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The Criminal Justice System in India with Reference to the 2012 Gang Rape Incident in New Delhi

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ABSTRACT

Criminal Justice System is the series of governmental agencies and institutions which includes the police, prosecution, defense lawyer, the courts and the prisons. The Criminal Justice is the delivery of the justice to those who have committed crimes. The goal of the system is to rehabilitate the offenders, prevent other crimes and give and moral support for the victims. It is a set of legal and social institutions for enforcing the criminal law in accordance with a defined set of procedural law and limitation. In this research paper I will be talking about the Criminal Justice System in India with special reference to the Nirbhaya gang rape incident in New Delhi and what changes shall be brought forth in the system to deliver justice to the criminals and the victims. A glimpse of the Criminal Justice System is given above. Now, we will discuss about the horrific incident of the 2012 gang rape in the capital of India, New Delhi, that shook the country as well as the whole world.

KEYWORDS: Crime, Government, Justice, India, Supreme.

INTRODUCTION

On the dark and cold night of 16th December, 2012, a horrific and brutal incident of gang rape occurred in the capital of India, New Delhi. The 23 years old physiotherapy intern, Nirbhaya was travelling back home after watching a movie in Saket, with her male friend Mr. Awindra Pratap Pandey. The two boarded an off-duty charter bus from Munirka bus stand near South Delhi to reach back home at West Delhi. There were six people in the bus when the deceased and her friend boarded the bus, including the driver. Then bus started on a different route and the door of the bus was shut by one of the men. Seeing this, the friend raised suspicion and and shouted at the men. The men were drunk and then started molesting the girl and beat her male friend with a rod. The deceased was then dragged to the back of the bus and was repeatedly gang-raped for over an hour. One of the juvenile molester, Mohammad Afroz inserted an iron rod into her private parts and pulled her intestines out. As all of this brutality was happening in the bus, the bus driver drove around the capital city and after the attack both of them were thrown on the highway naked to die. The two were found half dead and without any clothes and the police was informed. They were taken to Safdurjung Hospital where medical treatment was given to them. Upon medical, the doctors found out that there were only 5% of the intestines left inside the body of the rape victim and other 95% was thrown off and a team of police along with the forensics recovered the other 95% from the road where they were thrown. The victim gave her dying declaration before a sub-divisional magistrate in the Safdurjung Hospital and demanded justice against the six attackers. The victim after 12 days of the incident was shifted to a hospital in Singapore where treatment was given to her but she succumbed to her injuries days later. This arose widespread protests in Delhi and other parts of the country and everybody by this time wanted to see the attackers hanged and justice delivered to the daughter of the nation. **The main aim of the study is to under the rate of crime happening in the society.**

REVIEW OF LITERATURE

The British ruled the Indian subcontinent for over 109 years from 1858 to 1947, when Indian subcontinent was divided into India and East and West Pakistan. The British formed and enacted many laws in India which are still prevalent today.

One of the good examples of this is the Criminal Justice System which is an age-old system and primarily based upon the Penal Legal System which was established by the British Raj in India during the late 19th Century.

The system has not undergone any substantial change even after 70 years of independence from the British Rule. The Indian Penal Code was enacted in the year 1860, the Indian Evidence Act in the year 1872. The Code of Criminal Procedure which provides the procedure for the penal law was last amended in the year 1973. The entire Cr. P.C. was amended and various changes were made in the law and procedure for delivering justice in the system.

In 1993, the Vohra Committee was formed under the chairmanship of the former Indian Union Home Secretary, N.N. Vohra and studied the problem of criminalization of politics and of the nexus among the criminals, politicians and the bureaucrats in India. The Vohra Committee was the first ever step towards the reformation of the Criminal Justice System in India.

The Vohra Report mentioned the nexus between the criminal gangs, police, bureaucracy and politicians and mentioned that the money power is used to develop a network of muscle power which was used by the politicians during the election campaigns to attract and buy votes. The mafia politician link was clearly mentioned in the report.

In 2000, the NDA government formed another committee for reforming the Criminal Justice System; the Malimath Committee, the Malimath Committee consisted of a panel headed by Retd.18 Chief Justice of Kerala and Karnataka High Court Justice V.N. Malimath.

The panel favored in the borrowing of some good features from the system of investigation practiced in other countries such as Germany and France, where a specialized JM 20 supervises the investigation procedure during the trial. The committee also mentioned another 158 recommendations to be implemented in the Indian System to impart justice to the criminals and the victim.

The important point mentioned by the Malimath Committee was that the current judicial system weighed in favor of the accused and did not focus adequately on the justice to the victims of the crime.

A Greek philosopher, around 2,500 years ago said that change is the only constant in life. His saying is still considered true in 21st Century and same goes for judiciary. Criminal Judiciary in India needs a long awaited change in the process of dispersing justice to the victim and the criminals.

Lack of change and use of old traditional laws are the reason for the ineffective enforcement of the law, accountability, and the delay in disposing of the cases. There are three main components of the criminal judiciary as we have discussed above. These are the police, the judiciary and the prisons.

In layman language whenever a crime happens, first of all it is reported to the police. The police note the complaint i.e. the FIR and according to the nature of the crime i.e. cognizable or non-cognizable²³ they(police) either arrest the accused or summons are sent to the accused²⁴ by the due procedure as mentioned in the Cr. P.C.

The case is then moved to the trial court where the magistrates of various classes take cognizance. The case then moves to the sessions court and finally the accused is either convicted or acquitted of the charges framed on him. If the person is acquitted, he is set free from the charges and is free to walk back home.

If he/she is convicted, they are sent to the prisons or the recreational houses for completing their sentence of punishment as mentioned by the judge. But after all this there are a few problems in the criminal judiciary that is prevailing since ages that reduce the justice disposal rate and delay the time in giving justice to the criminals and the accused.

MATERIALS AND METHODS

This research has been adopted as an empirical study. Empirical research is based on observed and measured phenomena and derives knowledge from actual experience rather than from theory or belief. Specific research questions to be answered And Description of the process used to study this population or phenomena, including selection criteria, controls, and testing instruments (such as surveys). The statistical tools used for this research work are chi square, anova and correlation. SPSS graphics and diagrams are attached in this research work. Cross table has been used for this research work. The essence of the survey method can be explained as "questioning individuals on a theme or subjects and afterward depicting their reactions". Irregular testing strategy was utilized with the end goal of this investigation. There are totally 250 samples collected for this study. Independent variables were Name, age, gender, educational qualification, occupation. Dependent variables were about rate of crime.

HYPOTHESIS

H₀: There is no significant knowledge on the rate of crime.

H_a: There is significant knowledge on the rate of crime.

ANALYSIS AND INTERPRETATION

In the above research we were able to identify from the following survey questions and the responses from the respective respondents.

TABLE 1

Hypothesis

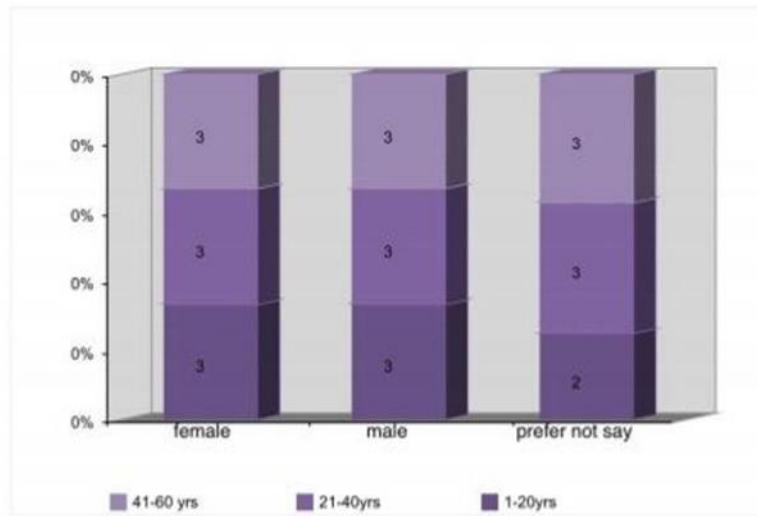
Null hypothesis

There is no significant association between age and the fact that there is significant knowledge on the rate of crime with regard to their genre.

Alternate hypothesis

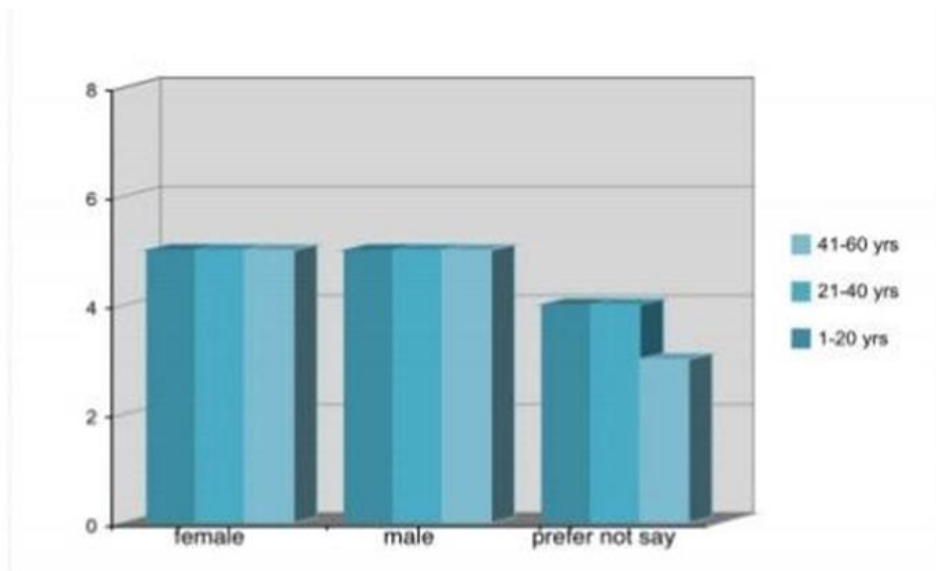
There's a significant association between age and the fact that there is significant knowledge on the rate of crime with regard to their genre.

ANALYSIS



1. What is your age?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18-20	70	25.3	26.1	26.1
	21-30	80	36.5	37.7	63.8
	31-40	50	21.1	21.8	85.6
	41-50	20	12.2	12.6	98.1
	Above 50	30	1.8	1.9	100.0
	Total	250	100.0	100.0	



LEGEND: From the survey we see that there are a total of 950 responses. Out of which 750 respondents which is 62.4% of the total respondents who have claimed that the rate of crimes is morally wrong. A number of respondents, 200 respondents or 37.6% of the respondents have not agreed that people who are crimeless. This shows that the majority of respondents keenly uphold the ideology concept of crime.

2. What is your occupation?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Self employed	70	20.6	21.2	21.2
	Public Sector	80	39.8	41.0	62.2
	Private Sector	50	25.9	26.8	89.0
	Law enforcement	20	5.3	5.5	94.5
	Student	30	5.3	5.5	100.0
	Total	250	96.9	100.0	

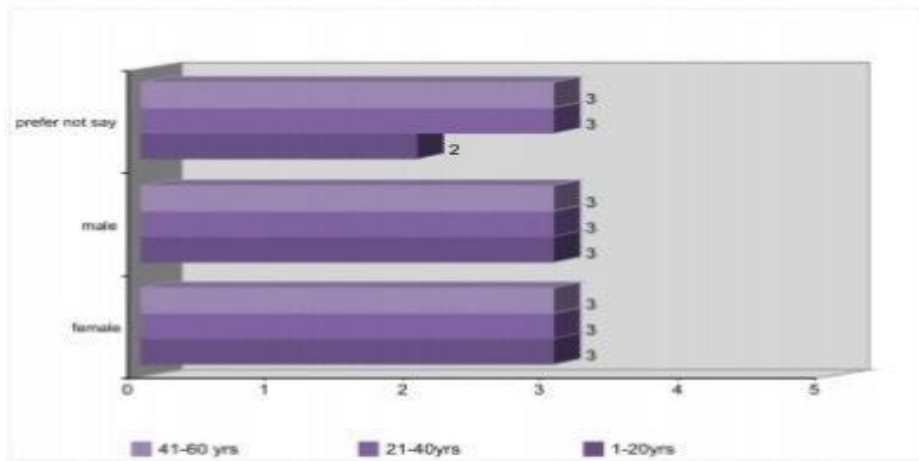
LEGEND: This table clearly explains the current scenario among the general public regarding legal awareness in Tamil Nadu. People in Chennai mostly heard about the rate of crimes as because of the majority people are working for upliftment of crimeless in society. This clearly understand, there is a significant relationship between the rate of crimes among the age groups. People replied negatively regarding morality. In my survey most of the public respondents were among the age group of above 40.



RESULT : More number of respondents were graduates followed by higher secondary and followed by post graduate and 10th pass

3. What is your educational qualifications?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	10th pass	70	25.3	26.1	26.1
	higher secondary	80	36.5	37.7	63.8
	Graduate	50	21.1	21.8	85.6
	Post Graduate	20	12.2	12.6	98.1
	Illiterate	30	1.8	1.9	100.0
	Total	250	100.0	100.0	

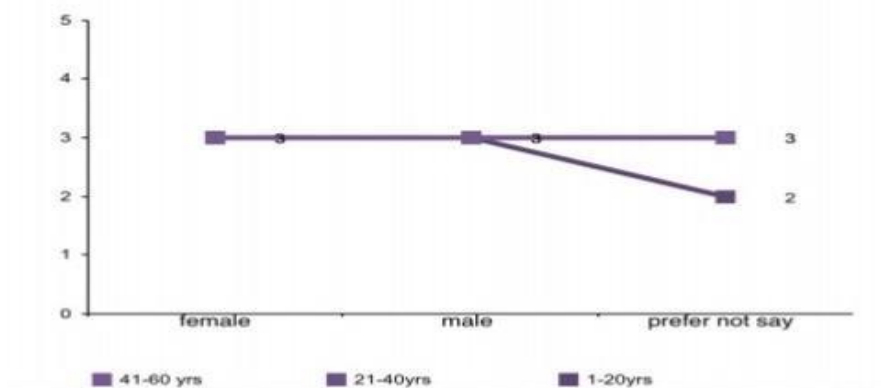


RESULT: Public Sector People will maximum reply because they used to know more legal updates about our scenario.

4. What's your gender?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Male	150	51.5	53.1	53.1
female	97	38.6	39.9	93.0
crimeless	3	6.8	7.0	100.0
Total	250	100.0		

RESULT: More respondents were male followed by female and crimeless



RESULT: The people of age between 21-30 were replied maximum.

LEGEND: So they may not be aware about the current laws. From this survey, we can clearly understand there are no enough laws to understand the concept of the rate of crimes . So People's responses are mostly negative because they aren't aware of the relationship between morality and law in Chennai.

DISCUSSION AND SUGGESTION

After the widespread protests nationwide and various reports submitted by the committees to the government, some reforms were undertaken by the Central and the State Governments for better working of the Criminal Justice System in India. People in Chennai mostly heard about the rate of crimes as because of the majority people are working for upliftment of crimeless in society. This clearly understand, there is a significant relationship between the rate of crimes among the age groups. People replied negatively regarding morality. In my survey most of the public respondents were among the age group of above 40.

The reforms are as under: -

1. A number of recommendations like permitting videography of statements was implemented.

2. The definition of rape has been expanded and new offences against women were added.
3. The victim compensation became a part of the law.
4. A new MoP for the appointment of High Court and Supreme Court Judges was drafted.
5. 1000 obsolete laws were removed by the government.
6. Gram Nyayalayas and Lok Adalats were established to provide access to justice to the citizens at their doorstep.
7. The Legal Service Authority Act was enacted by the Parliament with an object to provide free legal service to the weaker sections of the society.
8. Six fast track courts were established for speedy trial especially in rape and sexual assault cases.
9. The Criminal Law (Amendment) Ordinance was passed by the then President of India for amending the IPC, Cr. P.C. and the Evidence Act for laws relating to sexual offences.

CONCLUSION

Even after all the changes and reform that the government has done in the Criminal Justice System in India, we still need further reforms and air tight laws to deliver justice as soon as possible so that the cases are not prolonged for a long term as we witnessed in the Nirbhaya gang rape case where the attackers were executed after approximately 7 years of the offence committed. The Nirbhaya incident has had a deep impact on the State and since then, the Legislature has made new laws, the Judiciary is trying it's best to deliver justice as soon as possible and the Executive i.e. the police is trying their best to investigate and reduce the crime rate in the country.

I would like to end my research paper on a famous saying: -

“There is no greater tyranny than that which is perpetrated under the shield of the law and in the name of justice.”