Understanding Blame Attributions in Rape among Legal Professionals

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Abstract
Rape in the Indian context, is a prominent issue, greatly influenced by socio-cultural values and beliefs. Victim blaming and the concept of an ideal victim is a social evil that makes life difficult for rape survivors. What would happen if officials responsible for providing justice possess this tendency? The study aimed at understanding this question through a qualitative study on eight legal professionals including two magistrates and six advocates. The data obtained was analysed using thematic network analysis as well as content analysis. It was observed that victim blaming was present in the responses given, but blame was directed onto other factors as well. Victim blaming varied with victim characteristics and blame was greater in case of acquaintance rape rather than stranger rape. Culture based stereotypes, sex roles and rape myths were observed and seemed to affect the way they made decisions. A more extensive study in future including a broader sample and professionals from different administrative realms can help understand the issue better.

Keywords: Victim blaming, Marital rape, Rape myths, Legal professionals.

Introduction
Rape can be simply defined as a sexual intercourse without consent. One of the primary rape cases which completely changed the jurisdiction process relating to such incidents was the Mathura rape case, a custody rape case, which occurred in a police station in Chandrapur district of Maharashtra (Rao, 2016). Another recent incident which further brought about legal changes was the Nirbhaya case which happened in Delhi in 2012. As per statistics, over 34,651 rape cases were reported in India (2015). In Kerala, 1256 cases were reported in 2015 and 2568 in 2016 including women with age below 6 to over 60 years (PTI, 2016). Despite the protests which followed the Nirbhaya case, the country still has not been able to bring about a change in the rate of this heinous crime.

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The proposals to increase the punishment and funding for promoting a safer environment for women does not seem to reduce the crime rate. What could possibly be the reason for the persistence of this crime despite protests and improved legislative procedures? Why is it left unreported? A primary answer can be obtained from The Mathura Case. The hearing of this case in sessions court came to a judgment that the defendants are not guilty and that the victim, being habituated to sexual intercourse, gave a voluntary consent. However, the Nagpur bench of Bombay high court stood by the victim and sentenced the policemen to imprisonment, but the Supreme Court concluded that as Mathura did not raise any alarm and nor were any wounds found on her body, implying no struggle and hence no rape. Following protests, the court stated that there was no Locus Standi to rule in favor of Mathura. This brought about the change in rape law in India via the Criminal Law Act of 1983 (Rao, 2016).

Despite the legal changes, rape cases and tendency to blame the victim still persists. It may affect the process of providing justice when officials associated with the legal proceedings in rape cases tend to possess such tendencies. Thinking from a psychological viewpoint, an attribution error occurs which possibly meddles with the process of decision making. Could these attribution errors be stemming from a prior learning of gender stereotypes and traditional sex roles? An understanding of the officials' opinion on whether they possess such tendencies and their subjective viewpoints on how they deal with it and how it impacts their decision making could possibly help us to understand the various underlying psychological aspects of this issue.

Victim blaming, also known as secondary victimization, can be defined as a devaluing act where the victim(s) of a crime is held responsible for the crimes committed against them, either wholly or partly. This tendency has been researched frequently with respect to rape cases, where the victim is often blamed as a reason for the occurrence of the event and this blame attribution often interferes with the process of providing justice to the victim. Presence of the same within our legal system has to be explored because reports suggest that it affects decision making and justice in rape cases. Reports state that along with certain landmark judgments, the Indian judiciary in its history has experienced certain legislative blunders also due to the tendency to blame the victim (Sharma, 2015).

1. Theoretical Framework

1.1 Fundamental Attribution Error

An individual, when faced with an action or outcome, tends to attribute its cause to the internal traits of the actor though evidence clearly states the immense involvement of situational factors (Holden, 2009). Research states that victim blaming tendencies in rape cases is a primary example of a fundamental attribution error. Review of variant literature suggests an error in attribution and possibility of biased cognition can affect the decision-making process in individuals involved in the prosecution of rape cases (Grubb & Turner, 2012).

1.2 Victim–Perpetrator Relations and Characteristics

Monson et al. in their study concluded that as the degree of acquaintance between perpetrator and victims increased, more rape supportive attributions were made (Monson,
Langhinrichsen-Rohling, & Binderup, 2000). Another study concluded that males attributed more blame onto the victim. Victim blaming was seen to be highest in the seduction rape followed by dating and stranger rape. Also a negative correlation was seen between perceptions of similarity with victim or perpetrator and blame attributions (A. R. Grubb & Harrower, 2009).

1.3 Hostile and Benevolent Sexism
Glick and Fiske (1996) state that the term sexism does not essentially mean negative attitudes towards women, but rather positive or benevolent attitudes coexist with the hostile attitudes, termed as ambivalent sexism. Benevolent sexism is defined as “a set of interrelated attitudes toward women that are sexist in terms of viewing women stereotypically and in restricted roles, but that are subjectively positive in feeling tone” (Abrams, Viki, Masser, & Bohner, 2003). They also stated that ambivalent sexists classify women into good and bad, with benevolence directed to those conforming to the traditional sex roles and hostility towards the non-conforming women. Ambivalent sexism tends to increase conformity towards rape myths and brings about a belief that only bad women are raped. This classification thus acts as a way of justifying violent behaviour towards women in certain cases (Abrams et al., 2003). Abrams et al. conducted studies to understand the role of sexism on rape proclivity and victim blaming. They concluded that victim blame was greater in acquaintance rape and it increased with increase in score of benevolent sexism. Greater rape proclivity was seen in acquaintance rape rather than stranger rape. They concluded that benevolent sexism greatly influences victim blaming tendency and that hostile sexism influences rape proclivity. The perception of inappropriateness of victim’s behaviour seemed to mediate the influence of benevolent sexism on victim blaming (Abrams et al., 2003).

1.4 Rape Myth Acceptance (RMA)
Lonsway and Fitzgerald stated that attitudes and beliefs which are generally false but widely and persistently held, and serve to deny and justify male sexual aggression against women (Bohner, Eysel, Pina, Siebler, & Viki, 2009). Various theorists state that one major reason for a justice gap in rape cases is the belief about rape myths. It meddles with individuals’ subjective interpretations of rape and tends to assign assumptions about the nature of victims and perpetrators. Evidence state that it is highly relevant in society and also among the administrative officials as it is propagated by the media and can interfere with the decision-making process. It acts as a cognitive schema influencing information processing, affect and behaviour (Bohner, Eysel, Pina, Siebler, & Viki, 2009). A series of studies focused to understand impact of RMA by giving scenarios where female is the victim and male is the perpetrator and vice versa in multiple scenarios. They concluded that that regardless of the manipulation and random assignment, the participant’s previously held cognitions influenced their judgments of the presented scenario (Klement, 2017). The presence of rape myths in daily life and its influence on individuals was studied. A content analysis of online news headlines regarding Kobe Bryant sexual assault case was done and 10% of the 555 samples displayed the presence of a rape myth. Following this, a study was conducted on university students by presenting them with both kinds of headlines. Results showed that men who were exposed to myth endorsing
headlines were more in support of the perpetrator and held rape supportive attitudes when compared to those who were not exposed to myth endorsing headlines. Also women who were exposed to myth endorsing headlines held less rape supportive attitudes when compared to men (Franiuk, Seefelt, & Vandello, 2008). A research in 2017 aimed to study the aspects of rape and victim blaming in India among men. A projective questionnaire was prepared consisting of 2 sets of pictures, one with two pictures of a girl, one in a short dress and one of her dancing in a nightclub with a drink in her hand and the other is of a girl wearing a salwar and covering her head with a scarf and that of a lady sitting at home with her husband. They were asked who is likely to get assaulted and why, and who would they save in such a situation if they can save only one. Their responses to these questions indicated stereotypical sex roles and their opinions of modes of behaviour that a female should engage in. The researcher concludes that in India rape is regarded solely as a sexual crime and that people are not aware of the underlying power factor facilitating this crime (Rawat, 2017).

Previous studies including the analysis of police files, observations and interviews with legal professionals has shown that blame attributions are directed at the victims and it influences the legal decision-making process (Galli, 2009). A review of research from the past 10-15 years reveals that a good amount of research has been done in the field of victim blaming in rape, but the sample taken is majorly restricted to undergraduate students and quantitative method was used. A qualitative study on legal professionals, can help in understanding how these aspects can affect decision making and thus meddle with the process of providing justice. Only very few studies on this topic have been conducted in India, hence it is especially relevant to study the matter in the Indian cultural context.

Figure 1. Theoretical framework of victim blaming based on existing theories and research
1.1 Objectives

Previous researches have explained the factors leading to victim blaming, but an understanding of the same among judges and advocates have not been done. Being a group, which are exposed to rape cases and has a role in providing justice, an enquiry into how these aspects affect blame attributions in them is necessary.

1.1.1 Major objective

To understand the perception and experience of victim blaming among legal professionals (Magistrates, lawyers) with respect to rape cases.

1.1.2 Specific objectives

1. To understand whether victim blaming tendencies differ with respect to different characteristics of the victim, the scenario of occurrence of rape (victim’s house, perpetrator’s house, public place etc.) and the relationship between perpetrator and victim (strangers, married, dating).

2. To explore the various underlying processes that contribute to developing victim blaming tendencies.

3. To understand the role of victim blaming in decision making experiences and professional life of legal professionals.

2. METHOD

2.1 Participants

A qualitative study was conducted from a social constructivist paradigm. Eight legal professionals from Kerala were selected based on purposive sampling method. It included six advocates and two magistrates and out of them, four were men and four were women. Participants were screened using a General Health Questionnaire (GHQ 12) to understand their mental health status.

2.1.1 Inclusion criteria

- Legal professionals who have been exposed to rape cases and have had an experience of more than 5 years in the profession

2.1.2 Exclusion criteria

- Legal professionals whose score on GHQ 12 exceeded 15

The social constructivist paradigm focuses on the role of society and culture, and knowledge construction based on these aspects. This approach helps in understanding how social learning of stereotypes, traditional sex roles, and rape myths can have an impact on developing the tendency for victim blaming in rape, and also understand the role of culture and social norms in the same.
2.2 Data Collection Method

A semi-structured qualitative interview was conducted to understand the objectives. As a part of the interview, initially, a rape vignette consisting of 4 rape scenarios were given to the participant to read. After the participant read each scenario, a series of questions were asked to understand their opinions, viewpoints and blame attributions if any towards the male, female or other factors. Following this, an interview was conducted to understand their opinions, viewpoints and blame attributions if any, about rape cases in India. The scenarios were made by referring to previous literature to understand what information needs to be included, and it was made specific to the Indian scenario. Audio recording of the participants were taken and a separate consent form for the same, along with the informed consent, was given to them and the need for the same was explained.

2.3 Validation

The interview schedule, including the rape vignette, were validated by 3 experts from the field – one professor from Christ (Deemed to be University) and 2 professors from Kerala University. After the data collection, a data audit was done to check the validity of data obtained and whether appropriate procedures were followed to ensure ethical considerations. Coding was done in parallel by a peer who is exposed to qualitative research procedures, in order to ensure validity and avoid personal bias from the researcher.

2.4 Process

A quick introduction about the researcher and the research was given to the participants initially and informed consent forms were also given to read. Following this, the General Health Questionnaire, GHQ 12, was given to the participants and scoring was done while they filled in demographic details. Once they showed their willingness to participate, the process was explained to them once again and rape vignette was given to them. Questions were asked after each scenario and responses were recorded. The participant was informed every time before the recorder was switched on. Similar process was followed for rest of the interview as well. It took approximately 30-40 minutes per interview.

2.5 Ethical Considerations

An informed consent was given to the participants which consisted of information regarding the purpose of the study, the method of conducting the study, the time that will be required from the participants, and the information that the participant needs to be a part of the study only if he/she is willing to, and can withdraw from the study at any point. Information regarding confidentiality and privacy of their responses was conveyed through written text as well as orally. Doubts they had about the process was clarified.

No deception was used in the process, however a debriefing about the nature and purpose of the research was given to the participants to ensure they are aware of the same. In order to prevent researcher’s personal bias, a thought diary was maintained and coding was done in parallel by a peer. The research proposal was presented before a panel to understand concerns that could arise within the study. The research proposal along with
the planned methodology was submitted to the Institutional Review Board (IRB) of the university and questions regarding ethical considerations were explained. The data collection was conducted after getting the approval of IRB.

3. RESULTS
Participants selected were between the age of 39 and 68 years. It included 2 magistrates, 1 male and 1 female and 6 advocates, 3 male and 3 females. Years of experience refers to the number of years they were in the legal profession, need not be their experience in current position.

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Gender</th>
<th>Years of experience in legal field</th>
<th>Current Profession</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>41</td>
<td>M</td>
<td>6</td>
<td>Judicial Magistrate</td>
</tr>
<tr>
<td>P2</td>
<td>39</td>
<td>F</td>
<td>5</td>
<td>Judicial Magistrate</td>
</tr>
<tr>
<td>P3</td>
<td>49</td>
<td>F</td>
<td>25</td>
<td>Advocate</td>
</tr>
<tr>
<td>P4</td>
<td>57</td>
<td>M</td>
<td>27</td>
<td>Advocate</td>
</tr>
<tr>
<td>P5</td>
<td>68</td>
<td>M</td>
<td>42</td>
<td>Advocate</td>
</tr>
<tr>
<td>P6</td>
<td>45</td>
<td>F</td>
<td>15</td>
<td>Advocate</td>
</tr>
<tr>
<td>P7</td>
<td>66</td>
<td>M</td>
<td>6</td>
<td>Advocate</td>
</tr>
<tr>
<td>P8</td>
<td>57</td>
<td>F</td>
<td>22</td>
<td>Advocate</td>
</tr>
</tbody>
</table>

3.1 Themes
A thematic analysis of the data was conducted using Thematic Network Analysis model. The global theme presented in the data was blame, which include organising themes such as blaming the victim, the perpetrator, family, society, laws, situations and the victim-perpetrator relation. These themes are explained below, and it has been able to answer the major objective and the first specific objective completely. A partial understanding of the second and third specific objectives was also obtained from the same.

Table 2. Global, Organising and Basic Themes Derived from the Data

<table>
<thead>
<tr>
<th>Global Theme</th>
<th>Organising Themes</th>
<th>Basic Themes (frequency)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blame</td>
<td>Victim Blame</td>
<td>• Women invite rape (26)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Alone and at night (37)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Family over career (4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Precaution by women (14)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Avoid such situations (16)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Alertness about self-safety (18)</td>
</tr>
<tr>
<td>Category</td>
<td>Themes</td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Perpetrator Blame</td>
<td>• Criminal tendency (8)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Sexual provocation (17)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• All men are like this (5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Hormones (5)</td>
<td></td>
</tr>
<tr>
<td>Family</td>
<td>• Irresponsible parents (5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Traditional parents (4)</td>
<td></td>
</tr>
<tr>
<td>Societal Factors</td>
<td>• Social attitudes towards women (8)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Cultural concepts (7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Views on chastity (3)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Lack of authority (4)</td>
<td></td>
</tr>
<tr>
<td>Situations and Circumstances</td>
<td>• Scenario gives an advantage (short lane, large compound) (17)</td>
<td></td>
</tr>
<tr>
<td>Legal factors</td>
<td>• Administrative issues (10)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Flawed laws (8)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Justice delayed is justice denied (4)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Death penalty (5)</td>
<td></td>
</tr>
<tr>
<td>Victim-Perpetrator Relations</td>
<td>• Wife’s duty (7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Career oriented wife (7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Husband was forced to do it (4)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Husband cannot exploit (5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Forceful sex in marriage is quite natural (2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Societal pressure (5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Family expectations (5)</td>
<td></td>
</tr>
<tr>
<td>Substance use and illness</td>
<td>• Porn, drugs, alcohol (16)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Mental and medical illness (8)</td>
<td></td>
</tr>
</tbody>
</table>

3.1.1 Victim Blame

Even though the blame was attributed to various factors, a high amount of victim blame was seen from most of the data obtained. The basic themes extracted from the interview were that women invite rape, women shouldn’t walk alone; shouldn’t walk at
night, family should be valued more than career, woman should take precaution, avoid such situations and need for woman’s alertness about self-safety.

“…mainly because of women, the way they move around or the way they dress. That is something we Indians say. The cause of rape…. To some extent they have a responsibility in being assaulted. Because. We say that our dress. Our dressing or our behaviour, all these kind of things, so a part of it, if women tries to.. uh.. provoke men. In that way, it can happen.” (P3)

“In this situation this Nimisha is a highly irresponsible girl… her friends house at night. Especially she had no other girlfriend. She alone went to his house. She was responsible. Only responsibility was to her.” (P8)

“So, from my view, some precautions to be taken by the girls side, then only it can. We have to avoid the circumstance.” “In this case the girl is responsible. She could have took some care or caution. So that has not happened.” (P4)

3.1.2 Perpetrator Blame
The participants also attributed blame towards the perpetrator and even though the victim was highly blamed, they wanted the perpetrator to be punished under the law. However, in certain cases the blame was directed to men in general rather than on the perpetrator. The basic themes extracted from the data include Criminal tendency in some men, Sexual provocation, the idea that all men are like this and the role of male hormones.

“Every boy is like this, only 1% stays away, others are all like this in college life. They take it as a credit.” (P8)

“Of course, the sexual lust is, plays a major part. And two, as a vengeance sometimes. To show her a lesson as a vengeance they take this.” (P6).

“There can be only one intention behind rape, that is domination. Like when.. uh.. one person wants to exert his power over the other person.. it can be done.. uh.. it takes one or other form of crime. It could be like either uh.. like .. uh.. assaulted that person physically, or it could be sexually assaulting that person.” (P1).

3.1.3 Family
The theme of family’s role in rape emerged in the response of many participants, particularly with respect to two scenarios – scenario one which talks about stranger rape and scenario three which talks about marital rape. The basic themes which emerged from the data include irresponsible parents in stranger rape and traditional parents in marital rape.

“The parents are irresponsible. First of all parents are irresponsible…. In this case the parents are the irresponsible. They are, uh uh, she is alone in the house. They
left from house, they are, not even a phone call, they came next day..........
She is a young girl. In a huge house, they didn’t even enquire where she was…. Parents should have enquired”. (P8)

3.1.4 Societal factors
The participants pointed out social aspects in rape, how society sets the stage for a rape to occur. The basic themes include social attitudes towards women, cultural concepts, society’s views on chastity and a lack of authority.

“The attitude that women are secondary citizens and they can do anything and it is okay. That kind of that kind of an attitude…. that causes rape.” (P6)

“In our culture, traditional culture.. there is nothing like chastity for a man. He never think about his chastity. In his activity woman had lost chastity or good name. He never bother about it.” (P8)

3.1.5 Situational and Circumstances
Situational and circumstantial factors leading to rape was explained by the participants. This varied with scenarios, but certain elements seemed to be commonly repeated by many.

“We have to avoid the circumstance… When there is one boy and a girl in a solitude condition. So, naturally this can occur...So solitude circumstance should be avoided... When this circumstance coupled with uh the desire, then everything will happen; it’s a stranded place, a lane, stranded, a long way lane and nobody is there. So, all these circumstances” (P4)

3.1.6 Legal factors
Many attributed the reason for rape as due to flaws in the laws present. The views of some seemed to contradict that of others, but they emphasised on making the law better, how the time taken to provide justice affects the case and so on. Themes on death penalty and its need also emerged.

“Actually, what should’ve been done is to strengthen the procedural formalities to ensure that there is certainty of punishment rather than giving a harsh punishment” (P1).

“We can control using strong laws. There is a powerful weapon in the hands of the administrative body that will be control. In Saudi Arabia, there is no rape case you know. Even if there is on case, the man who did it will die then itself. We need strong punishments.” (P8)

“The state has to take a lot of actions, right from creating awareness about the rape laws and stringent punishment that can that one can get. Taking action promptly. All those things rest upon state.” (P6)
3.1.7 Substance use and illness
The blame was also attributed to factors such as usage of drugs and alcohol, pornography, mental or psychological illness in perpetrator. Medical conditions due to hormonal imbalance was also stated as a reason by a few.

“Another reason for an increase in rape cases is excessive drug use…. Then the porn which they watch after using drugs. They can’t even realise that they are doing this to small kids” (P8)

“If you are having alcohol you have to understand the consequences that comes with that because you may loose your senses.” (P2)

3.1.8 Victim-Perpetrator Relations
The rape vignette consisted of cases in two of which the victim and perpetrator were completely strangers. In one, they were married and in other case they were in a romantic relationship. The way of blaming and aspects pointed out were different in each case. A greater blame on the victim was seen in case of marital rape and dating rape rather than stranger rape scenarios. This is consistent with findings from previous studies (Monson et al., 2000).

“She did not listen to the family members….. If she had consented for getting a grandchild to the parent...then it (rape) could've been avoided.” (P3).

“There is also no stage of any exploitation. Husband, they are husband and wife. It is a matter of family life and their planning etc. Not any matter of exploitation.” (P4)

“They are husband and wife… Being a wife, she has to have sexual intercourse with her husband. It’s her duty; The wife is responsible. She was avoiding him.. As a woman, she has to have sexual intercourse with the husband. Without provoking him she could have done it. Partly she is responsible”. (P5).

“Man, even if he is accused, even if he has exploited the situation, it is quite natural. It is quite natural. We cannot completely blame him.” (P7)

Blame on the victim in the dating rape scenario was more commonly agreed upon most of the participants.

“She had gone with a male boyfriend to another friend's house. She was alone. She was the only female. She herself is responsible.” (P3).

“Here the percentage of responsibility 75-25 or 60-40. You cannot blame ninety-nine percent on the accused. Because she was also cooperating to a lot of extent. And once she lost her control.... but that does not warrant the accused ninety-nine percent. So, it is 60-40.” (P7)
When the perpetrator was a stranger, participants blamed the victim less. However, in some responses victim blame was present.

“The time is only 6pm evening...still she could have little care, since it is a narrow lane, and also she came to know that it is a stranded place. She could have waited. Somebody has also coming in the way. So, then it could have been avoided.”  (P4).

Content analysis was conducted to understand the third specific objective in depth. Two major themes which evolved were that law needs evidences, so even if officials have a personal bias it won’t affect the process. Few others responded that personal views and biases can have an impact on the process of providing justice. Their decision making was observed in the themes formed as well by the way blame was attributed. Specific questions on which victim the participants would save was also asked and their reasons were recorded.

The participants were asked their opinion on who they think, from the four scenarios, has experienced the most distress. Four of them said that distress cannot be compared, all of them were equally distressed.

One of them said that Niya (Scenario 1 – stranger rape) has experienced the most distress and other three said that Vidya (Scenario 4 – stranger rape) has experienced the most distress.

“Because there was no mistake on the part of that lady. She was a PhD student and the time she returned home was not late at night.”  (P7).

Table 3. Order of saving the victims in the rape vignette as stated by the participants

<table>
<thead>
<tr>
<th>Names</th>
<th>Order of saving First</th>
<th>Second</th>
<th>Third</th>
<th>Fourth</th>
<th>All four equally</th>
</tr>
</thead>
<tbody>
<tr>
<td>Niya</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Nimisha</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Vidya</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Sheethal</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

Following the question on distress, they were asked if given an opportunity to save one of the four women, who they would save. Three of them said that they will save all the victims, or whoever comes to them first.

Initially, three people said they’ll save Vidya first, one said they’ll save Niya and one said Sheethal. Later they were asked an order in which they would save all four. It was observed that participants were willing to save victims in the stranger rape scenarios first, particularly Vidya (scenario four). Their opinions on saving Sheethal, the wife, greatly varied among individuals and each had their own justification for the same.
“In the 3rd case her husband has misused her. It is criminal, it is a criminal activity yes I agree, but he is a husband. A husband in an authorisation like this. I never think without the consent of wife husband cannot do this, I think. But our society no serious in this case. She will not be labelled bad in front of the society. Sometimes career may go, might get pregnant. But her husband is do this. But in other cases, it is not like this, they are brutally assaulted.” (P8).

“Nimisha and Sheethal. In both the cases there is a delicacy, what is the right path what is the wrong path.” (P7).

Most of the participants were willing to save Nimisha (Scenario 2 – dating rape) in the last only because they said that she was careless and was responsible for what had happened.

4. DISCUSSION

Rape, in a country like India, is a topic of importance which needs to be discussed, and victim blaming in rape cases is a sensitive topic which evokes variant responses from the population. The current study aimed at understanding victim blaming tendency among legal professionals. The results obtained indicate that those in the legal profession attribute the blame onto the victim, as well as the perpetrator, society and other situational and surrounding factors. Even though the participants wanted the perpetrator to be punished in most of the cases, most of them also blamed the victim for creating a circumstance to get raped, or not avoiding a risky situation. This blame was reduced when the perpetrator was a stranger and particularly when the victim did not considerably break existing gender norms for women. Even though when asked directly they greatly disagreed with gender norms or stereotypes, when provided with scenarios most of the participants blamed the victim for being in a risky situation by not following the norms.

The first specific objective of the study was to understand whether victim blaming tendencies differ with respect to different characteristics of the victim, the scenario of occurrence of rape and the relationship between perpetrator and victim. Using thematic analysis and content analysis, it was understood that blaming tendencies did vary with these factors. A married woman who wanted to postpone child bearing was blamed as a career-oriented woman who prioritises her career more than family life. The girl who went out with her boyfriend and another friend and consumed alcohol as well was labelled as careless, her character was blamed and she was blamed for not taking precautions.

Also travelling alone and travelling at night was stated by many as a major reason for the occurrence of rape. The woman who was raped at 6.30pm in the evening was the least blamed victim and most of the participants were willing to save her first because as per them, there was no fault from her side.

“Fourth case. Because there was no mistake on the part of that lady.........the time she returned home was not late at night.” (P7).

The relationship between victim and the perpetrator was a major factor observed and it was understood that the blame on the victim increased when she was in a relationship
with the perpetrator, then when they were strangers. Results from previous studies also show a similar pattern (Monson et al., 2000), but there are rare exceptions where the results were the opposite (Strömwall et al., 2014). In the scenario of dating rape, blame was on the victim because she did not avoid the circumstance. In case of marital rape, the blame was on the victim for not conforming to societal norms and for not being submissive to the husband. The views on marital rape was different with individuals, but major themes observed stated that marital rape cannot be considered a rape, or is not as serious or cruel as other cases and that it’s a wife duty to have sex with the husband. Similar views have been reported in various news reports and articles, however an in-depth study of the same needs to be conducted in India. Recently the court has amended existing laws with a view to increase the autonomy of women in marriage. The data for the research was collected a few months before the change in law came, and the results indicate strong held views about sexual autonomy for each gender in marriage. These results put forward a need to understand the need to bring about a social change along with the change in law.

The second specific objective of the study was to explore the various underlying processes that contribute to developing victim blaming tendencies. The participants’ personal reports stated that education has a major role. Previous studies state that stereotypes, sexism and belief in just world and rape myths are the underlying processes contributing to victim blaming. The current study revealed certain stereotypes and rape myths present in the culture. However, an in-depth study and mixed design would be needed to understand this objective in depth. The rape myths that were observed from the data are as follows.

- Marital rape is natural
- Women ask for rape
- Man couldn’t help himself
- All men are like this

The third specific objective of the study aimed at understanding the role of victim blaming in decision making experiences and professional life of legal professionals. The participants’ personal opinions on the matter varied where some of them said that Judges do not possess any personal bias, and even if they possess it won’t affect the judgement as what they look for are evidences. Other participants stated that personal bias can have an impact on the process of providing justice. Most of them stated that investigating officers have stereotypes which influences the presentation of evidence. News reports state that personal opinions often meddle with the process even without the professionals being aware (Biswa, 2017). In this study, even though all the participants stated that the criminal has to be punished in every case, when asked for a preference of who they will save first, majority of them chose to save Vidya (Scenario 4 – Stranger rape) because there was no mistake from her part and it was not late night. The girl Nimisha (Scenario 2 – Dating rape) was the last one they would save as per majority responses, because they felt there were mistakes from her side which lead to rape. However, 3 of them said they could not choose one because everyone equally needed help. From the responses, it is observed
that victim blaming tendencies did affect the way in which they saved the victim, at least in 5 of the participants.

The scenarios given in the studies were false scenarios developed by the researcher by referring to previous studies and the Indian cultural context. We need to look into the matter further to understand how victim blaming has a negative impact and what can be done to prevent it.

4.1 Limitations and Implications

A mixed design with quantitative aspects to understand sexism, rape myth acceptance and blame attribution would have provided a stronger basis and help enquire more into the underlying aspects of victim blaming. An increase in the number of participants, particularly magistrates, and involvement of judges also would’ve helped in understanding the process better. This could not be carried out in this study due to a limit in resources.

Studies in future can focus more on Judges and Police officers as they seem to have a major role in the process. In order to access information from the police force in India a major research needs to be done as it requires a lot of permissions from the higher authorities. A focus on perception of marital rape can also be given because from the results obtained marital rape seems to have variant views among the participants, of which a few had a lot of rape myths associated to it.

Indian studies on this concept are very less and a wide range of research is needed among common public as well as legal and administrative professionals to understand its impact. This can help in developing a training and intervention module in future to help individuals reason out and understand how this affects justice. A wide range of understanding and cooperation from various fields is necessary for the same.

References


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