegration methods essential for rehabilitating the victims of rape. The new developments in the field of rehabilitation are also elaborated. The article has tried to fill the gap by bringing together and discoursing on all the factors in whole, which may rehabilitate and reintegrate the victims of rape. India has recently made new changes in the rape law in the light of unprecedented increase in the rape incidents; giving rise to number of its victims. It is necessary that such measures be promulgated for the betterment of such victims.

Victim Assistance

Immediately after the crime of rape, the victim requires assistance be it in the form of medical, counseling, lodging of FIR (First Information Report) at police-station etc.

Crisis Intervention Services (CIS)

Crisis Intervention Services constitute of running telephone helplines, providing counselling, accompanying rape victims to police station, hospitals and court proceedings, should they wish to be accompanied, and running support groups where victims may discuss their experiences with each other. Crisis intervention services

focus on helping victims to re-establish a sense of safety, assisting victims with practical needs following victimization, and providing victims with a safe place to tell their stories. Staff and volunteers at the Rape Crisis Intervention Centers are trained in non-directive counselling and provide long-term counselling, if necessary (Williams, 1999, p.95). The emphasis is on support for victims and on a commitment to confidentiality. In addition to its practical services for victims, Rape Crisis engages in advocacy in order to raise awareness of the patriarchal underpinnings of violence against women (Dignan, 2005, p. 56). It has thus contributed to the government's recognition of the need to reform law and policy to better respond to rape victims' lived realities of both primary and secondary victimisation.

The Women help line number 1091 has started functioning since 18th September, 2002 in Delhi Police Control Room round the clock; this telephone number is in addition to the existing helpline number 100. The Women Police Mobile team is equipped with address and telephone numbers of NGOs as well as Government agencies providing support services. The team provides necessary assistance required by the women in distress, if needed, action is initiated on the complaint of women in the form of criminal action, medical examination and treatment, prevention action etc. These mobile teams also give counseling to women victims on the spot and guide them about their legal rights. Any kind of help can be sought by women victims from these mobile teams. Shelter is also organized for the needy. (Crisis Intervention Centers, 2012)

The Ministry of Women and Child Development (MWCD), has formulated a Centrally Sponsored Scheme for setting up One Stop Centre (OSC), a sub - scheme of Umbrella Scheme for National Mission

for Empowerment of women including Indira Gandhi Mattritav Sahyaog Yojana. Popularly known as Sakhi, the scheme is being implemented since 1st April 2015. These Centres are being established across the country to provide integrated support and assistance under one roof to women affected by violence, both in private and public spaces in phased manner. OSC will provide access to an integrated range of services including emergency response and rescue services, medical assistance, assistance to women in lodging FIR, legal aid and counselling, psycho-social support/counselling, shelter and video conferencing facility to women affected by violence, in private and public spaces, within the family, community and at the workplace. It will also provide video conferencing facility through Skype, Google Conferencing etc. to facilitate speedy and hassle free police and court proceedings. Through this facility if the victim wants, she can record her statement for police/ courts from OSC itself using audio-video electronic means as prescribed under sections 161(3), 164(1) and 275(1) of CrPC, 1974 and section 231(1) in line with Order XVIII Rule 4 of CPC, 1909. This facility will be provided only after consultation among Superintendent of Police, District and Sessions Judge of the concerned district (place of incident).

Counseling

Counseling is a provision of professional assistance and guidance in resolving personal or psychological problems. One method of counseling victims/survivors is to discuss their injuries and to let them express their pain and loss as a result of rape. This allows them to ventilate their feelings and to understand that the victim's/survivor's crisis is a shared crisis. They should be encouraged to talk openly about their feelings without being critical. The counselor can intervene in the critical areas

of the victim's life, such as her suicidal thoughts or suicidal ideation so that it can be diminished and the ability to cope should be strengthened. At the basic level, suicide treatment must include an assessment of both sociological and psychological risk factors. As Frankish (1994) documents, suicide counseling must include more than risk assessment. A good treatment program must consider the seriousness of suicide gestures, diffuse the risk of suicide (by decreasing both perturbation and lethality), encourage and develop social interaction, use an empathic communication style, where appropriate seek consultative support and/or make appropriate referrals, and if possible, make follow-up calls with past clients. Emotional support comprises listening and the provision of comfort and reassurance to victims.

Emergency Transportation and Shelter

The victim may require emergency transportation to go to hospital or police-station depending on her condition and may even require shelter. The OSC will provide temporary shelter facility to aggrieved women. For long term shelter requirements, arrangements will be made with Swadhar Greh/Short Stay Homes (managed/affiliated with government/NGO). For this, linkages will be developed with existing mechanisms such as National Health Mission (NHM), 108 service, police (PCR⁷ Van) so that the woman affected by violence can either be rescued from the location and referred to the nearest medical facility (public/private) or shelter home with food and clothing.

Advocacy

The victim will need information about legal rights and legal representation in the criminal justice system. The victim decides whether or not to report the rape to the police, they need sufficient information to make an informed decision. They need

⁷Police Control Room

counseling, information about their cases, participation at various stages of the criminal justice process, compensation etc.

Rehabilitating and Reintegrating Rape Victims in India

Rehabilitation of Victims of Rape

Rehabilitation is the process of helping victims achieve the highest level of function, independence, and quality of life possible after the damage caused by disease or trauma resulting from rape. It does not reverse or undo the damage, but rather helps restore the victim to health and normal life through training and therapy.

Medical Rehabilitation

Medical Rehabilitation is concerned with preventing, diagnosing, and treating disabling diseases, disorders, and injuries by physical means such as by the use of electrotherapy, therapeutic exercise, or pharmaceutical pain control. The victims should be able to avail first aid or medical facilities free of cost from the government as well as private hospital. These hospitals should be in the reach of victims.

Physical Rehabilitation

The rape victim may require physical rehabilitation whose lifestyle has changed because they have gone through a serious illness, injury, surgery as a result of rape. She may even undergo physiotherapy. Physiotherapy is the treatment of disease, injury, or deformity by physical methods such as massage, heat treatment, whirlpool baths, ultrasound, exercise and other techniques. It seeks to relieve pain, improve strength and mobility, and train the victim to perform important everyday tasks.

A newer form of therapy is the use of recreational therapy, or therapeutic recreation. The idea is that victims may become rehabilitated through interaction with others in recreation, such as sports. Sports can have a significant positive impact

on victims, as it promotes working with others to achieve shared goals and receive mutual recognition through teamwork. These activities may help victims positively reconnect with others and also contribute towards healing.

Psychological Rehabilitation

First, trauma recovery is an ongoing process and “recovery is never complete” (Herman, 1992). The trauma recovery process is neither linear nor expected to reach the final stage, at which point survivors may claim full recovery status. It is imperative that mental health professionals and victims’ services workers inquire about victims’ histories of trauma and abuse to better respond to their needs for recovery; given that the impact of trauma is cumulative (Follette et al., 1996).

A wide array of psychological or clinical interventions have been developed to reduce the psychological costs of victimization, including psychoeducation (e.g. dispelling myths about victimization and trauma, assisting victims with safety planning), distress reduction and affect-regulation training (e.g., breathing techniques, trigger awareness), cognitive interventions (e.g. victim empowerment, narrative coherence), emotional processing (e.g. exposure, desensitization), and techniques to improve relational functioning (Briere and Scott, 2006). The arts can have a significant positive impact on victims, especially in building self-confidence, self-esteem and social capital. The victim may better address any psychological problem such as depression, anger, anxiety etc. through the self-expression that the arts facilitate. The arts and crafts, games, relaxation training, and animal-assisted therapy are newer forms of recreational therapy to improve emotional well-being. ‘Hug Therapy’ has been proven to treat conditions like stress, anxiety, depression and loneliness and usually requires another willing participant. The “Horse & Cow Experience” is a pioneering new treatment being offered by

Mountain Horse Farm in updated New York in the US (Beresford, J., 2018). Being in close proximity to a cow reduces anger, anxiety, frustration and depression and offers their keepers emotional healing and thus improved mental health (Sudhadwivedi, 2017).

Sexual Health and Rehabilitation

The vaginal steam therapy is used for the victims of sexual violence and conducted by trained doctors. In vaginal steam therapy, steam along with some herbs is taken at pelvic and genital region which helps improve the tone of pelvic muscle, cervical secretion and relax vaginal and pelvic muscles. These in turn, improve the sexual health of victims by improving their sexual life, alleviating fear of intercourse, reducing pain in pelvic or genital region and lessen the difficulties of menstruation. The sexual well-being clinic is dedicated to the victims of sexual violence, where they can seek help in terms of their medical, psychological and sexual health needs. The staff at this clinic should be flexible enough to provide help as dictated by victims.

Occupational Rehabilitation

The Central Government should make it a mandatory for all private and public sectors to grant twenty paid days off, as well as better support in the workplace, in all contracts for victims and survivors of sexual assault.

The workplace support should include:

- (a) The idea of having flexible work arrangements, where the victim can change hours of work so she will not be stalked or threatened by her abuser/rapist, who knows her start times and stop times.
- (b) If a workplace has multiple sites, the ability to transfer to another site should be granted to the victim who wishes to.
- (c) The twenty paid days leave must be used

for specific purposes—seeing a doctor, accessing rape crisis centre, victim support and services organization, or other social services program or community agency and dealing with the justice system. Paid leave would also allow the victim to take care of things and start the healing process.

- (d) Coping with the requirements of the job should be duly appreciated by the employer and help should be provided in every way possible.

Further support/services

1. Learning New Employability skills suited to the mental condition of the victim.
2. Emergency financial support would be provided to victims who are the sole breadwinner of their family.
3. Victims should be provided with interest free loans in order to start small scale industries such as handicrafts, horticulture, garments making, toys making, homemade appliances, bee hiving, agriculture, food manufacturing, etc. The victims can set up their own “Start Up” company.
4. Victims may require mentoring for bringing positivity in life and sustaining their job. Such mentoring can be provided by Life coaches, social workers or psychologists. Vocational therapy may be helpful for victims to prepare them to return to work.

Social Rehabilitation

Social rehabilitation would be achieved by providing both formal and informal support to victims.

Formal Support

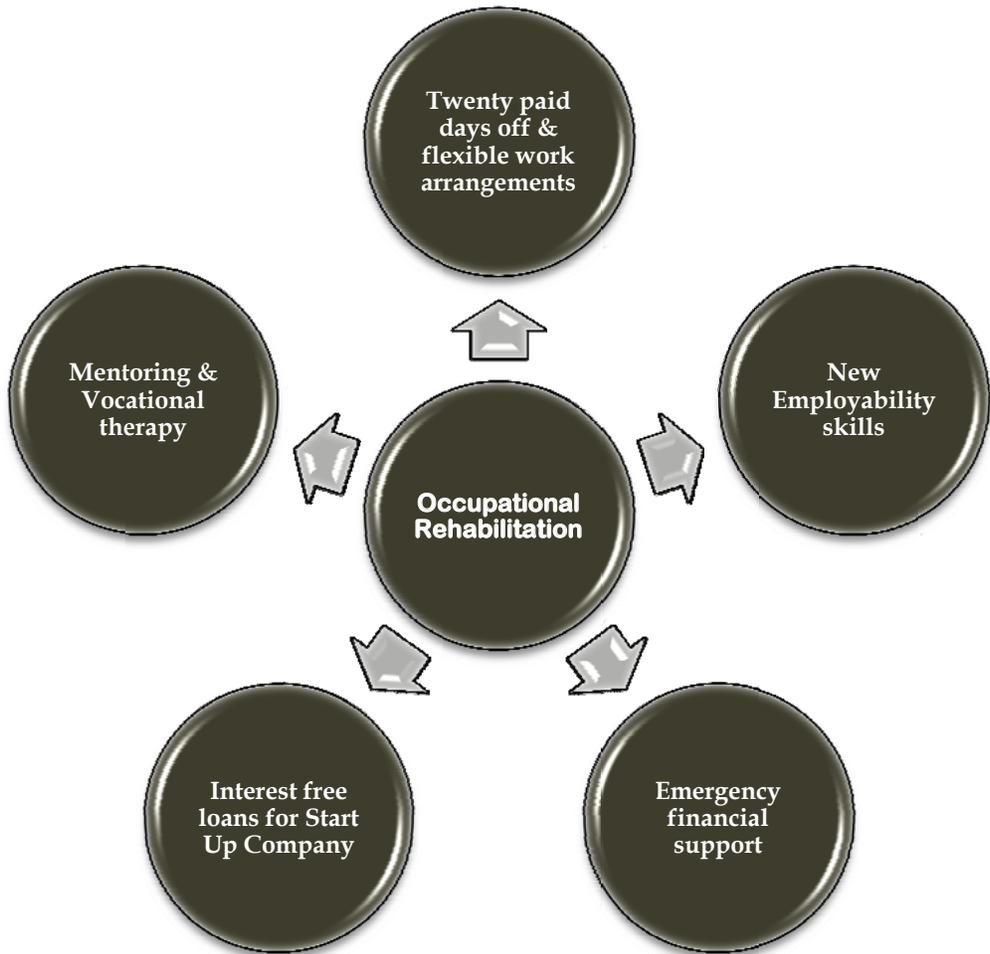
Formal support would be provided to victims by Criminal Justice functionaries in the form of legal aid/ advocacy, rendering of other legal services such as use of employment protection laws, no contact

orders, victim/witness protection programs, restitution or reimbursement of financial costs resulting from the crime, and the protection of privacy and confidentiality can be availed.

Legal provisions for ensuring justice to victims

1. When the victim reports the rape case to police, the police should register the case FIR immediately, and furnish a copy of FIR, free of cost, to the victim. FIR should be taken by women Police

Figure 5. Occupational Rehabilitation of Victims of Rape.



Source: Author

^aSub-section (1) and (2) of Section 154 Information in cognizable cases, The Criminal Procedure Code, 1973.

Officer or any woman officer.⁹ There is also a provision for incurring the cost of transport by Police.¹⁰

2. All hospitals, public or private shall immediately, provide the first-aid or medical treatment, free of cost, to the victims.¹¹
3. The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the Officer in charge of the Police Station.¹²
4. The Summon is served to notify the victims of the hearing dates of the case.¹³
5. The victim would be provided with an advocate of her choice in case she wants to engage the same to assist the State Prosecutors in trying her case.¹⁴
6. The inquiry into and trial of rape shall be conducted in camera.¹⁵
7. Rape cases shall be tried as far as practicable by a Court presided over by a woman Judge.¹⁶
8. The inquiry or trial of rape offence shall

as far as possible be completed within a period of two months from the date of filing of the charge sheet.¹⁷

9. Copy of Judgement is also furnished to victims upon the conviction of the offender.¹⁸
10. If the offender threatens the victim with any injury to her person, reputation or property, or her family, he is likely to be punished for causing criminal intimidation.¹⁹
11. The compensation may be provided to the victim, even when the offender is not traced or identified, but the victim is identified, and where no trial takes place.²⁰
12. The compensation payable by the State Government shall be in addition to the payment of fine charged from the convict to be given to the victim.²¹
13. If the offender captures the rape act with respect to an image, means to videotape, photograph, film or record by any means and publishes or transmits it, he shall be punished with imprisonment.²²

⁹Proviso to Sub-section (1) of Section 157 Procedure for investigation, The Criminal Procedure Code, 1973, and proviso to Sub-section (1) of Section 154 Information in cognizable cases, The Criminal Procedure Code, 1973, The Criminal Law (Amendment) Act, 2013 and New proviso to Sub-section (3) of Section 161 Examination of witnesses by police, The Criminal Procedure Code, 1973, The Criminal Law Amendment Act, 2013.

¹⁰Sub-section (2) of Section 160 Police Officer's power to require attendance of witnesses, The Criminal Procedure Code, 1973.

¹¹Section 357C Treatment of Victims, The Criminal Procedure Code, 1973, The Criminal Law Amendment Act, 2013.

¹²Sub-section (1A) of Section 173 Report of police officer on completion of investigation, The Criminal Procedure Code, 1973.

¹³Section 62 Summons how served, The Criminal Procedure Code, 1973.

¹⁴Section 24(8) of The Criminal Procedure Code as amended by Section 3 of The Criminal Procedure Code (Amendment) Act, 2009.

¹⁵Sub-section (2) of Section 327 Court to be open, The Criminal Procedure Code, 1973.

¹⁶Second Proviso to Sub-section (2) of Section 327 Court to be open, The Criminal Procedure Code, 1973.

¹⁷Section 309 of The Criminal Procedure Code as amended by Section 21 of The Criminal Law (Amendment) Act, 2013.

¹⁸Sub-section (4) of Section 353 Judgment, The Criminal Procedure Code, 1973.

¹⁹Section 506 Punishment for criminal intimidation, The Indian Penal Code, 1860.

²⁰Section 357. Order to pay compensation and Section 357A Victim compensation Scheme, The Criminal Procedure Code, 1973.

²¹Section 357B Compensation to be in addition to fine under section 326A or section 376D of The Indian Penal Code, The Criminal Procedure Code, 1973, The Criminal Law Amendment Act, 2013.

²²Section 66E Punishment for violation of privacy. (Inserted vide ITA 2008), Section 67 Punishment for publishing or transmitting obscene material in electronic form (Amended vide ITAA 2008), Section 67A Punishment for publishing or transmitting of material containing sexually explicit act, etc. in electronic form (Inserted vide ITAA 2008), and Section 67B Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form, The Information Technology Act, 2008.

Informal Support

Informal social networks

Informal social supports provided by family, friends, and members of the community are both commonplace and valuable to victims as they can provide immediate and long-term assistance to victims, addressing both practical and emotional needs (Davis, 2007). They should connect with professionals to enhance their efforts to support victims of crime (Davis, 2007). Such people should be kind, compassionate and caring for victims to help them recover from the trauma. Family should provide moral, social, and economic support to its member in the times of crisis. Positive communication with family members would help the victim reach the point of 'catharsis' which would ultimately lead to closure.

Self Help groups

NGOs may run such programs such as Self Help groups. Self Help groups may provide emotional support to members, interaction with role models; techniques deployed for helping and understanding members' problems; impart important and relevant information about new ideas of coping, and enhance social companionship.

Community mental health services

According to Denner (1974) qualified therapists must be available in the community and the family must be willing to participate in therapy, and the home must provide a supportive environment that reinforces and maintains the adjustive/accommodative behavior towards the victim. Efforts should be made to change the social perception of rape and remove social taboos surrounding it so that victims live in the same neighbourhood with dignity not forced to change their house or locate to some other place. Regular community meetings every fortnight or every month with community people, NGOs and Police should be held to accelerate community acceptance of rape

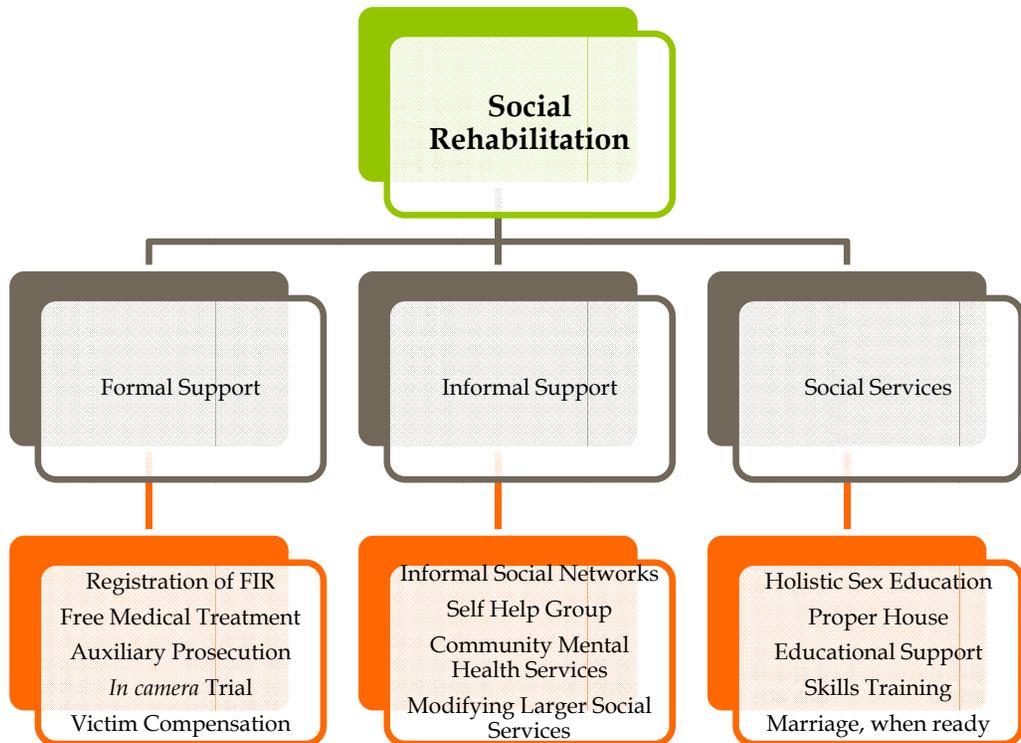
victims/ survivors, ensure social protection, and promote favorable environment for healing. Crime prevention Council of India shall also organize meetings, seminars, workshop, conferences, etc., particularly focusing on rape myths and negative attitude towards rape victims prevailing in the society to spread awareness and to burst such myths surrounding rape phenomenon. Such programs should be conducted in the community center every month.

Modifying larger social services

There has been increasing concern with providing community-based facilities for treating victims and families but also with approaches to introducing adaptive conditions in organizations, institutions, and larger social systems.

Social Services

1. Holistic Sex Education should be given to the members of the society to teach them how to treat women, behave with them and respect them.
2. Proper house should be provided to victims and their family with all the basic amenities to ensure they live with dignity.
3. Educational support should be provided to encourage rape victims/survivors to continue with education and complete higher level of education.
 - (a) Enable victims to access both formal and non-formal education structures. Formal education should be made available to those victims who are still within the school going age, while non-formal education such as distance learning should be made accessible to adults.
 - (b) Victims should be imparted short term courses free of cost with primary focus on asset and financial management skills to instill confidence in them so that they can lead their life on their own.

Figure 6. Social Rehabilitation of Victims of Rape.

Source: Author

- (c) NGOs and educational institutions, private and public, should provide gender sensitive market driven vocational courses and training to victims so that they acquire needed skills and knowledge to support them in the rehabilitation process and also in finding suitable jobs.
4. Train victims in skills such as bricklaying, engineering works, industrial cleaning, woodworking, making garments, painting and interior decorating etc.
 5. Victims should be married only when she is mentally, psychologically and physically ready cause marriage is not rehabilitation.

Restorative Justice: Relatively a New application for Rehabilitating Victims in India

India does not have Restorative Justice System till now. The identified limits of the adversarial trial to treat victims of sex crimes appropriately and secure convictions, as well as high attrition rates and low rates of prosecution has given rise to the possibility of using restorative justice (Hudson, 1998, 2002; Daly, 2002, 2006; Curtis-Fawley and Daly, 2004). The Restorative Justice System can work both in parallel with as well as independent of the Criminal Justice System in India in meeting victims' restorative needs and fostering a credible deterrence of sexual violence. The aims of Restorative Justice necessarily involve restoration, presumably to some pre-existing emotional/

psychological state by repairing the harm suffered by victims (Braithwaite, 1999).

A restorative perspective of crime sees it as the ground for necessary dialogue between victims, offenders and the community, arising from unresolved conflict, so that its past effects may be addressed (Elton and Roybal, 2003, p.50). Greater victim participation, more offender accountability and a larger degree of community protection are the aims Restorative Justice professes to achieve which is nearly impossible within the traditional criminal justice system (Shenk, 2001/2002, p.190-1). It addresses obligations and responsibilities, emanating from the

harm as a result of crime committed against victims and communities; emphasizes the needs of victims, including participation and empowerment (Zehr, 2002). Restorative Justice holds onto the idea that the 'victims' needs should be the starting point of justice' as it professes to be victim-centred. (Williams, 2005, p.58).

Proponents of the encounter conception (face-to-face meeting between victim and offender) argue that, in order to be restorative, the process must embody certain key values, such as 'consensual participation' by the victim, offender and community representative, respectful

Figure 7. Restorative Justice: A New application for Rehabilitating Victims of Rape.



Source: Author

dialogue, the balancing of the parties' interests and the principle of voluntariness (Dignan, 2002, p.172). The victims get the opportunity to express their emotions, convey the psychological impact of victimization, and begin to heal from the emotional and psychological impact of victimization through restorative justice processes (Arrigo and Williams, 2003). The victim-survivor may be able to construct the narrative of her violent experiences of rape into her life story, in turn feeling her with a sense of whole-ness, and of a life before and after the assault (Brison, 2003, p.54). It can also help her to gain control over intrusions of harmful memories (Brison, 2003, p.54). The victim needs acknowledgement from her community of care for the harm she has suffered, to suffer with her, and to lament with her the evil that has been done. The offenders are required to acknowledge the harms they caused in order to make the victim feel vindicated and also hear shaming messages about these behaviors form an eminent part of restorative justice proceedings (Braithwaite and Mugford, 1994). In short, restorative dialogue matters because it brings about truth-telling and, as such, enhances the likelihood of recognition for victimization and the offender's responsibility. This in turn delivers a sense

of justice for victims. Measures such as restitution, community service, victim support, victim compensation and offender rehabilitation programmes are therefore regarded as restorative (Van Ness and Nolan, 1998, p.54).

Reintegration of Victims of Rape

Reintegration is the action or process of integrating victim back into society.

Sustainable Social Reintegration

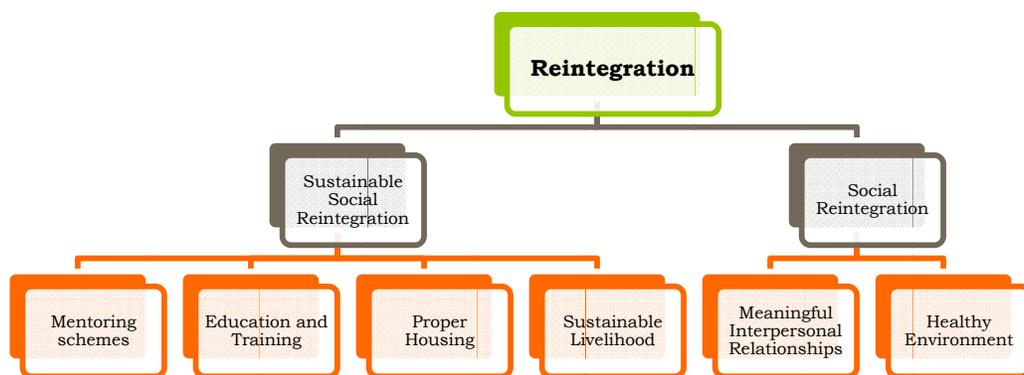
Mentoring Scheme

A form of reintegration is mentoring schemes aiming at sustainable social reintegration. There remains a need to provide further counselling sessions with a social worker or counselor to ensure a healthy state of victim.

Education and Training

Private and Government organizations should also work together to develop partnership with public and private sector employers in order to provide training/facilitate work placement as part of the reintegration process for victims. Due care should be taken to give ample choice to victims so that rehabilitation and reintegration becomes a holistic process.

Figure 8. Reintegration of Victims of Rape.



Source: Author

Proper Housing

The victim needs a proper house in good locality and should be able to stay comfortably for long, and not forced to frequently change it. Such a house will also play an instrumental role in providing stability to victims.

Sustainable Livelihood

The various developmental and anti-poverty schemes meant for the general population should be made available to the victims, both in the rehabilitation and reintegration phase.

Social Reintegration

Meaningful Interpersonal Relationships

When the victim is treated with dignity and respect by the family, she will feel valued. The emphasis is on improving communications, interactions, and relationships among family members and fostering a family system that better meets the needs of its victimized member.

Healthy Environment

It's important to involve the families of victims and the community by enhancing their awareness about rape in general and the impact of rape on the individual victim in order to foster a healthy environment for the victim.

Conclusion

The victims of rape require support and assistance throughout to make their road to recovery smooth. The sensitivity, care and restoration provided by the formal and informal support should cover all victims cutting across areas such as urban and rural, caste, ethnicity, class, family background etc. The policies and practices designed to respond appropriately to individual victims' unique situations and needs must be flexible and design solutions based on the needs of the victims. The rehabilitation and reintegration programmes should be

tailored to the needs of victims in light of their mental, physical, psychological and environmental condition as much as possible. The factors such as the victim's age, gender, race, ethnicity, and ability of the victims should be taken into account by the victim's services and interventions to better respond to their needs for recovery (Whitcomb, 2003) and also about victims' histories of trauma and abuse. The latest development in the treatment programmes and cure methods should also be included as a part of regular procedures for healing the victims.

The research should be conducted on the new trends of committing rape for making rape videos, or harassing the victims even after rape through their rape videos, and to find out innovative and practical solutions for preventing and eliminating such crimes from the society. The Government can persuade the Service providers like Whatsapp and YouTube to agree to be more vigilant towards suspicious pornographic videos/rape videos and such videos if detected must be sent to law enforcement agencies rather than to "Adult Content" folders. Such apps should be developed that give information on the organizations providing services to victims, laws concerning victims and witnesses, and on victim assistance programs in India.

The victims' participation in the criminal justice process must be supported to ensure that they are empowered as a result of their participation; their needs should be the starting point of justice (Herman, 2003). It should be seen that the victim's needs for physical and psychological safety are being adequately met over the necessary course of time during which the rape crime is being processed. The safety and security concerns for the family of the victim should also be prioritized. To measure the success of existing psychological, medical, and legal interventions for victims of crime, there should be proper research conducted from

time to time and to suggest reforms and alternatives that promise better outcomes for victims. The Government, Criminal Justice System (CJS), Social Welfare Agencies, NGOs and common people are ought to work together through their concerted efforts to prevent and control rape and build a judicious atmosphere for the victims.

Notes

1. Enuresis is bed wetting.
2. Incontinence is lack of voluntary control over urination or defecation.
3. Vaginal fistula is a medical condition usually the result of poor childbirth care, and involves the walls between the vagina, bladder and anus or rectum.
4. Sexual dysfunction (or sexual malfunction or sexual disorder) is the inability to fully enjoy sexual intercourse. Sexual dysfunction occurs when you have a problem that prevents you from wanting or enjoying sexual activity. It can take a heavy psychological toll, bringing on depression, anxiety, and debilitating feelings of inadequacy.
5. Dyspareunia is difficult or painful sexual intercourse.
6. A charge sheet is a document drafted by the police and submitted in a judicial court, listing out the various laws violated by the accused and how the violation was detected. A charge sheet is prepared at the end of the investigation. After the completion of investigation, the Police file a charge-sheet in the Court of Law along with medical examination report (Section 173 Report of police officer on completion of investigation, CrPC, 1973).
7. Vocational therapy is geared towards preparing individuals to return to work after an injury, illness, or medical event, also helps in building skills for going to school or working at a job.
8. Role models are individuals who have faced and conquered the same problems.
9. In camera describes court cases, parts of it, or process where the public and press are not allowed to observe the court procedure.

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INCARCERATED MOTHERHOOD UNDER THE PURVIEW OF POLICIES, PRISON REFORMS AND REINTEGRATION

Pearly Paul* and Intezar Khan**

ABSTRACT

Prison Statistics of India has been revealing growing trends of incarcerated female population year after year. Migration, extramarital relationship, financial struggles, domestic violence, poor family background are some of the crucial factors that lead to the imprisonment of females in India. On the other side, an increasing number of children who accompany the mothers to prison every year indicating an alarming trend. Despite the fact of the overcrowded prison population, most of the Indian prisons are not occupied with adequate facilities essential to cater to the needs of the children who are under six years of age. If this is the case of children who are counted with their mothers during mother's incarceration period as per the government record, many other children live in the community impeded to accompany their mothers to prison due to socio-legal constraints. Such a group of children living as an invisible vulnerable population in the society. They are at high risk to indulge in crime and abuse. The study analysis the welfare issues of incarcerated mothers and their children within the framework of policies, prison reforms and reintegration process during post-incarceration.

Introduction

Correctional system in India is at its transformational stage have been influenced by the national and international policies, committees, working groups and implemental level approach of government departments, civil society agencies, non-governmental organisations and legal system since the 1980s. Though the percentage of imprisoned women is less than men in Indian prisons, the increasing trend of crime amongst them is distressing. A study conducted by the Ministry of Women and Child Department (2016) revealing the statistical trends of women imprisonment based on the data developed from Prison Statistics that is 3.3% in 2000 reached to 4.3% in 2015. Changes in the concept of social life and familial pattern are some of the major reasons that leading to the number of women prisoners in Indian prisons. There are not many studies available about the women prisoners in the Indian context.

However the combined data of Prison statistics of both convicts and undertrial women prisoners' nature of crime disclosing that, 37% of the female criminality come under the category of murder followed by 15% under dowry deaths (Ministry of Women and Child Development, June 2018). The available statistics didn't mention any further classifications under the nature of the crime, however, it was observed that most of the women in prison for murder mostly under the category of mariticide that is killing of her husband. "Attempts to murder, drug peddling, thefts, kidnapping and abduction, cruelty by the husband or relatives of husband" (Ministry of Women and Child Development, June 2018) are some other leading causative factors for women imprisonment.

A Global View on Incarceration and Motherhood

Women imprisonment and its related social cost, family consequences are globally recognised topic subjected to many research

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studies and subsequent findings. However, reformation and rehabilitation process of this particular session of the society needs more attention.

Studies showing that rather than psychological factors, economic and socio-cultural factors such as poverty and uncongenial family atmosphere contribute to the phenomenon of female criminality majorly. Illiteracy, lack of legal knowledge to protect themselves from abuse and exploitation, financial deprivation and insecure family atmosphere are adding the risk of female criminality globally. While increasing the trends of female criminality, concerns towards their children's welfare matters hardly receive any focus in policies and prison reform initiatives.

In the human rights-based approach the main concerns of women prisoners are in the areas of poverty, human dignity, health needs, and feminine appropriateness of prisons for catering the needs of woman and child caring.

Endeavouring human rights-based prison reformation practices in prisons many national and international conventions were organised and policies emerged globally. While considering the women prisoners and their children's issues a few amongst them embraced the comprehensive significance thus mentioned below: -

1. Universal Declaration of Human Rights (1948).
2. Third Geneva Convention (1949).
3. The United Nations Standard Minimum Rules for the Treatment of Prisoners (1955).
4. Amnesty International Rules for the treatment of prisoners (1955).
5. International Covenant on Civil and Political Rights (1976).
6. International Covenant on Economic, Social and Cultural Rights (1976).

7. The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly, is often described as an international bill of rights for women (1979).
8. Code of conduct for Law Enforcement Officers (1979).
9. Safeguard guaranteeing Protection of the Rights of those facing the Death Penalty (1984).
10. The Milan Plan of Action (1985).
11. Guiding principles for crime preventions and criminal justice in the context of Development and New economic order (1985).
12. Model agreement on the Transfer of foreign prisoners and recommendations on the treatment of Foreign Prisoners (1985).
13. Standard Minimum Rules for the administration of Juvenile Justice (1985).
14. The Body of Principles by UN for the Protection of All Persons under any Form of Detention or Imprisonment (1988).
15. The Convention on the Rights of the Child (1989).
16. The Basic Principles for the Treatment of Prisoners (UN 1990).
17. Standard Minimum Rules for Non-custodial measures (1990).
18. Model treaty extradition (1990).
19. UN Declaration on the Elimination of Violence against Women (1993).
20. Beijing convention Sep (1995).
21. European convention for the prevention of Torture and Inhuman or Degrading Treatment or Punishment (2002).
22. Prison Rape Elimination Act (2003).

23. The European Prison Rules (2006).
24. The Optional Protocol to the Convention against Torture (2006).
25. Convention on the Rights of Persons with Disabilities (2007).
26. The European Parliament resolution on the particular situation of women in prison and the impact of the imprisonment of parents on social and family life (2008).
27. Kyiv Declaration on Women's Health in Prison (2008).
28. Bangkok Rules on Women Offenders (2010).

The above-mentioned policies and conventions mainly targeted for promoting the welfare of prisoners in general subsuming imprisoned women and children. The areas given special emphasis in the reformative and rehabilitation aspects of women prisoners by these policies and programme include:-

- Pre and post-release reintegration programs of women prisoners. .
- Raising awareness on catering the women prisoners' gender specific requirements rather than treating them equal with men prisoners.
- Insists the state governments fortaking appropriate intervention strategies with efficient preventive measures against the causative factors of female criminality.
- For securing social, health, educational and justice policies.
- Bangkok Rules is the one of its kind for supporting the needs of children with their mothers inside prison. With an empathetic approach towards the requirement of facilitating the rehabilitation and reintegration process of former women prisoners it endorses gender defined requirements of them as well.
- Recommends changes in the social environment asan influencing factor contributing towards increasing female criminality.
- Endorsing gender specific requirements such as women prisoners should be treated through by women officials only andseparate institutions / an entirely separate area of the premises for male and female prisoners.
- Special attention for pre and postnatal care of women prisoners with appropriate dietary requirements.
- Raising concern about the increasing trends of inhuman way of treating of women prisoners.
- Protecting women from all form of sexual abuse inside the prison by a prisoner or correctional officer.
- Upholding the rights of women prisoners with a humanitarian nature of treatment and assuring their rights for life, health, justice and dignity.
- Proclaiming the need and importance of a minimum standard of treatment for women prisoners despite the fact of nature of crime, caste, religion, race they belong to; also beyond any other kind of discrimination practices.
- Expression of concerns over serious health hazards such as HIV, TB, Malaria and other communicable and non-communicable diseases prevalent amongst women prisoners.
- The recently adopted UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders—also known as the Bangkok Rules (2010) — explicitly states: “Instruments of restraint shall never be used on women during labour, during birth and immediately after birth.” By this advocating women prisoners rights for a fair treatment free from

body restraints and shackles during gynaecological process and birth.

- The Convention on the Elimination of All Forms of Discrimination against Women (1979) is a call for accessing equality in the political and public life of women irrespective of any influence of external factors. While sustaining the reproductive rights of women it assures their other forms of rights for acquiring, change and retains the nationality of themselves and their children.
- The Convention on the Rights of the Child (1989) is unique in its kind as no other convention or policies exclusively exists for all age group of children at any circumstances including children of incarcerated parents. It affirms children's rights on four key areas: the right of children to survival; to develop to their fullest potential; to protection from abuse, neglect and exploitation; and to participate in family, cultural and social life.
- The Optional Protocol to the Convention against Torture (2006) emphasizes the importance of a systematic approach for promoting welfare measures for treating prisoners.
- UN Standard Minimum Rules for the Treatment of Prisoners (1955) explains the mode of attaining standard practice with prison inmates. By giving clarity to the concept "Standard Minimum Rules" in the form of fulfilling basic personal and hygiene requirements such as food, clothing, bedding etc. of the prison inmates it emphasizes the need of separate provisions for mentally and physically ill prisoners during their imprisonment tenure. One of the significant suggestions put forwarded by this rule was a provision of separate living arrangements for men and women during their imprisonment tenure.

Historical Footprints in India: Women and children under the Criminal Justice System, Policies & Practices

Criminal Justice System of India can be viewed as through (i) Ancient, (ii) Medieval (iii) British period (iv) Post Independence evolution and establishments.

i) Ancient period

"Manu Smriti. Kautilya's Arthashastra, Mimamsa (the art of interpretation) and the Nibandhas (commentaries and digest) are some of the authoritative sources of law existing in the ancient period. Kautilya's Arthashastra played a considerably important role in defining crimes by women prescribing controlling measures for such crimes" (Suvarna Cherukuri, 2008).

In the ancient period women's mobility and independence were controlled largely by the society and used to depict her as idol of subjugation, tolerance, care and love. Even in that period prisoners were subjected for male and female prisoners. Though the ratio of female criminality was less during the ancient time, if it happens then considered not only the violation of criminal code but also the violation of social norms as well (Sukla Das, 1977).

"The general rule that lesser punishment is to be inflicted on women is stated by Katyayana. Katyayana stated that in cases of all offences women were to suffer half of the fine in money which were prescribed for male offenders, and when capital punishment was inflicted on a male, amputation of a limb would be the corresponding punishment for a female. For murder, however, female criminals were equally severely punished" (Sukla Das, 1977).

Asoka's time period can be considered as the reformatory way of approach for punishing the prisoners. As a ruler of giving utmost importance to the people and state's welfare matters, he exercised a balanced spiritual

and secular treatment for correction and reformation of the prisoners. This marked an improved condition of the prisoners (Berendra Nath, 1979).

Available literatures explain less about the details of women prisoners and the correctional system and approach towards their reformation and welfare matters during ancient period. Also there is a visible gap of concern by the rulers and institutions in the society towards this subject group, their reformation and reintegration process.

ii) Medieval Mughal period

“In the Mughal period, a combination of India and extra- Indian element was applied in the criminal justice system”(Jadunath Sarkar, 1952).

The literature hardly mentions anything specific about female criminality and mode of punishment of the era. However “Muslim criminal law broadly classified the crimes under three heads: (i) Crimes against God (ii) Crimes against Sovereign (iii) Crimes against Individuals”(Jadunath Sarkar, 1952). Though imprisonment was a part of correctional system in the Mughal period, infinite time period had been taken for processing trial and judgement left no hope to the prisoners.

(iii) British period

In 1784 the British Parliament authorized the East India Company to rule India. At this time Jails were an expansion of Mughal rule. These Jails were handled by the staff of East India Company (J.G. Roy, 1989).

The Modern India prison reforms have its long history starting from Lord Macaulay’s recommendations to appoint a committee to suggest measures to improve discipline in the prisons. As a result in 1836 “The Prison Discipline committee” was constituted by Lord William Bantick. Instead of suggesting humanitarian measures for improving discipline, the committee recommended more rigorous punishments for achieving

discipline (Bureau of Police Research & Development, 2007).

In the subsequent years “The Prison Discipline Committee (1838), the Prison Act (1870), The Prison Act (1894), All India Jail Committee (1919-1920), The Government of India Act (1919), The Government of India Act (1935), Mysore Committee on prison reforms (1940-41), the U.P. Jail Reform Committee (1946), the Bombay Jail Reform Committee (1946-48), Bombay Probation of Offenders Act (1936), the C.P. and Berar Conditional Release of Prisoners Act (1936) and U.P offenders Probation Act (1938)” (Bureau of Police Research & Development, 2007) became the integral phases in the transformation process of prison administration, reformation and rehabilitation during British period

(iv) Post Independence – Prison Reforms

Over the years India’s correctional system has been influenced international policies and practices to reach into a humanitarian way of treatment of the prisoners through the concept reformation in contrary of the terrible inhumane punishments and conditions were prevalent in Indian prisons. Further, it took many decades to get the attention of the welfare issues of the imprisoned women and their children, inadequate even in the current policies and implementation process.

The constitution of India 1950 retained the position of the Govt. of India Act 1935 in the matter of prisons; accordingly, state governments took initiatives for Jail Reforms by appointing Jail Reform Committees to achieve humanitarian and scientific interventions in the reformation process of prisoners.

Government of India invited Dr.W.C. Reckless, a U.N. Expert on correctional work during the year 1951-52 to study prison administration in the country. His report titled “Jail Administration in India” appealed changing jails into reformation

centres. This appeal was also supported by the 8th conference of the Inspector General of prison (1952).

Dr.W.C. Reckless report and the 8th conference of the Inspector General of prison leads to the appointment of All India Jail Manual Committee in 1957. The All India Jail Manual Committee made a strong appeal to prepare a uniform policy for the prison system and it presented The model prison manual in 1960 for implementation. Based on its guidance, the present Indian Prison Management is administered. In continuation of this Central Bureau of Correctional Services was set up under Ministry of Home Affairs in 1961 for formulating uniform policies in support to the state governments on the latest methods to jail administration, probation, after-care, juvenile, remand homes, borstals etc. (Bureau of Police Research & Development, 2007).

In 1972 a Working Group on Prisons appointed by Ministry of Home Affairs raised the need for a National Policy on prisons. Seventh Finance Commission (1978) based on the study reports received from the Ministry of Home Affairs and the Dept. of Social Welfare evaluated the progress of physical environment in the prisons and recognized the need of emphasizing improving the conditions in prisons.

Followed by the conference of Chief Secretaries of all the states and Union Territories on 9th April 1979 Govt. of India urged the state governments for improving the prison management system. To create separate facilities for the care, treatment and rehabilitation of women offenders was one amongst them.

In 1980 Govt. of India has constituted an All India Committee on Jail Reforms under the chairmanship of Mr Justice A.N.Mulla. The committee studied the problem of prison reform in-depth and submitted their report in 1983 suggested that there is an immediate

need to have a national policy. The committee also paid attention to the welfare of women offenders suggested women offenders shall, as far as possible, be confined in separate institutions specially meant for them. Otherwise separate annexes for them. They commented on children of prisoners such as children less than eighteen years of age shall in no case be sent to prisons.

After Mrs Elizabeth Fry's efforts for female prisoners in 1817, a big gap happened for a reformatory thought and welfare plans related with the women prisoners in depth until the formation of National Expert Committee on Women prisoners under the chairmanship of Justice V.R.Krishna Iyer in 1986. The Krishna Iyer Committee submitted its report in 1987 about the situation of women prisoners in India. The committee suggested many reformatory programmes for incarcerated women and their children.

The formation of All India Group of Prison Administration Security and Discipline in 1986 under the chairmanship of Shri R.K.Kapoor as well as establishment of Bureau of Police Research and Development (BPR&D) - a nodal agency at the national level are also counted as key achievements so far under the reformation initiatives of the Govt. of India.

In the 21st century, the Supreme Court of India has protected and nurtured the Prisoner's rights jurisprudence through a sequence of the ruling. Some of the relevant case laws became the turning points for influencing the prison reforms mentioned in the Model Prison Manual (2016) are:-

- a) In Sunil Batra Vs. Delhi Administration and others (1978), Justice V.R.Krishna Iyer reiterates the rights of prisoners under enforceable liberties.
- b) In pursuance to the directions given by the Honourable Supreme Court in a case of Ramamurthy Vs State of Karnataka, 1996 All India Model Prison Manual

Committee constituted in November 2000. They prepared a Model Prison Manual in 2003 for the superintendence and management of prisons in India to maintain uniformity in the working of prisons throughout the country. Govt. of India accepted this in January 2004.

In 2014 Ministry of Home Affairs had constituted an expert committee to evaluate the developments accordingly revise and update the Model Prison Manual in 2003. As a result Model Prison Manual 2016 published and it emphasizes women prisoners and aftercare services.

- c) In *R.D. Upadhyaya Vs. state of A.P and others*, AIR 2006, the Supreme Court issued guidelines to protect the interest of women and children inside prisons.

The right to get information and the role of NGOs have proven decisive in prison reforms in India. Dr Kiran Bedi headed prison reform revolution in Tihar Central Jail during her tenure as an Inspector General of Prison were another milestone in the history of prisons in India opened for various discussions and welfare initiatives with the community partnership. One of the key achievements under her initiatives was set up crèche for the children of imprisoned mothers and arrangements for the school-aged children of incarcerated parents. Dr. Bedi's initiatives for prison reforms captured worldwide attention and have been replicated in several state prisons in the country. She has encouraged the participation of Civil Society Organisations, Non-Governmental Organisations, educational and welfare organisations' active involvement in the prison reformation policies and programme. She has conferred the Ramon Magsaysay award for her astonishing reformation activities inside the prison for men, women and children.

“The parliamentary committee on the empowerment of women (2001-2002) has

been constituted from time to time both by the state government and the government of India to improve the prison conditions and to protect the rights of women prisoners. Again the Parliament Committee on Empowerment of Women, 2001-2002, headed by Smt. Marget Alva took up the subject “Women in Custody” for a detailed examination of the conditions of women in detention found that women in prison suffering from overcrowding, lack of health, hygiene and nutritious food” (Retrieved from wbcorrectionalservices.gov.in/pdf/empowerment-of-women.pdf).

As we see not many historical moves happened especially for protecting the interest and rights of imprisoned mothers and their children over the years, this particular population requires a serious concern and support from the civil society organisations, Government and Non Government organisations for improving their psychosocial well-being, skills, values, knowledge during imprisonment thus leading a crime-free life for protecting the best interest of their children and family during post-incarceration period.

Reintegration: Post – Incarceration Lives of Mothers

Female criminality an overview

Exploring female criminality connected with welfare policies and prison reform initiatives throwing the light to the root cause of female criminality and associated factors within the socio-cultural limitations of a developing country like India. As per the studies, biological factors play less than the social factors in case of female criminality. Compare to the ratio of male criminality, female criminality is very less globally including India. The causative factors contributing towards the women offenders include poverty, the uncongenial atmosphere at home, discrimination in education and employment, gender-based violence, unsatisfactory social relationship,

and drug and alcohol addiction. Unstable family life, truancy, low education background, poor survival skills, less analytical skills in dealing with problems, poor legal awareness are also influential factors for increasing female crimes in India. With socio-cultural factors, environment and economic factors also play a vital role in the phenomenon of female crime. Many research evidence showing the fact that for most types of crimes, offences occur disproportionately in lower-class areas.

Women have a unique position in Indian culture. She considered being the foundation stone of a family according to the Indian context. However, she was treated as vulnerable in the male-dominated patriarchal society (Lakshmi Devi, 1977). The detainment of her creates instability in family life and broken relationships.

If earlier female criminality was a low incidence, prison statistics India showing an increasing trend of the same in every year. This could be a greater challenge to any developing societies where women play an important role for taking care of the children and contributing for nurturing them to live as socially responsible citizens, even they are contributing for the behavioural formation of their children as well. Possibilities of disruptions in the institution of family are highly associated with female imprisonment than male imprisonment. Women imprisonment became more impactful than from men due to the primary role of women in the family to take care of the children. As a natural caretaker, the loss of mother will be more stressful for the children than by the imprisonment of the father.

Differences in maternal and paternal incarceration

There are differences in the impact on children due to maternal and paternal incarceration. In the patriarchal dominant society like India, the degree of negative

replications due to fathers' incarceration is comparatively less than the impact due to mother's incarceration. Naturally, women are inclined towards the childcare and observe the primary caretaker of the children in the institution of "family". Studies revealed that mother-child separation is the most haunting experience for both mothers and children, thus by the imprisonment of a mother, the children of her would be the direct victim.

While paternal incarceration directly affects the financial requirements of the family, maternal incarceration distracts the family relationships. The chances of broken families due to paternal incarceration are less than in the case of the mother's incarceration. For the long-run financial issues could be a manageable solution for the mothers with the help of family as there are fewer chances of seclusion due to the father's incarceration. On the other hand, the acceptance of incarcerated mothers by their husband and families is very rare until and unless the husband is also somewhat responsible for her detainment.

The incarcerated mothers usually subject to various emotional deprivations during the period not only because of the lack of familial support but also with the thoughts of the future of their children both inside and outside prisons. Re-marriage / extramarital relationships of husbands, stigma in the community and lack of familial support are generally making the life of incarcerated mothers physically and emotionally vulnerable. But all these possibilities are very less in case of incarcerated fathers. More intended studies are required to understand the variance of the impact of the incarceration of mothers and fathers.

Incarceration is already a punishment but for the mothers who have to leave their children in the community due to their incarceration is further an acute level of punishment. Prison statistics hardly show any information about the children

of incarcerated mothers either at the time of their arrest or during incarceration. However, statistics with the children who accompany the mothers to Jail is available. According to the Prison Statistics India 2016, there is an increment of 2% children of convicts and 7.55% children of undertrials women inmates compare with 2015 prison statistics. Further concerns are accumulating towards forming policies and programme for children who stay with mothers' inside the prison, less attention redeems for those who live in the community. Even a legal system or policies for enhancing the well-being of the abandoned children of prison inmates especially for children who left in the community are not in place. This makes the works of child welfare institutes challenging.

Despite the fact of extremely deprived conditions of children who left in the community, there is no statistical evidence for planning and organising intervention programme for the children of imprisoned mothers. Except for the support programme of Delhi and Haryana governments for the children of incarcerated parents introduced in 2015, none of the intervention programmes came in light so far for protecting the welfare and interest of the children of inmates especially children suffering from maternal incarceration.

Impact of mother's incarceration on children

By imprisonment, parenthood became a subject of major criticism, especially for mothers. "If the incarcerated individuals are mothers, they are implicitly viewed as irresponsible caregivers, just like abusive or neglectful parents. Their children, in turn, are denied the attention and support that children usually receive when separated from their parents for other reasons, such as death or divorce" (Park & Clarke-Stewart, 2004).

The degree of negative impact is high in the case of incarceration of mothers than incarceration of fathers. Imprisonment of mothers associated with many socio – psycho problems on children such as a sense of loss, as a result, emotional adjustment issues, lack of a responsible attachment figure leads to lack of sense of security necessary for a positive development of the children. (John Bowlby's, 1960, 1973, 1988).

The loss of primary care taker's figure in a child's life may lead to many kinds of socio – psycho disabilities, "among the most commonly cited effects are loss of parental socialization through role modelling, support and supervision; feeling of abandonment, loneliness, shame and guilt, sadness, anger and resentment; eating and sleeping disorders; diminished academic performance, and disruptive behaviours at home or at school" (Gabel, 1992; Gaudin & Sutphen, 1993).

The relevance of the subject

In India imprisoned female population as per the prison statistics, 2016 is 18,498 and out of these 1649 women, prisoners were imprisoned with 1942 children as on 31st Dec 2016. This is about 4.27% as compared to the male population which is 95.72 % (Prison Statistics by National Crime Records Bureau, 2016).

The Model Prison Manual (2016) gives more emphasis to the prison reform programme and the role of correctional administration than any previous attempts of prison reforms. However, management of the confined population in prison population and channelization of their stagnant energies to the productive one needs to be addressed scientifically.

Supreme Court order in 2006 (R D Upadhyay Vs State of A.P & Ors) entitled imprisoned mothers to keep their children below 6 years

with them during incarceration. However, clarity about the aftercare service of both imprisoned mothers and their children remained vague.

Like mental illness, imprisonment creates a stigma tag in women prisoners. She became a matter of shame for her family members not different in case of the relationship with the husband and in-laws. If this happens with many of the women prisoners a less percentage amongst them became lucky to continue with the familial relationship depends upon the reasons of their incarceration. Nature of the case, quality of familial relationship during pre-incarceration, behavioural and socialisation patterns of the women plays a crucial role to determine her successful reintegrating into families and community.

Transition in the group and choices of friends are also very visible during pre and post-incarceration period of women prisoners. Incarceration limits the friend circle and socialisation of most of the incarcerated women with the people she meets during incarceration. This creates a secluded pattern of the social and personal life of incarcerated women, leads their life difficult even more challenging with their children.

The recommendations of Prison Manual 2003 & 2016 for after care, rehabilitation and follow-up of the women prisoners are encouraging. Implementation quality of such programme will ease the reintegration process of women prisoners especially if she consumes the role of a primary caretaker of her children.

The relevance of the study in the framework of prison reforms and policies are high as it reveals the scope of filling the gap in the administrative and implementation level.

Research Methodology

With the objectives of understanding the post-incarceration re-entry challenges

especially on parenting care responsibilities and social security issues, a mini-research study was conducted with thirty-two mothers in Delhi-NCR region. Mothers who were part of the study were separated from their children at least for six months due to incarceration. Participants were selected through purposive sampling and information gathered from them through interview schedule and observation.

Findings

1. Age and literacy fact

Mothers who became part of the study were belonging to the age group of 33-38 years and in that most of them spent a minimum of two years in prison separated from their children. It was also observed that the age group of the children at the time of mother's arrest were 6-9 years and the mother was the primary caretaker of two to three children in most of the cases. According to the data majority of the mothers imprisoned during their productive years that is 33-38 years.

Literacy rate of the mothers belongs to the category of minimum 5th and maximum 10th standard. Accordingly, they face difficulties for entering into competitive training required for jobs and understanding the job requirements. As a result of most of them usually subject to physical and mental exploitation from families and friends.

2. Family relationship pattern

Once analysing the family relationship pattern, the study observes during the post-incarceration period the majority of the mothers (31.3%) were living with their male companion. 21.9% were living either alone or with the husband. The reason for their preferences of post-release living depends upon family acceptance, interaction with the family members during imprisonment and the influence of peer groups inside the prison. Re-marriage, behavioural issues and imprisonment of the husbands are some of the vital reasons that forbidden women

to continue a life with their spouse post-release.

Though incarceration affected the married life of most of the women, the child-mother relationship remained intact in most of the cases. 59.4% of children were living with their mothers during the post-incarceration period. However, some of them had been deliberately separated from the mothers by family members. The cases of disconnect with the children and their status were also very prevalent amongst the mothers.

3. Caretakers role

During the imprisonment period of the mothers, 43.8% of children were under the care of their grandparents. 25% of children spent their childhood with the mothers inside prison and were sent back to community life at the time of their school age. Relatives and spouses of the women shared a meagre role that is 9.4% of taking caring of the children.

During the post-release period of the mothers, 34.4% of first child categories of the mothers became adolescents had started to take care of their matter as their own. However, 28.1% of children seemed under the caretaking of the grandparents even after the release of the mother. Only 9.4% children were under the care of the spouse of women prisoners during the post-release period.

4. During imprisonment

The murder was the reason for incarceration for 53% mothers, followed by rape (15.6%), Kidnapping (15.6%) and Narcotic Drugs and Psychotropic Substance act – NDPS (4%). Majority of the participants (59.4%) in the study spent 2 years to 5 years imprisonment and thus separated from their children and family in a long duration. Amongst the participants, 50% were in their 28-38 years during their first incarceration. Age group belong to the firstborn child of the 21.9% mothers were 6-9 years.

Consider the number of children during the incarceration period 62.5% of mothers having two to three children. Connecting the number of children with caretaking responsibilities there is a need for huge resources for catering the needs of children's health, education and mental health well-being requirements. As per the received data most of the children were primarily taken care of by their grandparents. Meeting the children's growing needs became the greatest challenges to this vulnerable group primarily due to their physical and financial difficulties. 59.4% of mothers in an opinion that they were in touch with their children even during the incarceration period by their families primarily and with the help of other social support agencies.

5. PostIncarceration re-entry challenges

Women under the correctional system are already a challenge and their release without empowerment adding to the chance of recidivism and other kinds of negative effects associated with imprisonment.

If incarceration meant for a period of nurturing transformational behavioural changes in prisoners, post-release should be the period of applying the learnt skills, knowledge and values for leading a crime-free and respectful life in the society. However, the available data indicating that the purpose of incarceration not meeting its expected outcomes due to the lack of human resource planning and strategies, cause for post-incarceration life of the prisoners more challenging and difficult.

For asking the first reaction of mothers in response to their releasing news from the prison 90.6% were responded positively. In contrast, the array of challenges quoted by the mothers were family deprivation, isolation due to stigma, difficulties of getting into employment due the necessary skills and education, struggles for leading a better-socialised life, difficulties for entering into parenting responsibilities, extramarital

relationship and suicidal thoughts. This reflects the need for training and tuning the detained human resources for the period and converts them into a productive human strength by empowering them with skills and positive thinking patterns. This would be an effective crime prevention strategies curtail the breeding of crimes in society. In the study, 93.4% of mothers agreed that they required employment during post-release. Amongst 43.8% required a period of more than two months for finding out employment. A few percentages were unemployed due to several reasons and in the case of employed mothers, 50% of them were engaged with the unskilled jobs. The monthly earnings of the mothers were within the range of Rs.5000 to Rs.10000. Majority of the participants 43.8% were reluctant to share their prison background while employed.

In the current study, it shows that at the end of the incarceration period relatives came to take them for home. The percentage of response is very less for mentioning husband and parents and adult children came for taking them home after release. Next to relatives, friends and fellow inmates represent the high percentage of role in the post-incarceration life of mothers. This is because of various reasons such as lack of contact with the family, lack of clear communication about the releasing period, fear of the family members about the extra obligation, conflicts with the mother pre or post-incarceration period.

Regarding children, most of the mothers found their children with their family/relatives. Despite the fact of incarceration majority of the mothers were updated about their children's matters through Non-Governmental Organisation or family visits. Only a few were not aware of their children's matters. In reaction, most of the children happily welcomed their mothers without any prejudice.

For most of them (78 %) outside world was hard and strange. Such as difficulties for crossing the roads, unable to take the responsibilities all of a sudden, unable to believe that children are so close and near, afraid to talk to others, unable to adjust with food like that. They almost felt like lost. For most of them need to take a lot of hardship for engaging in the daily routine.

During the re-entry phase, the majority of the mothers matched their experience with home and community in the category of "everything changed". Some described it as "strange". Such words indicating the anxieties and adjustment difficulties they faced during the re-entry phase with the home and community atmosphere.

The acceptance of in-laws after the release was rare in most of the mother's case. This was adding to the reasons for their instability for leading a respectful life in society further. For the children, this will become a serious factor leading to the identity crisis of his parents and family in future. Broken relationships amongst the parents and family members always lead to the identity crisis, lack of self-confidence, stigma, shame, behavioural issues, declining of academic performances and another serious physical, emotional and social malfunctions in the children.

Distracted social and community life such as distance from neighbours and relatives was a major reason for their secluded life in society. For most of the women, a friendship develops during the incarceration period will be the only form of friendship even after the release as well.

Concerning the physical and psychological well-being, the majority of them were reported they were fit and fine. However, TB, Typhoid and stomach related issues were common in the reported health issues. The coping pattern of mothers for dealing with stress, worry and anxious during the post-

release period was that they succumbed it by self if shared most of them preferred to share with their children.

6. Mother's perception of their parenting roles and their relationship with the children

Regarding the takeover of parenting responsibilities after imprisonment, 75% of mothers were in an expectation of becoming good mothers to their children followed by the release. Difficulties for getting a job, financial struggles, and deprivation from the family, growing expectations of the children and partners affect their coping patterns with the outside world and thus lead to the parenting stressful.

However, 87.5% of the mothers agreed that their children welcomed them with happy faces and not felt any difficulties to introduce them to their friends. This shows the strength of the mother-child relationship. Except two all others expressed their insecurity feelings related with the children.

62.5% of mothers were feeling guilty about their incarceration and the negative impact on their children due to it. However, 87.5% believes that their children will lead a crime-free life despite the fact of their mothers' incarceration background. The feelings of ineffective parenting due to imprisonment were prevalent amongst the mothers.

7. Post-incarceration social security issues (financial independency, the support from spouse, family and friends)

Post incarceration social security issues discussing the empowerment of the mothers based on their possession of government ID cards, knowledge about various Government schemes and insurance coverage.

During the pre-incarceration period, 59.4% of mothers have not owned an ID card. But after release 87.5% able to secure an ID card. Ignorance of the social security schemes was

prevalent amongst the mothers, as a result, most of them were away from the benefits.

Suggestions and recommendations

By conducting a baseline study on the issue, the scholar wishes to know the intensity of the issues of mothers during their post-incarceration life period and the factors affecting their reintegration in the community. Accordingly, it demands more such research studies in this area for improving the socio – psycho wellbeing conditions of the mothers.

There are many limitations associated with this particular study. Some of the limitations are the quantitative way of analysis for understanding the in-depth and sensitive concepts like post-incarceration life challenges of mothers. However, the study helped to identify the areas relevant to future research.

The study is a call for addressing various issues and struggles facing by the young mothers during their re-entry period consequent to their prolonged incarceration. For making them socialized and inclusive in family and community life, a comprehensive pre-and post-release reintegration programme in cooperation with prison social welfare services and community support is very essential.

As per the statistics of the particular study incarcerated mothers are highly vulnerable financially, socially and emotionally. Estranged family relations with husband, elder children and kinship leave them as endangered for exploitations at various levels. Lack of quality aftercare support and follow-ups increase the chances of recidivism and interim living arrangements with male partners of women prisoners.

Preparatory course work including skills and counselling before release will help these mothers to gain confidence and dependency to start a fresh life with community support

right after their relieve from prison life. Also, the measures and steps for connecting their families before release, rehabilitation options for empowering the mothers socially, emotionally and financially will be highly appreciable with the support of Government and Non-Governmental Organisations.

Conclusion

As said by Alexander Pope (1688-1744) "To err is human; to forgive, divine", it is the society or policies to decide should a criminal be punished or cured. Motherhood is considered as the most creative version

of womanhood. For most of the women, it would be a dream comes true moments when she steps into the motherhood, in contrast, it would be a challenging period for those mothers who step into the prison environment. Though many reformative moments and policies existing for stimulating the human rights-based correctional approach, the need for a constructive implementation model seems missing in the entire system. Such perseverance will play a vital role in reducing recidivism and prevention against crime.

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AN EMPIRICAL STUDY ON BULLYING AND SEXUAL HARASSMENT AT WORKPLACE

Shubhangi Srivastava*, Priyanka Kacker**

ABSTRACT

This study was an exploratory endeavor which observed trends in bullying and sexual harassment at a workplace. Total 212 samples who were working in Industrial and Academic organizations were randomly taken from Gandhinagar, Gujarat. 106 samples were from Industrial workplace and 106 samples from Academic workplace. The participants provided demographic details and responded to NAQ-R and SEQ questionnaire to assess the bullying and sexual harassment experience. The primary aim of the paper was to find out the existence of bullying and sexual harassment at workplace, correlation between bullying and sexual harassment and impact of workplace environment on bullying and sexual harassment, overall, the results proved the existence of bullying and sexual harassment at workplace. It was seen that bullying and sexual harassment are also negatively correlated to age. However, a positive correlation between bullying and sexual harassment was seen. Lastly, there was significant difference in bullying between academic and industrial workplace and there was no significant difference in sexual harassment between academic and industrial workplace.

KEYWORDS

Workplace, Bullying, Sexual harassment

Introduction

Due to globalization and development in working sector, there is a rapid growth in employment opportunities and significant changes in the workplace like participation of women at workplace in India. This resulted in various challenges with regards to health and safety of the employees. All the employees of a workplace should be respected and treated fairly but various psychological and physical workplace risks like Bullying and Sexual Harassment are now recognized globally as an issue affecting various countries, different professions and nearly all workers (Cobb, 2017). Due to lack of awareness about the laws and rules and the problem of bullying and sexual harassment, such aggressive and inappropriate behavior is seen quite often.

Any workplace is described as “any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey.” A workplace can be both the organized and/or un-organized sectors (Mohanty, 2015). In broad sense, workplace bullying can be understood as “subtle and/or obvious negative behaviors embodying aggression, hostility, intimidation and harm, characterized by repetition and persistence, displayed by an individual and/or group and directed towards another individual and/or group at work in the context of an existing or evolving unequal power relationship” (D’Cruz, Workplace Bullying in India, 2014). In India in 2007, Premilla D’Cruz, Noronha and Rayner started conducting studies on workplace bullying. It was observed in the

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study that in India workplace bullying is over 40% across various studies which is greater than global figures that mostly lies between 11% to 18% (D'Cruz, Noronha, Mendonca, & Mishra, 2018).

Since there is no definitive list of bullying behavior, it ranges from indirect pattern, for example, someone modifies, spreads, or highlights crucial information which affects the job or performance of the victim to isolating or socially excluding the victim, for example, exclusion by avoiding, withholding important information, or unsupportive of hard-earned promotions, etc. (Rayner, Hoel, & Cooper, Workplace Bullying, 2002). The main feature of bullying is its causation due to imbalance of power which is mainly caused by the dependence of target on the perpetrator(s), that may be economical, social, physical or psychological in nature (Stale, Hoel, Zapf, & Cooper, 2010). Here, 'Power' can be economical, position/post in the company, number of people against victim and supporters of the perpetrator. It is very important to understand the source of the power, whether it is coming from a formal source like status or position in an organization or informal source like ability to influence others, strength of character, quickness of tongues, etc. (Rayner, Hoel, & Cooper, Workplace Bullying, 2002).

There are few researchers who examine the relationship between bullying and sexual harassment as both are considered similar behaviors and have common risk factors. Bullying and sexual harassment are related expression of aggression and have same antecedents. The laws and rules to prevent sexual harassment are not efficient to prevent bullying as bullying is not just gender harassment but includes other kinds of harassment as well.

Sexual harassment is an ancient phenomenon. (Kamberi & Gollopeni, 2015). Sexual harassment is considered a social issue which is complex in its nature and has harmful effects on individuals,

organizations as well as society (Gelfand, Fitzgerald, & Drasgow, 1995). According to the handbook of Ministry of Women and Child Development (Mohanty, 2015), "Sexual Harassment includes anyone or more of the following unwelcome acts or behavior (whether directly or by implication), namely:

1. Physical contact or advances;
2. A demand or request for sexual favors;
3. Making sexually colored remarks;
4. Showing pornography;
5. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature"

The evidences from research activities in the past decade and a half shows the occurrence of sexual harassment in organization and it is seen that the consequences have been potentially serious and dangerous (Stocokdale, 1996). Sexual harassment is a grave form of employment and sex discrimination, suffered mostly by women. It violates fundamental rights like right to equality and life, which is guaranteed to all the citizens of India under Articles 14, 15 and 21 of the Constitution of India. It interferes with their performance at work. It also has adverse effects on their social and economic growth by putting them through physical and emotional distress (Shroff & Preetha.S, 2018).

In recent times, incidences of sexual harassment of men are also seen. A recent study showed that approximately over half of all women in a workplace suffer from some form of sexual harassment and It also found that one-third of men at workplace suffered from at least one form of sexual harassment. Sexual harassment is divided into three types: Verbal- These include talking on sexual topics, stories or jokes with sexual topics, sexist remarks, asking questions about private sexual life. Non-verbal- this includes staring at others body, chest, butt, etc. blocking the road or path and to not

let other pass through, giving gifts secretly, using sexual body language, chasing others, etc. and Physical- It includes touching butt, hair or chest, caresses, cuddling the neck or hands, neck and shoulder massage, etc. (Kamberi & Gollopeni, 2015).

Sexual harassment at workplace was for the very first time acknowledged by the Supreme Court of India. It was legally recognized in the landmark judgment of *Vishaka v. State of Rajasthan* (“Vishaka Judgment”). Since there were no laws in India on sexual harassment at a workplace, the Supreme Court, in the *Vishakha* judgment made guidelines with mandatory mechanism to redress grievances related to sexual harassment. The guidelines were followed till the enactment of Prevention of Sexual Harassment Act, 2013 (POSH). This act is specifically dealing with only female victims. It is not a gender-neutral act and hence cannot be used for male victims (Shroff & Preetha.S, 2018).

Research Gap

There are few studies related to Bullying and Sexual Harassment at workplace in India. Mostly these studies consider gender and age while studying bullying and sexual harassment at workplace and few of the studies did not provide enough evidence on affect and effect of Bullying and Sexual harassment at workplace. A very important correlation between bullying and sexual harassment is still left to be explored by the researchers which might offer a new dimension to organizational psychology. But the researches could not provide any correlation between Bullying and Sexual harassment even when they are closely related and often combined phenomenon. There were less number of study on the effect of different work environments or different workplaces on Bullying and Sexual Harassment.

2. METHODOLOGY

2.1 Objectives

There is relatively little empirical research on aggressive behavior like bullying and sexual harassment including their correlation with age and effect of different work environment on such aggressive behavior. This has resulted in establishment of preventive and coping strategies which are not sufficient to stop these malpractices at workplace; the current study will fulfill the need. The goals of the current study were as follows:

- 1) To study the affect of age on bullying and sexual harassment happening at a workplace- To have a better understanding of the concept, it is very important to know how age affect bullying and sexual harassment. Age plays a crucial role in studying bullying and sexual harassment in Indian workplace as age directly reflects experience and position in hierarchy of a workplace. It will help in understanding the extent of bullying and sexual harassment.
- 2) To determine the correlation between bullying and sexual Harassment- As discussed above, bullying and sexual harassment are related expression of aggression. This relation of common antecedents and common risk factors will help in creating new preventive strategies and policies. The study intends to study the affect of bullying and sexual harassment on each other.
- 3) To determine the effect of different working environment on bullying and sexual harassment- It becomes very important to understand how different work environment and culture plays role in bullying and sexual harassment. All the workplaces have different environment under which it operates. Some workplaces are hostile whereas others are friendly. Environment plays a vital role in occurrence of bullying and sexual harassment at workplace.

2.2 Sample

For the present study, samples were divided into two clusters, Industrial and Academic workplace which consisted of 212 (N=212) individuals. It included 106 employees of academic workplaces like universities and colleges and 106 employees of Industrial workplaces like Private Companies. The samples were collected using simple random sampling technique.

Since the study was dealing with sensitive issue, many organizations were reluctant to let their employees participate in the study as sample. Only those working professionals who were willing to be the part of the study were taken as sample.

2.2.1 Participants

Table 2.1 Criteria of Sample Selection

Inclusion Criteria	Exclusion Criteria
Male and females above 18 years and below 60 years	Male and females below 18 years and above 60 years
Males and Female employed for at least 6 months from Academic Workplace	Individuals (Male and Female) who are employed for less than 6 months.
Males and Female employed for at least 6 months from Industrial Workplace	Individuals (Male and Female) who are not employed.

2.3 Measures/ Tools used

a) Socio-Demographic Detail form- Form on general and job details was obtained from each participant. The participants were asked to report general information like their age, the gender of the employee, the marital status of the employee and their current highest level of education. They were asked to report employment status, job title, and type of workplace, how long the participant has held the current position and how long the participant is working in the current organization. Keeping in mind the sensitivity of the topic and hesitation

or unfairness in answers, the participants were given a choice to keep their name anonymous.

b) Negative Act Questionnaire- Revised (NAQ-R) - Workplace bullying was measured by using latest version of NAQ-R. It consists of 22 items. The 23rd self-labeling item provides a specific definition of workplace bullying. The 24th question asks about the bully by whom participant was bullied. NAQ-R has high reliability and validity (Gupta, Bakhshi, & Einarsen, 2017).

c) Sexual Experience Questionnaire (SEQ) – Sexual Harassment was measured using the latest version of the Sexual Experiences Questionnaire. This version consists of 20 items, 18 of which are divided in the following categories: Gender Harassment, Unwanted Sexual and Sexual Coercion. This version of the SEQ shows an internal consistency coefficient of .92 ($\alpha = .92$) with sufficient reliability and validity for research purposes (Fitzgerald, Gelfand, & Dragow, 1995).

2.4 Hypotheses

1. There will be no correlation between any age group and bullying.
2. There will be no correlation between any age group and sexual Harassment.
3. There will be no correlation between bullying and sexual Harassment.
4. There will be no significant difference in bullying at Industrial and Academic Workplace.
5. There will be no significant difference in sexual harassment at Industrial and Academic Workplace.

2.5 Procedure

The objective of the study was to study bullying and sexual harassment in academic and industrial workplace. For the purpose of the same the study was divided into two different phases as follow:

Phase I

Questionnaires that were apt for the study were to be identified. To measure the bullying Negative act questionnaire- revised version (NAQ-R) was considered and to measure sexual harassment at a workplace Sexual experience questionnaire (SEQ) was considered.

After the selection of the questionnaire, a form to collect socio-demographic details of the sample was made. The socio-demographic form was made relevant to the study, keeping in mind that it is for employees of workplaces. After this phase II started.

Phase II

Permission was sought from different organizations and Institutions to collect sample. Faculties from the colleges and universities and employees of various organizations were reached and randomly given the questionnaire, provided they were willing to volunteer. Option to main their anonymity was given to all the participants. Due to prior commitment and work of the participants few of the questionnaires were dropped at the organization and collected after 2-3 days. Filled questionnaires were collected from the participants for further analysis.

3. DISCUSSION

In the current research to study to determine the correlation between age and bullying and sexual harassment and to understand the correlation between bullying and sexual harassment various statistical measures were used. To study the correlation between age and bullying and sexual harassment, age was divided into three different groups, Group A which consist of employees from 21 years to 29 years, Group B which consists of employees from 30 years to 39 years and Group C which consist of employees from 40 to 60 years. Bivariate correlation method was used to determine the correlation between age and bullying and sexual

harassment. To study the significant difference in bullying and sexual harassment at Academic and Industrial workplace, Independent variable t-test was used. A summary of the data collected is given in the table 3.1.

Table 3.1 Summary of the sample, age and total data collected

Sample	Total (N)
Industrial (n)	106
Academic (n)	106
Age in Industrial Workplace	21-60 years
Age in Academic Workplace	21-60 years
Total (N)	212

Table 3.2.1 showing correlation of age with academic workplace bullying and sexual harassment

Academic	Group A	Group B	Group C
Bullying	-.239	-.385*	-.016
Sexual Harassment	-.523**	-.227	.197
Age in Industrial Workplace	21-60 years		
Age in Academic Workplace	21-60 years		
Total (N)	212		

Table 3.2.2 showing correlation of age with industrial workplace bullying and sexual harassment

Industrial	Group A	Group B	Group C
Bullying	-.019	-.025	.053
Sexual Harassment	.029	-.031	.064

Table 3.2.3 showing correlation between Bullying and Sexual Harassment (N=212)

Variables	Sexual Harassment (N=212)	Group B	Group C
Bullying (N=212)	.502**	-.025	.053

**Correlation is significant at the 0.01 level (2- tailed).

Table 3.2.1 showing correlation of age with academic workplace bullying and sexual harassment

Academic (n=106)	Sexual Harassment	.685**
	Bullying	
Industrial (n=106)	Sexual Harassment	.388**
	Bullying	

**Correlation is significant at the 0.01 level (2- tailed)

**Correlation is significant at the 0.01 level (2- tailed)

Independent variable T-test

Table 3.2.5 showing significant difference between Bullying and Sexual Harassment at different workplace

	Sig. (2- tailed)
Bullying	.002
Sexual Harassment	.264

The analysis of these samples showed that the percentage of bullying and sexual harassment in Industrial workplace is higher than Academic workplace. The difference in occurrence of incidents of bullying and sexual harassment between two workplaces can be a result of different environment of the workplace. The organizational causes of bullying can be studied under five categories: Job design and work organization, culture and climate of organization, leadership in the organization, reward system and organizational changes.

Further, bullying and sexual harassment was studied with age of employees to understand the impact of age on bullying and sexual harassment. To analyze the impact of different set of age, the sample was divided into three categories as mentioned above. As shown in Table 3.2.1. A negative correlation was seen in age group 30-39 years and bullying at academic workplace. It can be understood that as age increases the bullying decreases in academic workplace.

In a study on Bullying in the Indian workplace, it was seen that as one went up in the organizational hierarchy, the incidents of bullying decreased. At entry level 48.8% employees suffered from bullying, the percentage becomes 43.4% for employees at junior management level, then 37.9% at middle management level employees and tends to be around 25.5% for employees at senior management level (D'Cruz & Rayner, 2012). Decrease in bullying with increase in age can be explained as when an employee gets promoted or goes up in organizational hierarchy it passively gives them power where they cannot be taken advantage of and are not considered as too weak to retaliate. But, this works other way as well, in the same study it was found that the superiors (73.1%) were most common source of bullying, the second most common source of bullying was by peers (37.3%) and even subordinates (21.8%) were also seen as a source of Bullying. Indicating that as an employee gets promoted in the organizational hierarchy he/she turns into a bully from being a victim of bully. It was observed in the study on Individual and Situational predictors of perpetrators of bullying at workplace that there is an increasing probability of being a perpetrator with increased frequency of exposure to bullying (Hauge, Skogstad, & Einarsen, 2009).

Similarly, a negative correlation was seen between age group of 21-29 years and sexual harassment at Academic workplace. From Table 3.2.1 it can be inferred that as the age increases the sexual harassment decreases at an academic workplace. A study done on sexual harassment of working women and it was seen that although there was no significant difference among women of less than 26 years and women of 26 years and above but mean scores indicate that younger women face more harassment of all kinds as compared to women above 26 years of age, at their workplace (Saxena, 2016). It can be understood that with increase in age the

incidents of sexual harassment decrease. The reason why younger employees are comparatively more harassed than the elderly employees is because they are beginner, which makes them a vulnerable target. Employers, managers' superiors and/or peers craft an organizational climate where an employee has to succumb to the pressure either resign from the jobs or surrender to the demands of the employers which also includes further bullying and/or sexual harassment.

As we have discussed earlier, bullying and Sexual harassment have somewhat alike expression of aggression. But the two offenses are different in their characteristics. To understand the connection between Bullying and sexual harassment, correlation between total sample (N=212) was determined. Bullying and Sexual harassment show a positive correlation with each other in Table 3.2.3. Null hypothesis was not accepted due to lack of evidence. The inference drawn from the result was that as bullying will increase, sexual harassment will also increase and as bullying will decrease, sexual harassment will also decrease. It is also observed that sometimes to assert power; bully tries to sexually harass the victim. There is one more paradigm that links bullying and sexual harassment. Employees from minority class of sexual orientation like gay, lesbian, bisexuals, etc. are often bullied as they do not conform to the traditional sexual orientation norms of society.

To further understand the concept, correlation between bullying and sexual harassment at different workplaces (n=106) was determined. It was seen in Table 3.2.4 Bullying and sexual harassment is positively correlated to each other in Academic and Industrial workplaces. This further establishes the point that irrespective of the environment of a workplace, if bullying increases sexual harassment also increases. If the organizational policies can prevent

bullying it can be said it will prevent sexual harassment as well.

To understand the effect of different workplace environment and culture on bullying and sexual harassment, T- test was done to compare the bullying at academic workplace and industrial workplace and sexual harassment at academic and industrial workplace. It was hypothesized that there will be no significant difference in bullying and sexual harassment at two different workplaces respectively. The results shown in Table 3.2.5 indicate that there is a significant difference is seen in bullying at academic and industrial workplace. It is because bullying is done on the basis of work, individual, race, gender, etc. Bullying happens where employees encounter contradictory expectations, demands and design of their job with goals that are unpredictable and unclear, unmanageable workload and increasing pressure with excessive monitoring. A perpetrator can bully an employee for various reasons. However, there is no significant difference in sexual harassment in academic and industrial workplace. Sexual Harassment is always driven by the sexual intentions irrespective of social culture and environment of that place. From gender harassment to sexual coercion, the offence is solely motivated to gain sexual favor and pleasures. Hence, it does not depend on workplace and work.

While collecting data from various workplaces and employees, there was a lot of diffidence on the part of both, the organization and the employees. At organizational level, it was found that topics like bullying and sexual harassment were not given an active consideration because of its sensitivity. Many organizations identified their employees to be too young or academically naïve to understand the issues and hence did not want to expose their employees. Other organizations asserted that their workplace is free from

any sort of bullying or sexual harassment risks.

At individual level the dynamics of understanding the two issues were different. Due to the subjectivity of the behavior it was seen that employees scored high in bullying behavior but low on self-labeling or given definition of bullying. This marks the subjectivity of why few actions are offensive to some and not offensive to others. In the current study both bullying and sexual harassment have male and female victims. The results highlight the gender-neutral victimization at a workplace. A study was done to test the theory that men are not as vulnerable to sexual harassment as are women. Results indicated the following: men are considerably less threatened than women by behaviors that women have found harassing; men as well as women, sexually harass men; and men identify behaviors as harassing that have not been identified for women. Results also showed signs of backlash among men against organizational measures that address sexual harassment and discrimination against women (Berdahl, Magley, & Waldo, 1996).

IMPLICATION

This study has several implications in Criminology, Law and Psychology. The understanding of the nature and extent of bullying and sexual harassment at workplace can allow various organizations to come up with a monitoring system and efficient preventive strategies with the help of a third-party agency like criminologists and forensic psychologists. The expertise of criminologists and forensic psychologists can help in devising mechanisms to periodically monitor and address the issue of bullying and sexual harassment at a workplace and suggest policies to put an end to any inappropriate practice. Similarly, understanding the effect of

workplace environment on bullying and sexual harassment can open new gates for research. Social Implication of study focuses on the awareness of the employees and management of the organizations about bullying and sexual harassment at a workplace. Also, it should be brought to light that both, bullying and sexual harassment have gender-neutral victims. Legal implication of the study is to bring the laws against bullying at workplace. The laws on sexual harassment are powerful in their own nature but the mechanism of reporting a complaint or the fear of consequences of any such complaint proves to be an obstacle. Along with laws and rules, as a part of prevention and punishment strategies, one should also think about the executing mechanism for effective implementation of the laws and rules.

CONCLUSION

In the end, it can be concluded that this study very shows the nature and extent of bullying and sexual harassment at a workplace. The existence of bullying and sexual harassment even in low percentage is worrisome. The negative correlation of bullying and sexual harassment with different age group indicates its effect on young and old employees. A positive correlation between bullying and sexual harassment shows how closely two aggressive and inappropriate behavior are linked to each other. It also highlights the fact that how preventing one can eventually prevent the other from happening. Lastly, it was seen that there is a significant difference in bullying at academic and industrial workplace but there is no significant difference in sexual harassment at academic and Industrial workplace. The finding of the study also highlights that there is a lot of scope of improvement in prevention strategies of bullying and sexual harassment at workplace.

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