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Rising Waves of Feminism or Faltering Steps of Criminal Justice – What Plagues India?

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Abstract

In the recent past, the #MeToo movement has shaken India. A docket of high-flying names, from politicians to celebrities and journalists, have come under scrutiny for alleged sexual abuse of women. Flagged by a Bollywood actress, the #MeToo campaign in India ignited feminists, academicians, and policymakers to re-examine women's continued abuse in all sections of society. Despite a stringent legal regime enforced after the Nirbhaya tragedy, the abuse of women continues unabated. Feminists opine that violence against women remains an ongoing concern that is heightened in the face of a waning criminal justice system that fails to address their plight. Lack of confidence in the system discourages women from approaching the authorities, something palpable in #MeToo allegations, where women preferred to remain silent in the face of inevitable backlash from society, lack of support and cooperation from police and prosecution and finally, courts, where the victim is positioned as the accused to respond to questions of how and why? This article examines the #MeToo movement against the rising crime graph's backdrop and the criminal justice system's consequent failure to respond to the same.

Keywords #MeToo; sexual violence; victims; criminal justice; secondary victimization

INTRODUCTION

#MeToo has signaled the onset of a new era in feminist activism. Hailed by thousands of women worldwide, the movement has generated a mass awakening about sexual violence and harassment issues. Based on individual narrations of abuse and the consequent inability to voice the same in the face of contemporary sexism, misogyny and rape culture, the movement exposed the magnitude of the problem. This emergence of hashtag feminism, as a part of digital feminism, is not new; it has been used several times before to transform feminist consciousness and draw attention to broader structural social problems. However, the #MeToo “unleashed one of the highest velocity shifts in our culture since the 1960s” with social media as its “powerful accelerant.” With the single click of a mouse, the #MeToo movement gained a butterfly effect virtually overnight (Abrams 2017).

“Sexual assault against women has been criminalised in many places across the world; many institutions . . . now acknowledge the reality of sexual harassment and assault, and have created mechanisms to address it. All of these are thanks to feminist activism throughout the 1970s and the 1980s. But we are all too aware what an ordeal it still is for women to bring up legal charges and go through trials, not to mention how rare it is for the perpetrator to get an appropriate punishment.” (Zarkov and Davis 2018:4) The crime figures indicate a spate in crimes against women in India over the last decade. The investigation and prosecution of these crimes do not indicate a very encouraging picture: pendency of cases are high, implying a delayed justice delivery mechanism; conviction rates are abysmally low, implying the failure of the prosecution to prove cases beyond reasonable doubt and the acquittal of the perpetrators. That leaves behind the victims “invaded” and “debased” by a system which is intended to secure justice. The experience of the victims with the police, prosecution and courts leaves much to be desired. Complaints are routinely evaded; victims are disbelieved; they are made to recount the trauma several times (Bajpai 2006); and the violations continue to haunt them, taking a severe toll on the health and well-being of the victims (Campbell 2008). Though the position of women as victims in the criminal justice system has improved in the last decade in India (Chockalingam 2018), it has failed to account for much of the ignominy and humiliation which they have to face in the event of sexual violence. The present article discusses the #MeToo movement in light of India’s criminal justice system and contends that the system’s inherent failure to respond to women’s victimization and deliver justice effectively reckons in such outbursts.

#METOO – THE RISE OF DIGITAL FEMINISM

The tsunami of #MeToo has taken the world by storm. Starting in 2017, accusations against the former American film producer and now convicted sex offender Harvey Weinstein induced a wave of sexual harassment and assault stories over social media (Kelly and Hegarty 2019). The #MeToo movement, initiated in 2006 by the American activist from The Bronx, New York, Tarana Burke, to assist sexual assault survivors, instantly went viral, and scores of women from all walks of life narrated their enduring tales of harassment, hitherto unspoken, by powerful men of the media, entertainment industry, politics and more (Stone and Vogelstein 2019). What immediately followed was an avalanche of resignations and oustings from public and private sector offices and public shaming of the perpetrators in the social media. Criminal prosecutions were launched in some cases, and the legal process is on the move through the usual myriad territories of procedural and substantive proprieties. The movement soon reached diverse regions across the world, rotating in nearly 85 nations and voices of women collaborating across borders to demand reforms (Gill and Orgad 2018).

The year 2018 saw the movement touch Indian shores, though a year before, a law student at the University of California at Davis, Roya Sarkar, posted a list accusing South Asian academics of sexual harassment. She published the List of Sexual Harassers in Academia on Facebook. It led to a social uproar with a few

academicians facing official enquiries, though not moving beyond the naming and shaming (Sharma 2018). In October 2018, actress Tanushree Dutta revealed her tale of sexual harassment at the hands of fellow actor Nana Patkar while shooting for a film almost 10 years ago (Roy 2019). Closely following suit, another writer–director, Vinta Nanda, accused popular screen actor Alok Nath of rape (IANS 2018). Recounting the incident, Nanda, then struggling to get a foothold in the industry, says, “I have waited for this moment to come for 19 years. . . . I have a faint memory . . . I can remember more liquor being poured into my mouth and I remember being violated endlessly. When I woke up the next afternoon, I was in pain. I had not just been raped, I was taken to my own house and had been brutalised.” (IANS 2018) Another high-profile man, M. J. Akbar, once a distinguished newspaper editor and then the junior minister for foreign affairs until October 17, 2018, was accused of sexual advances by Priya Ramani, a columnist. She was barely 23 years old when she was called for a job interview to his bedroom in a hotel. During the interview, she was asked several “inappropriate personal questions,” and feeling perturbed, she decided “never to be alone with him in a room ever again” (FP Staff 2019). Numerous other women, including actors, writers, journalists, and professionals, shared similar experiences of obnoxious behavior ranging from comments and requests for sexual favors to rape. “The rage of Indian women – submerged thus far in the recesses of memory, wrapped away in swathes of fear and self-doubt, and suppressed for years by entrenched social stigma – has finally come pouring out to set in motion India’s long overdue #MeToo moment . . . Finally, India’s women are pushing back against the corrosive abuse of male power. It is nothing short of a revolution.” (Dutt 2018)

The notion of hashtag feminism is a form of activism where campaigners make a personal injustice visible and collective through the use of social media (Ceron 2018). Hashtag feminism uses metadata tags to describe “cases concerning gender equity . . . within the burgeoning sphere of online feminism” and “can be understood as a particular form of feminist linguistic activism that, due to the immediacy of Twitter, is event-oriented and focused on the discourse surrounding a highly visible social phenomenon unfolding in the moment” (Ceron 2018:77; Clark 2016). It is regarded as a popular form of postmodern activism where digital platforms are used as tools to share traumatizing experiences and engage in a “call-out culture” (Mendes, Ringrose, and Keller 2018). Movements such as the #MeToo or #BeenRapedNeverReported (Keller, Mendes, and Ringrose 2018) or #YesAllWomen (Baer 2016) fall under this category. Harris (2008) mentions that with the advent of technology, social activism has acquired a new form and direction, facilitating young women to speak up and speak out about their vulnerabilities. This new form of activism uses “globally networked stages” like blogs and hashtags to YouTube, Tumblr and mobile phone apps as social recourse (Jackson 2018). Keller (2015) describes the online as an “alternative, parallel discursive arena” where women can “talk back” and retaliate against the patriarchal constructs embedded in the mainstream culture, which prevents their voices from being heard. It is also a space for resistance and the space to connect with other feminists (Jackson 2018). Baer (2016) asserts that digital platforms give birth to a new rhetoric of gender discourse, broadly disseminating feminist ideas and connecting them to different constituencies with an object to create an alternative module of protest and activism.

This new form of activism is described as an egress from the conventional modes of protests. It promotes widespread consciousness of feminist issues in the public sphere and initiates a dynamic new engagement within the feminist discourse itself (Knappe and Lang 2014). The distinctive feature is that these moves are highly visible to wider audiences across the world and are all-inclusive as they connect women across all sections of society. The #MeToo movement has been hailed by women activists in that it gave voice to hitherto unheard stories of subjugation and harassment and empowered women to take on the perpetrators head-on. As Sarah Banet-Weiser (2018) notes, “one of the most hopeful manifestations of #MeToo has been the focus on the sheer numbers of women coming forward, forcing people to deal with the collectivity of it all” (Gill and Orgad 2018). The virtual world has created a safe space for women and girls to participate in intense debates on sexism, rape, and sexual harassment. It has gradually become a powerful repository generating oscillating effects whereby influential men can be held liable for historical instances of sexual harassment and abuse (Mendes et al. 2018). Within a few months, the movement has rocked the highest positions of power and forced actions at various organizational, legal, policy and cultural levels.

One feature that stands distinct through the movement is the women’s silence in seeking legal action against the perpetrators. Though the positive support garnered through the movement encouraged some legal action (Mendes et al. 2018), after unusually long periods of inertness and a backlash as well of threat, intimidation and criminal defamation against the complainants (Safi 2019), the reluctance on the part of the women to place reliance on law enforcement has been all too palpable.

THE SILENCE OF VICTIMS

For most victims of sexual assault, the concerns are somewhat common. Does the offence really matter to the family or community? Does the offence really mean anything for law enforcement? Stuart (1993:97) maintains that “rape is a relatively safe crime for perpetrators to commit . . . because they know how difficult it is for a woman to prove that she was not consenting legally. Add to this the fear of reprisal, fear of disbelief (not only by the legal system but also by family and friends) and the enduring consequences of a sexual assault, and it is no wonder that silence is guaranteed. It is this silence that ensures the perpetuation of sexual assault.” Among every 10 women who experience sexual harassment, three to four never reveal it (Engel 2017). According to the United Nations, less than 40% of the women who undergo sexual abuse seek assistance of any sort. Those who refrain from getting help mainly do so because they distrust the police and health services compared with families and friends. Across the world, less than 10% of women seek police assistance (United Nations Department of Economic and Social Affairs 2015). The World Health Organization (2003) reports that there is a serious underreporting of sexual violence cases. Published statistics merely represent the tip of an iceberg. The accurate scale of the problem is much more widespread and intense than what is officially recorded. In most of the cases, women typically “avoid the harasser,

deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behaviour” (Engel 2017:3).

Studies indicate that victims refrain from reporting due to barriers like shame and guilt, fear of police authorities, fear of disbelief, confidentiality issues, negation of the assault, and not categorizing it as a crime (Sable et al. 2006; Thompson et al. 2007). Amongst these, Zinzow and Thompson (2011), in their study, identified two major reasons behind underreporting of the crime: shame and rejecting others’ involvement and acknowledgement or personal handling of the issue. While the idea of shame is deep-rooted in victim-blaming, embarrassment, non-involvement of police, and public disclosure of the incident resulting in negative social reactions and ostracism, the second factor involves non-recognition of sexual assault as serious or even as a crime (Zinzow and Thompson 2011). While there are divergent causes behind women being numb about their assaults, most of these are backed by an ingrained common mistrust in the existing judicial system (Butaumocho 2018). Recounting an incident where the sexual assault on an 11-year-old girl for the past two years was reported, the rapist was acquitted because of a lack of sufficient evidence. Victims of sexual assault choose to live a life of pain and agony because they believe that speaking up is futile.

In most cases, their voices are either trivialized or their experiences outrightly denied while the perpetrator walks free (Butaumocho 2018). Dayen (2017) mentions that the primary reason behind flashing sexual harassment incidents in social media is the legal system’s inherent failure to adjudicate those claims fairly. “When you don’t have a working justice system, you get a kind of vigilantism as a result. The problem isn’t the vigilantism – it’s the broken framework that leads desperate people to take matters into their own hands.” (Dayen 2017)

CRIME STATISTICS – INDIA

Analyzing the phenomenon in an Indian context, a recent survey by the Thomson Reuters Foundation indicates that India is the most dangerous nation for sexual violence against women, along with being at risk of trafficking for forced labor, commercial sexual abuse, forced marriage, and domestic work (Goldsmith and Beresford 2018). Since the survey was first conducted in 2011, sexual violence in India has increased, moving it from the fourth to now being the most dangerous country for women worldwide. According to the National Crime Records Bureau (NCRB), approximately 100 sexual assaults are reported daily to the police, and the numbers have been steadily increasing. Between 2000 and 2016, there has been a 75% increase in the official number of rapes and sexual assaults (NCRB 2016), though the numbers seem to have plummeted in 2017 (NCRB 2017; see Table 1). However, as is well documented in the extant literature, the ‘dark figure’ is considered quite large (Skogan 1974).

Despite the sweeping law reforms in India that began in 2013, it would appear evident that social and cultural barriers limit the effective compliance with the legal mechanisms introduced to protect women (Simon-Kumar 2014). For example, while the number of rape/sexual assault crimes reportedly has increased over the years, the officially reported cases’ outcome is not encouraging (see Table 2).

Table 1. Reported Crimes Against Women

Year	Rape	Sexual assault/harassment	Insult to modesty
2013	33,707	70,739	12,589
2014	36,735	82,235	9,735
2015	34,651	82,422	8,685
2016	38,947	66,887	7,305
2017	32,559	86,001	7,451

Note: Crime in India Report, 2017 (National Crime Records Bureau (NCRB) 2017).

Table 2. Rape Cases – Disposal by Police and Court

Year	Cases reported	Cases charge sheeted	Trials completed	Convicted	Acquitted/discharged	Conviction rate (%)
2013	33,707	28,755	18,833	5,101	13,732	27.1
2014	36,735	30,840	17,649	4,944	12,705	28.0
2015	34,651	30,001	18,764	5,514	13,250	29.4
2016	38,947	33,628	18,552	4,739	13,813	25.5
2017	32,559	28,750	18,099	5,822	11,453	32.2

Note: Crime in India Report, 2017 (National Crime Records Bureau (NCRB) 2017).

Official records show that while almost 85% of cases proceed to the formal laying of charges, the court's conviction rates remain abysmally low (NCRB 2016). For example, in 2016, for the cases where formal actions were taken, 41% resulted in acquittals or discharged by the court. Only 25% ended with convictions. The pendency rate of cases is also remarkably high, 91% in 2016 (NCRB 2016) and 87.5% in 2017 (NCRB 2017), indicating serious delay in judicial dispensation of sexual assault cases over the years. Overall, the conviction rate of sexual assault cases hovers around 25–30%.

INSTITUTIONAL FAILURE TO DELIVER JUSTICE TO VICTIMS

The British criminologist Nigel Walker (1969) outlined the objectives of criminal law and justice as fundamental to protecting the vulnerable and marginalized sectors of society (i.e. the young, the poor, and the feeble-minded). Hence, Walker argued that the justice system should guard the public against abuses and exploitation of their persons or property. Ideally, a criminal justice system functions to ensure the well-being and safety of all, especially the most vulnerable sections from uninvited or anti-social acts of violence (Waldron et al. 2009). However, the development of the law and its implementation have never really fulfilled the purpose.

Position of Victims

With the historical evolution of penal systems worldwide, a paradigm shift from private vengeance to state-administered justice resulted in a process where the victims' role became secondary (Raineri 1995). "For much of the twentieth century, the victim of crime was either ignored in criminological debates or portrayed as a marginal and passive figure . . ." (Kearon and Godfrey 2012:17). Kirchhoff maintains that victims are the key players in the criminal justice system since they are the most aggrieved party. However, over time, their roles became subsidiary on the mere presumption that their interests are aligned with the system's interests and will be adequately protected by the state. That victims as witnesses might not want to serve the punishing state did not appear as a problem (Kirchhoff 2017). The notion of "justice" is primarily focused on imposing a penalty on the offender by the state, making him pay for the crime and deterring like-minded potential criminals from perpetrating similar acts.

In India, the contemporary criminal justice system's development is predominantly premised on "procedural fairness" and "justice." The law has sought to guard the offender against any "injustice" being levied by the state in the process of crime investigation and adjudication by courts (Gaur 2015). The considerations of justice *vis-à-vis* the victims of the crime never really figured in the scheme of things. A victim's role is confined to the criminal justice system's periphery, where s/he is only an informant and witness to tender evidence (Reddi 2006). Though the old Criminal Procedure Code (CrPC), 1898, recognized the right of a victim to receive compensation, it was available only in those cases where a substantive sentence of fine was imposed and restricted to the amount of fine realized; the provision being sparingly invoked (Vibhute 1999).

What role is the victim designated under the criminal justice system? If a cognizable offence is committed on a person (victim), then the victim himself/herself or any other informant may give information to the police, which is required to reduce the information in writing and read it over to the person. It is known as the First Information Report (FIR). After that, the victim or informant must sign the FIR and acquire a copy (CrPC 1973:154(1) (Law Commission of India 1996)). In case the police denies registering the FIR, the victim or informant can send it to the concerned Superintendent of Police in writing and by post (CrPC 1973:54(3) (Law Commission of India 1996)). If the police refuses to investigate the case, the victim or informant must be notified of the fact (CrPC 1973:157(2) (Law Commission of India 1996)). Another option available is section 190 of the Code of Criminal Procedure, 1973, which allows the victim to directly approach the magistrate and file a complaint.

At the investigation stage, which is entirely in the police domain, the victim may have a role only if the police consider it imperative. Certain states make it a mandate for the police to provide the victim with necessary information on the investigation progress if asked for. In other cases, unless the police report is submitted under section 173 of the Code of Criminal Procedure, 1973, and the charge sheet is filed, the victim is kept out of the loop and neglected (Ministry of Home Affairs 2003).

At the trial stage, the victim can put forward his/her stance in a limited manner. If the accused is granted bail, concerns of the victim may be taken into account.

Moreover, under section 439(2) of the Code of Criminal Procedure, 1973, the aggrieved party or the victim is given the right to move that Sessions Court or High Court cancel the bail granted to the accused. Similarly, before forwarding the final report to the magistrate, the police officer is required to communicate about the action taken by him to the informant (CrPC 1973:173(2)(ii) (Law Commission of India 1996)). Similarly, as provided under section 320 of the Code of Criminal Procedure, 1973, the complainant's participation is necessary for compounding an offence (CrPC 1973:320 (Law Commission of India 1996)). The victim of a crime is permitted to engage a counsel of his/her choice. He/she may engage a pleader to prosecute the case and may move the Government requesting to appoint a special public prosecutor. However, section 301(2) of the Code of Criminal Procedure, 1973, requires that such lawyer "shall act under the directions of the public prosecutor."

Further, though there is no legal provision in the code for providing legal aid to victims of crime, the Legal Services Authorities Act, 1987 under section 12 (1) entitles every person who has to file or defend a case with the opportunity of free legal aid or legal services from the state, subject to the fulfillment of conditions specified under the Act. At the post-trial stage of judicial proceedings, the victim's right to participation is moderately recognized. The government as well as the complainant may prefer an appeal against an order of acquittal with prior leave of the High Court (CrPC 1973:378(4) (Law Commission of India 1996)), though no such appeal can be preferred in case of inadequate sentence (*Ashok Malhotra v. Govt. of NCT Delhi* 2019). Lastly, section 357 of the Code of Criminal Procedure, 1973, empowers a court imposing a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, in its discretion, among other things, to order payment of compensation, to the victim for any loss or injury caused by the offence. The court is also empowered to award compensation in cases where the fine does not form a part of the sentence.

Alienation and Victimization by the System

The role assigned to the victim in the criminal justice system is thus substantially restricted. The problem is further accentuated by the treatment meted out to victims by the system. In India, victims of crime confront overwhelming challenges and hurdles during the investigation and prosecution of crimes. In and of itself, filing an initial complaint is a challenging endeavor (Sarkar 2010). As reiterated by the Supreme Court of the country, "The number of FIRs not registered is approximately equivalent to the number of FIRs registered. The burking of crime may itself be in the range of 60 lakh every year. Such a large number of FIRs not registered every year is a clear violation of the victims' rights. Burking of crime leads to dilution of the rule of law and also has a very negative impact since people stop having respect for the rule of law." (*Lalita Kumari v. Govt. of UP* 2014)

In India, though registration of FIRs is mandatory under law for cognizable offences (Deswal 2013), many complaints are not registered. Police adopt different measures to avoid registration, either by intimidating or threatening victims or ignoring their pleas or even falsely faking registering cases (Tiwari and Rao 2016). A report by the Tata Institute of Social Sciences (Tiwari and Rao 2016)

indicates that only about 57% of the cases get registered with the police. FIRs are registered in 63% of male complainants, while in the case of female complainants, only 38.5% of reports are registered, indicating a clear bias against women (Tiwari and Rao 2016). The majority of the victims express a lack of confidence in the criminal justice system because either their stories are considered improbable, or their cases are regarded as petty and not worthy of investigation (Campbell et al. 1999). Research indicates that more than half of the women rape victims face secondary victimization at the hands of law enforcement officials (Monroe et al. 2005). Victims of crime point out that police officials are cold and unsupportive, and many times victims are threatened with dire consequences if they fail to provide the same story (Logan et al. 2005). Maier (2008) reports the incredible power of police and medical systems to re-victimize sexual violence victims. Unnecessary questioning, victim-blaming, coercing to repeat the event on multiple counts to multiple people, disbelieving them, withholding information, and denying them help or treatment benefits are commonplace. Furthermore, some victims are asked about their prior sexual history and the attire they wore before the incident of rape (Campbell and Raja 2005).

As a result of these secondary victimization experiences, many victims report feeling humiliated and dehumanized. More often than not, they condemn themselves for their fate. (Logan et al. 2005; Maier 2008). Dube and Winterdyk (2018), in their study on gender-based violence among slum residents, indicate that nearly half of the respondents prefer not to report the offence to police on account of lack of confidence. Bajpai, in one of his studies, established that in rural areas, the problem becomes acute due to lack of female police personnel and the handling of cases by uncaring and unconcerned male staff (Bajpai 2006). The cases that make it to the courts have a separate narrative. The judges are no more than mute spectators with little role in the process.

Consequently, the victims are forced to repeatedly narrate their plight to different authorities, including the prosecutor and the court. Acknowledging their predicament, even the Supreme Court stated that the travails and tribulations of victims of crime begin with the trauma of the crime itself and, unfortunately, continue with the difficulties they face in something as simple as the registration of a FIR. Even issues like access to justice in terms of affordability, effective legal aid and advice, and adequate and equal representation appear as challenges that the victim has to contend with and impact society, the rule of law and justice delivery. The trial experience is no different; herein, secondary victimization follows through repeated appearances in a hostile or semi-hostile environment in the courtroom (*Mallikarjun Kodagali v. State of Karnataka* 2018). Chockalingam asserts that, "In a nutshell, victims are alien to the criminal proceedings as they have no rights excepting to be a witness when summoned by the court. Concerning the role of the judiciary in justice for victims, though judges are by and large sympathetic towards victims, on many of the requirements, such as separate waiting halls, information about the criminal proceedings, special services and support, ordering of restitution to victims, victim participation, victim protection and more we have a long way to go to realize victim justice in India." (Chockalingam 2010:101–2)

Added to the above is the societal condemnation, not of the assault, but of the women and girls who undergo the trauma of sexual assault and the victims'

consequent silencing. With its culture of male dominance and female inferiority, India creates a strong ground for an unequal power equation, where the helplessness and powerlessness of the victim are accentuated in the event of sexual assault or rape (Bhattacharyya 2018). It damages the self-esteem of the victim and simultaneously gives rise to a wide range of negative emotions, embarrassment, and existential questions like “Why me?” (Kalra and Bhugra 2013). The victim often holds herself responsible for the violence in question, either in terms of her inappropriate behavior (such as drinking), dressing choice (wearing a revealing dress) or failing to stop the assault. In most situations, the victim herself is blamed for what has befallen her, making her a “seductress,” looking for sexual pleasures rather than a victim preyed upon. The 2012 Park Street rape case is the most illustrative case where the victim was offered a lift from a night club by five youths who subsequently raped her. She went to the police to register a complaint. The officers on duty reportedly laughed at her and asked her in what positions she was raped in (Mehta 2015). Even the then Chief Minister of the state commented that the case was “*shajano ghotona*” (fabricated case), triggering a controversy (Kumari 2016). The accused were subsequently nabbed and sentenced to 10 years’ imprisonment.

Sexual assaults thrive in cultures that glorify patriarchy, male chauvinism, misogyny and gender-shaming undertones. The society and the institutions built thereon are founded on the same beliefs, values and attitudes towards women. Naturally, non-reporting and underreporting of sexual offences are relatively higher (Ward and Inserto 1990).

CHANGING PARADIGMS

The eminent Norwegian criminologist Nils Christie perceived crimes as conflicts between individuals which should be returned to the “owners” (Chankova 2017). He argued that victims of crimes have lost their rights to participate in the procedure, resulting in the rise of a criminal justice system standardized and structured to stimulate a contest between the accused and the state (Doak 2014). Thereby, the victims are “underestimated, ignored and undervalued” (Walklate 2012:11).

The aftermath of the Second World War witnessed a paradigm shift towards victimization and its consequences (Doak 2014). Margery Fry, the British magistrate and social reformer, campaigned for the cause of victims and contended that a welfare state must take the responsibility to compensate the victims for injuries consequent upon crime (Davies 1991). The claim for victims’ rights grew extensively in the 1980s with the United Nations 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (United National General Assembly 1985). It acted as a breakthrough in the history of the victim justice movement worldwide (Bassiouni 2006). “By the end of the 1990s, victims have moved substantially from the margins to the center of criminal justice policy. However, victims’ discourse remained embedded in the language of ‘needs’ rather than ‘rights’, and victims were still mere witnesses . . . , with no legal standing.” (Wolhuter, Oiley, and Denham 2008:4)

In India, over time, the clamor for victim-orientation to criminal justice gained momentum. According to N. R. Madhava Menon, the pioneer of modern legal

education in India, victim-orientation means a systematic focus towards the victims and their rights in the investigative and prosecution process, provisions for increased involvement of victims in trial and disposition of cases, and a scheme for victim compensation and reparation, especially for the victims of violent crimes (Srinivasan and Mathew 2007). The Law Commission too emphasized the need to incorporate victims' rights in criminal trials. "Increasingly, the attention of criminologists, penologists and reformers of the criminal justice system has been directed to victimology, control of victimization and protection of victims of crimes. Crime often entail substantive harm to people, not merely symbolic harm to the social order. Consequently, the new needs and rights of victims of crime should receive priority attention in the total response to crime." (Law Commission of India 1996:57) The Malimath Committee on Reforms of the Criminal Justice System also raised concerns concerning the alarming situation in respect of victims and the need to give a better deal in tune with the international developments (Ministry of Home Affairs 2003). In *Abdul Rashid v. State of Orissa* (2014), the court questioned whether the liability of the state ends with the mere registration of a FIR, or with the completion of an investigation and initiation of a trial? There is always a legitimate expectation on the part of victims that the state will punish the accused and adequately compensate them. However, due to systematic failures in the prosecution case, many crimes remain unpunished. This needs to be addressed by amending the quality and integrity of the process of investigation and prosecution. It must also not be forgotten that the accused's punishment is not the sole step to ensure justice for a victim. Victims must be adequately rehabilitated and provided with monetary compensation (*Abdul Rashid v. State of Orissa* 2014). Reiterating the same concern, the court in *Rohtash Pappu v. State of Haryana* (2008) stated that:

... despite best efforts, the state fails to apprehend and punish the guilty, but that does not prevent the state from taking such steps as may reassure and protect the victims of crime. Should justice to the victims depend only on the punishment of the guilty? Should the victims have to wait to get justice till such time that the handicaps in the system, which result in large scale acquittals of guilty, are removed? It can be a long and seemingly endless wait. The need to address the cry of crime victims, for whom the Constitution in its Preamble holds out a guarantee for justice, is paramount. How can the victims' tears be wiped off when the system itself is helpless to punish the guilty for want of collection of evidence or of creating an environment in which witnesses can fearlessly present the truth before the court? Justice to the victim has to be ensured irrespective of whether or not the criminal is punished. (*Ankush Shivaji Gaikwad v. State of Maharashtra* 2013)

Closely following suit, a slew of amendments was made to incorporate victim-oriented provisions in the Indian law. The Criminal Law (Amendment) Act, 2013, was passed in the wake of the brutal rape and death of Nirbhaya (pseudonym for "The Fearless") (Winterdyk and Dube 2019). A broad list of offences, including sexual harassment, stalking, voyeurism, disrobing a woman, trafficking and more, were included in the Indian Penal Code (IPC) of 1860, Act No. 45. (1860) (IPC 1860: 354A, 354B, 354C, 354D, 370A). The definition of rape was widened, as also the notion of "consent" to mean "unequivocal voluntary agreement or willingness to participate in the specific sexual act by words, gestures or any form of verbal or non-verbal communication" (IPC 1860 explanation to 375). More recently, the

law has sought to enhance the punishment for rape of minors, thereby introducing capital sentences for rape of a girl below 12 years of age and a life sentence for rape of a girl below 16 years of age (The Criminal Law (Amendment) Act 2018: 376AB, 376DA). The punishment also makes provision for restitution to meet the medical expenses and rehabilitation of the victims.

Some procedural aspects specifically embedded for victims of gender-based offences such as rape, sexual assault, harassment and more worth mentioning are: recording of statements by women police officers at the residence of the victim (CrPC 1973:154(1) (Law Commission of India 1996)); videographing of statements (CrPC 1973:154(1)(b) (Law Commission of India 1996)); recording of statements before magistrates (CrPC 1973:164(5A)(a) (Law Commission of India 1996)); use of special educators or interpreters where necessary (CrPC 1973:164(5A)(a) (Law Commission of India 1996)); medical examination of victims within 24 hours by a registered medical practitioner (CrPC:164A (Law Commission of India 1996)); speedy investigation (CrPC:173(1A) (Law Commission of India 1996)); treatment of victims in hospitals free of cost (CrPC 1973:357C (Law Commission of India 1996)); victim confidentiality concerning identity in any publication (IPC 1860:228A); in-camera proceedings in trials (CrPC 1973:327(2) (Law Commission of India 1996)); victim compensation scheme for the loss or injury caused by the offender (CrPC:357A (Law Commission of India 1996)); and repeal of sec. 155(4) Indian Evidence Act, 1872, which made way for impeachment of victim credibility by referring to her “immoral character.” Additionally, section 166A IPC 1860 penalizes the failure of police to record information on the investigation of sexual offences.

The rights of victims of crime . . . has made great progress over the years. It is our evolving and developing jurisprudence that has made this possible. But we still have a long way to bring the rights of victims of crime to the centre stage and recognize them as human rights and an important component of social justice and the rule of law. A voice has been given to victims of crime by Parliament and the judiciary, and that voice needs to be heard, and if not already heard, it needs to be raised to a higher decibel so that it is heard. (*Mallikarjun Kodagali v. State of Karnataka* 2018)

CONCLUSION

Although feminists have promoted public demonstrations and speak-outs demanding justice for victims of sexual violence, the fervid force of #MeToo in mid-October 2017 took most people by surprise (Tambe 2018). Within 24 hours, it had been retweeted half a million times. The digital platform was utilized to captivate credible attention to injustices and gender oppression that were disregarded over a long time and link feminist protest movements across national borders (Baer 2016). The #MeToo movement soon became “a watershed moment in contemporary feminism, one that has made sexual violence into big news” (Jaffe 2018:80). As Michelle Rodino-Colocino puts it (2014:1113), “. . . is a key moment in the genealogy of feminism that underscores the old-in-the-new and suggests an urgent course of action . . .”. The movement also touched India and the same impact, as witnessed

in the U.S., followed suit. Women came forward narrating their ordeals of rape and harassment, their experiences of misogyny and the consequent exploitation at the hands of powerful men in society. The stigma, the fear, and the legal apathy made the victims bear the pain of oppression silently. Explaining the trigger provoking the fury at the heart of #MeToo, Tambe (2018:198) explains that “For victims of sexual trauma, it is already painful to watch perpetrators roam free because of how high the burdens of proof are in legal cases.” Jaffe maintains that, “Under the existing legal system, ‘Justice’ for sexual violence requires convincing first the police and then a court of law that what was done to you actually happened, and then that it counts as a crime.” (Jaffe 2018:80) To a certain degree, the virtual movement is the aftermath of a decadent system designed to fail the survivors of sexual harassment and violence.

The Indian criminal justice system suffers from certain inherent anomalies: over-emphasis on the rights of the accused *vis-à-vis* the victims and dismissal of the victims’ pain and suffering. A victim-informant has to approach the authorities with a complaint, which, if accepted as true, is investigated, eventually prosecuted and tried by the criminal court. Unfortunately, however, the system does little to reform the existing state of affairs (Chockalingam 2010). The victims’ agony remains camouflaged, their concerns ignored, their voices unheard, and their losses never indemnified. Along with that, the entire criminal justice system shows hostility towards the victims (Dube 2017). It ignores that victims of crimes endure violence, impacting their physical health, emotional well-being, and financial losses. Justice demands that the state satiate their losses by providing them with a fair and reasonable opportunity to engage in the justice administration process. The Indian legal system has made some amends in the last decade to improve victims’ systemic plight, yet it still needs to put victims and witnesses at the “heart” of the criminal justice system and ensure they see justice done (Jackson 2003). As enumerated in the Declaration for Basic Principles of Justice (United National General Assembly 1985), all victims should be treated with dignity, compassion, and respect. They are entitled to prompt and easy access to justice and redressal mechanism for the harms that they have endured. Srinivasan and Mathew (2007) maintain that a just, sensitive, and condoling treatment by police, medical professionals, prosecution and courts is the need of the hour, followed by prompt restitution or compensation to victims. For that, the priority is the all-around sensitization of the institutions dealing with victims. These must be strengthened to enable victims to approach and seek redress fairly and expeditiously, with due information and participation at pertinent stages of proceedings. The victims’ views and concerns must be heard to relieve them of the pain undergone, and the violations suffered, signifying an inclusive approach on the part of the system. As Cassell (2008) explains, it is no longer appropriate to evaluate the criminal justice process solely in terms of the venerable “due process” or “crime control” models. Instead, a third dimension, the victim-participation model, must be recognized to provide “fairness” to victims, including an opportunity to participate in criminal proceedings, including sentencing proceedings. Lastly, victim support services, providing comprehensive legal, medical, psychological, social and financial assistance to victims, should be integrated as part of the criminal justice system to minimize the pain of victimization and ensure their safety and well-being. It is only when the justice system works for the victims and their voices are heard

that movements like #MeToo will narrow their parameters. Until then, tens and thousands of women will proclaim, “Yes, me too.”

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References

- Abrams, Jamie R.** 2017. “The #MeToo Movement: An Invitation for Feminist Critique of Rape Crisis Framing.” *University of Richmond Law Review* 52:749–93.
- Baer, H.** 2016. “Redoing Feminism: Digital Activism, Body Politics, and Neoliberalism.” *Feminist Media Studies* 16(1):17–34.
- Bajpai, G. S.** 2006. “Psycho-Social Consequences of Victimization in Rape.” *International Perspectives in Victimology* 2(1):77–81.
- Banet-Weiser, S.** 2018. *Empowered: Popular Feminism and Popular Misogyny*. Durham, NC: Duke University Press.
- Bassiouni, M. C.** 2006. “International Recognition of Victims’ Rights.” *Human Rights Law Review* 6(2): 203–79.
- Bhattacharyya, Rituparna.** 2018. “#MeToo Movement: An Awareness Campaign.” *International Journal of Innovation, Creativity and Change* 3(4):1–12.
- Butamocho, Ruth.** 2018. “Rape: Breaking the Culture of Silence.” *The Herald*, October 1, 2018. Retrieved September 18, 2019 (<https://www.herald.co.zw/rape-breaking-the-culture-of-silence/>).
- Campbell, R., T. Sefl, H. E. Barnes, C. E. Ahrens, S. M. Wasco, and Y. Zaragoza-Diesfeld.** 1999. “Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma?” *Journal of Consulting and Clinical Psychology* 67(6):847–58.
- Campbell, Rebecca.** 2008. “The Psychological Impact of Rape Victims.” *American Psychologist* 63(8): 702–17.
- Campbell, Rebecca and Sheela Raja.** 2005. “The Sexual Assault and Secondary Victimization of Female Veterans: Help-Seeking Experiences with Military and Civilian Social Systems.” *Psychology of Women Quarterly* 29(1):97–106.
- Cassell, Paul G.** 2008. “In Defense of Victim Impact Statements.” *Ohio State Journal of Criminal Law* 6:611–48.
- Ceron, Daniela.** 2018. “How Women of Color are Discussed in Hashtag Feminist Movements.” *Elon Journal of Undergraduate Research in Communications* 9(2):76–86.
- Chankova, Dobrinka.** 2017. “New Restorative Justice Instruments Towards Youth Crime in Norway.” Pp. 31–6 in *Global Victimology: New Voices: Theory – Facts – Legislation*, edited by Gerd F. Kirchhoff, Manjushree Palit, and Sanjeev P. Sahni, New Delhi: Lexis Nexis.
- Chockalingam, K.** 2018. “Some Random Thoughts about Victimological Movement in the World with Special Reference to India.” *Journal of Victimology and Victim Justice* 1(1):25–41.
- Chockalingam, Kumaravelu.** 2010. *Measures for Crime Victims in the Indian Criminal Justice System*. Resource Materials Series No. 81. Retrieved October 17, 2019 (https://www.unafei.or.jp/publications/pdf/RS_No81/No81_11VE_Chockalingam.pdf).
- Clark, Rosemary.** 2016. “‘Hope in a Hashtag’: The Discursive Activism of #WhyIStayed.” *Feminist Media Studies* 16(5):788–804.
- Davies, Ilya Therese.** 1991. “Compensation for Criminal Injuries in Australia: A Proposal for Change in Queensland.” *Bond Law Review* 3(1):1–24.
- Dayen, David.** 2017. “How Our Broken Justice Led to a Sexual Harassment Crisis.” *The New Republic*, October 3, 2017. Retrieved September 10, 2019 (<https://newrepublic.com/article/145964/broken-justice-system-led-sexual-harassment-crisis>).
- Deswal, V.** 2013. “Burking of Crimes by Refusal to Register FIR in Cognizable Offences.” *Journal of the Indian Law Institute* 55(3):361–75.
- Doak, J.** 2014. “Victims’ Rights in the Criminal Justice System.” Pp. 5497–508, in *Encyclopedia of Criminology and Criminal Justice*, edited by G. Bruinsma and D. Weisburd. New York: Springer.

- Dube, Dipa.** 2017. "Secondary Victimization of Rape Victims in India." Pp. 37–51 in *Global Victimology: New Voices: Theory – Facts – Legislation*, edited by Gerd F. Kirchhoff, Manjushre Palit, and Sanjeev P. Sahni, New Delhi: Lexis Nexis.
- Dube, Dipa and John Winterdyk.** 2018. "Violence Against Women in the Slums of India: An Unequal Representation of Justice." Pp. 181–205 in *The Annual Review of Interdisciplinary Justice Research*. Vol. 7, edited by Steven Kohm, Kevin Walby, Kelly Gorkoff, Michelle Bertrand, and Bronwyn Dobchuk-Land. University of Winnipeg: Centre for Interdisciplinary Justice Studies.
- Dutt, Barkha.** 2018. "An Actor, a Journalist, a Government Minister: Who is Next to Fall in India's #MeToo Wave?" *The Washington Post*, October 10, 2018. Retrieved September 17, 2019 (<https://www.washingtonpost.com/news/global-opinions/wp/2018/10/10/an-actor-a-journalist-a-government-minister-who-is-next-to-fall-in-indias-metoo-wave/>).
- Engel, Beverly.** 2017. "Why Don't Victims of Sexual Harassment Come Forward Sooner?" *Psychology Today*, November 16, 2017. Retrieved October 10, 2019 (<https://www.psychologytoday.com/us/blog/the-compassion-chronicles/201711/why-dont-victims-sexual-harassment-come-forward-sooner>).
- FP Staff.** 2019. "Priya Ramani Details her Encounter with MJ Akbar in Defamation Case, Explains Magazine Article in Delhi Court." *Firstpost*, September 7, 2019. Retrieved September 18, 2019 (<https://www.firstpost.com/india/priya-ramani-details-her-encounter-with-mj-akbar-in-defamation-case-explains-magazine-article-in-delhi-court-7301691.html>).
- Gaur, K. D.** 2015. "Justice to Victims of Crime." Pp.737–56 in *Criminal Law, Criminology and Administration of Criminal Justice*, edited by K. D. Gaur. New Delhi: Universal Law Pub. Co.
- Gill, Rosalind and Shani Orgad.** 2018. "The Shifting Terrain of Sex and Power: From the 'Sexualization of Culture' to #MeToo." *Sexualities* 21(8):1313–24.
- Goldsmith, Belinda and Meka Beresford.** 2018. "India Most Dangerous Country for Women with Sexual Violence Rife – Global Poll." *Reuters*, June 26, 2018. Retrieved September 15, 2019 (<https://in.reuters.com/article/women-dangerous-poll/india-most-dangerous-country-for-women-with-sexual-violence-rife-global-poll-idINKBN1JM076>).
- Harris, Anita.** 2008. "Young Women, Late Modern Politics, and the Participatory Possibilities of Online Cultures." *Journal of Youth Studies* 11(5):481–95.
- IANS.** 2018. "Brutalised in my Own Home: Producer Vinta Nanda Accuses Actor Alok Nath of Rape." *The News Minute*, October 9, 2018. Retrieved September 3, 2019 (<https://www.thenewsminute.com/article/brutalised-my-own-home-producer-vinta-nanda-accuses-actor-alok-nath-rape-89655>).
- Jackson, John D.** 2003. "Justice for All: Putting Victims at the Heart of Criminal Justice?" *Journal of Law and Society* 30(2):309–37.
- Jackson, Sue.** 2018. "Young Feminists, Feminism and Digital Media." *Feminism and Psychology* 28(1):32–49.
- Jaffe, Sarah.** 2018. "The Collective Power of #MeToo." *Dissent* 65(2):80–7.
- Kalra, G. and D. Bhugra.** 2013. "Sexual Violence Against Women: Understanding Cross-Cultural Intersections." *Indian Journal of Psychiatry* 55(3):244–49.
- Kearon, T. and B. S. Godfrey.** 2012. "Setting the Scene: A Question of History." Pp. 17–36, in *Handbook of Victims and Victimology*, edited by Sandra Walklate. London: Routledge.
- Keller, J., K. Mendes, and J. Ringrose.** 2018. "Speaking 'Unspeakable Things': Documenting Digital Feminist Responses to Rape Culture." *Journal of Gender Studies* 27(1):22–36.
- Keller, Jessalynn.** 2015. *Girls' Feminist Blogging in a Postfeminist Age*. New York: Routledge.
- Kelly, Cara and Aaron Hegarty.** 2019. "#MeToo was a Cultural Shock. But Changing Laws Will Take More Than a Year." *USA Today*, October 5, 2019. Retrieved September 6, 2019 (<https://www.usatoday.com/story/news/investigations/2018/10/04/metoo-me-too-sexual-assault-survivors-rights-bill/1074976002/>).
- Kirchhoff, Gerd F.** 2017. "Victimology: A Theory with Consequences." Pp. 79–90 in *Global Victimology: New Voices: Theory – Facts – Legislation*, edited by Gerd F. Kirchhoff, Manjushre Palit, and Sanjeev P. Sahni, New Delhi: Lexis Nexis.
- Knappe, H. and S. Lang.** 2014. "Between Whisper and Voice: Online Women's Movement Outreach in the U.K. and Germany." *European Journal of Women's Studies* 21(4):361–81.
- Kumari, Sweety.** 2016. "Park Street Rape Case: After Four-Year Manhunt, Main Accused Arrested in Greater Noida." *The Indian Express*, October 1, 2016. Retrieved October 15, 2019 (<https://indianexpress.com/article/india/india-news-india/park-street-rape-case-after-four-year-manhunt-main-accused-arrested-in-greater-noida-305895/>).

- Law Commission of India.** 1996. *One Hundred and Fifty-Fourth Report on The Code of Criminal Procedure 1973*. New Delhi: Government of India.
- Logan, T. K., Lucy Evans, Erin Stevenson, and Carol E. Jordan.** 2005. "Barriers to Services for Rural and Urban Survivors of Rape." *Journal of Interpersonal Violence* 20(5):591–616.
- Maier, Shana L.** 2008. "'I Have Heard Horrible Stories . . .': Rape Victim Advocates' Perceptions of the Revictimization of Rape Victims by the Police and Medical System." *Violence against Women* 14(7):786–808.
- Mehta, Pooja.** 2015. "All You Need to Know About the Park Street Rape Case." *DNA*, December 10, 2015. Retrieved September 15, 2019 (<https://www.dnaindia.com/india/report-all-you-need-to-know-about-the-park-street-rape-case-2154310>).
- Mendes, Kaitlynn, Jessica Ringrose, and Jessalynn Keller.** 2018. "#MeToo and the Promise and Pitfalls of Challenging Rape Culture Through Digital Feminist Activism." *European Journal of Women's Studies* 25(2):236–46.
- Ministry of Home Affairs.** 2003. *Committee on Reforms of Criminal Justice System*. Vol. 1. New Delhi: Ministry of Home Affairs, Government of India.
- Monroe, Laura M., Linda M. Kinney, Mark D. Weist, Denise Spriggs Dafeamekpor, Joyce Dantzer, and Matthew W. Reynolds.** 2005. "The Experience of Sexual Assault Findings From a Statewide Victim Needs Assessment." *Journal of Interpersonal Violence* 20(7):767–76.
- National Crime Records Bureau (NCRB).** 2016. *Crime in India*. New Delhi: Ministry of Home Affairs Government of India. Retrieved October 14, 2019 (<https://ncrb.gov.in/sites/default/files/cii/Crime%20Statistics%20-%202016.pdf>).
- National Crime Records Bureau (NCRB).** 2017. *Crime in India*. New Delhi: Ministry of Home Affairs Government of India. Retrieved November 15, 2019 (<https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%203.pdf>).
- Raineri, Aldo S.** 1995. "Re-Integrating the Victim into the Sentencing Process: Victim Impact Statements as an Element of Offender Disposition." *Queensland University of Technology Law Journal* 11:79–96.
- Reddi, P. V.** 2006. "Role of the Victim in the Criminal Justice Process." *Student Bar Review* 18(1):1–24.
- Rodino-Colocino, Michelle.** 2014. "#YesAllWomen: Intersectional Mobilization Against Sexual Assault is Radical (Again)." *Feminist Media Studies* 14(6):1113–15.
- Roy, Abhery.** 2019. "2018: The Year When #MeToo Shook India." *The Economic Times*, June 1, 2019. Retrieved September 11, 2019 (<https://economictimes.indiatimes.com/magazines/panache/2018-the-year-when-metoo-shook-india/2018-the-year-of-metoo-in-india/slideshow/66346583.cms>).
- Sable, M. R., F. Danis, D. L. Mauzy, and S. K. Gallagher.** 2006. "Barriers to Reporting Sexual Assault for Women and Men: Perspectives of College Students." *Journal of American College Health* 55(3):157–62.
- Safi, Michael.** 2019. "India's #MeToo Backlash: Accusers Battle Intimidation, Threats and Lawsuits." *The Guardian*, May 14, 2019. Retrieved September 15, 2019 (<https://www.theguardian.com/world/2019/may/14/indias-metoo-backlash-accusers-battle-intimidation-threats-and-lawsuits>).
- Sarkar, Subhradipta.** 2010. "The Quest for Victim Justice in India." *Human Rights Brief* 17(2):16–20.
- Sharma, Ditlekha.** 2018. "What is Missing in the #MeToo Movement?" *Economic and Political Weekly*, December 11, 2018. Retrieved September 25, 2019 (<https://www.epw.in/engage/article/what-is-missing-metoo-movement-limitation-law-justice>).
- Simon-Kumar, R.** 2014. "Sexual Violence in India: The Discourses of Rape and the Discourses of Justice." *Indian Journal of Gender Studies* 21(3):451–60.
- Skogan, W G.** 1974. "The Validity of Official Crime Statistics: An Empirical Investigation." *Social Science Quarterly* 55(1):25–38.
- Srinivasan, M. and J. E. Mathew.** 2007. "Victims and the Criminal Justice System in India: Need for a Paradigm Shift in the Justice System." *Temida* 10(2):51–62.
- Stone, M. and R. Vogelstein.** 2019. "Celebrating #MeToo's Global Impact." *Foreign Policy (FP)*, March 7, 2019. Retrieved September 22, 2019 (<https://foreignpolicy.com/2019/03/07/metooglobalimpactinternationalwomens-day/>).
- Stuart, Donna.** 1993. "No Real Harm Done: Sexual Assault and the Criminal Justice System." Pp. 96–106 in *Without Consent: Confronting Adult Male Violence*, edited by Patricia Weiser Easteal. Canberra: Australian Institute of Criminology.
- Tambe, A.** 2018. "Reckoning with the Silences of #MeToo." *Feminist Studies* 44(1):197–203.

- Thompson, M., Sitterle, D. Sitterle, G. Clay, and J. Kingree.** 2007. "Reasons for not Reporting Victimization to the Police: Do They Vary for Physical and Sexual Incidents?" *Journal of American College Health* 55(5):277–82.
- Tiwari, Arvind and U. N. B. Rao.** 2016. *A Study on Non-Registration of Crimes: Problems and Solutions*. New Delhi: Bureau of Police Research and Development. Ministry of Home Affairs.
- United Nations Department of Economic and Social Affairs.** 2015. *The World's Women 2015 Trends and Statistics*. New York: United Nations. Retrieved July 20, 2019 (https://unstats.un.org/unsd/gender/downloads/worldswomen2015_report.pdf).
- United National General Assembly.** 1985. "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power: Adopted by General Assembly Resolution 40/34 of 29 November 1985." New York: United Nations General Assembly. Retrieved October 10, 2019 (<https://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>).
- Vibhute, K.** 1999. "Victims of Rape and Their Right to Live with Human Dignity and to be Compensated: Legislative and Judicial Responses in India." *Journal of the Indian Law Institute* 41(2):222–36.
- Waldron, Ronald J., Chester L. Quarles, David H. McElreath, Michelle E. Waldron, and David Ethan Milstein.** 2009. *The Criminal Justice System: An Introduction*. Tulsa, OK: CRC Press.
- Walker, Nigel.** 1969. *Sentencing in a Rational Society*. London: Allen Lane.
- Walklate, S.** 2012. "Part One: Perspectives on the Victim and Victimization." Pp. 11–16 in *Handbook of Victims and Victimology*, edited by Sandra Walklate. London: Routledge.
- Ward, Colleen and Fathiah Inserto.** 1990. *Victims of Sexual Violence: A Handbook for Helpers*. Singapore: Ridge Books, Singapore University Press.
- Winterdyk, J. and D. Dube.** 2019. "Sexual Violence: The Canadian Enigma and an Unending Saga in India – A Call for a New Approach." *Justice* 34(1):28–32.
- Wolhuter, L., N. Olley, and D. Denham.** 2008. *Victimology: Victimization and Victims' Rights*. New York: Routledge-Cavendish.
- World Health Organization.** 2003. *Guidelines for Medico-Legal Care for Victims of Sexual Violence*. Geneva: World Health Organization. Retrieved November 22, 2019 (<https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf;jsessionid=88EDE8DB7A135893FFCBCC24E6A14E71?sequence=1>).
- Zarkov, D. and K. Davis.** 2018. "Ambiguities and Dilemmas Around #MeToo: #ForHowLong and #WhereTo?" *European Journal of Women's Studies* 25(1):3–9.
- Zinzow, H. and M. Thompson.** 2011. "Barriers to Reporting Sexual Victimization: Prevalence and Correlates Among Undergraduate Women." *Journal of Aggression, Maltreatment & Trauma* 20(7):711–25.

Cases

- Abdul Rashid v. State of Orissa. 2014. IILR-CUT 202.
- Ankush Shivaji Gaikwad v. State of Maharashtra. 2013. 1 SCC 770.
- Ashok Malhotra v. Govt. of NCT Delhi. 2019. W.P. (CrI) 2576/2018 and CrI. M.A. 31082/2018. Decided on November 1, 2019.
- Lalita Kumari v. Govt. of UP. AIR 2014 SC 187.
- Mallikarjun Kodagali v. State of Karnataka. AIR 2018 SC 5206.
- Rohtash Pappu v. State of Haryana. 2008. Cri. Appeal. No. 250 of 1999. Decided on April 1, 2008.

TRANSLATED ABSTRACTS

Abstracto

En el pasado reciente, el movimiento #MeToo ha sacudido a India. Una lista de nombres de alto vuelo, desde políticos hasta celebridades y periodistas, ha sido objeto de escrutinio por presuntos abusos sexuales a mujeres. Marcada por una actriz de Bollywood, la campaña #MeToo en India encendió a feministas, académicas y formuladores de políticas para reexaminar el abuso continuo de las mujeres en todos los sectores de la sociedad. A pesar de un estricto régimen legal aplicado después de la tragedia de Nirbhaya, el abuso de mujeres continúa sin cesar. Las feministas opinan que la violencia contra las mujeres sigue siendo una preocupación constante que se agudiza ante un sistema de justicia penal en decadencia que no aborda su difícil situación. La falta de confianza en el sistema desanima a las mujeres a acercarse a las autoridades, algo palpable en las denuncias de #MeToo, donde las mujeres prefirieron permanecer en silencio ante la inevitable reacción de la sociedad, la falta de apoyo y cooperación de la policía y la fiscalía y finalmente, los tribunales, donde la víctima se posiciona como acusada para responder a preguntas de cómo y por qué?

Este artículo examina el movimiento #MeToo contra el telón de fondo del gráfico de la delincuencia en aumento y la consiguiente falta de respuesta del sistema de justicia penal.

Palabras clave #MeToo; violencia sexual; víctima; justicia penal; victimización secundaria

Abstrait

Dans le passé récent, le mouvement #MeToo a secoué l'Inde. Un registre de noms de haut vol, des politiciens aux célébrités et journalistes, a fait l'objet d'un examen minutieux pour des allégations d'abus sexuels sur des femmes. Signalée par une actrice de Bollywood, la campagne #MeToo en Inde a incité les féministes, les académiciens et les décideurs politiques à réexaminer les abus continus des femmes dans toutes les sections de la société. Malgré un régime juridique rigoureux appliqué après la tragédie de Nirbhaya, la maltraitance des femmes se poursuit sans relâche. Les féministes estiment que la violence contre les femmes demeure une préoccupation constante qui est aggravée face à un système de justice pénale en déclin qui ne parvient pas à résoudre leur sort. Le manque de confiance dans le système décourage les femmes de s'adresser aux autorités, ce qui est palpable dans les allégations #MeToo, où les femmes préféraient garder le silence face aux inévitables réactions de la société, au manque de soutien et de coopération de la police et du parquet et enfin, des tribunaux, où la victime est positionnée comme l'accusé pour répondre aux questions de comment et pourquoi? Cet article examine le mouvement #MeToo dans le contexte du graphique de la criminalité croissante et l'incapacité du système de justice pénale à y répondre.

Mots-clés #MeToo; violence sexuelle; victimes; justice pénale; victimisation secondaire

概要

在最近的过去，#MeToo运动震撼了印度。从政客到名人和新闻工作者的一系列引人注目的名字正受到有关对妇女的性虐待指控的审查。由宝莱坞 (Bollywood) 女演员领导的印度#MeToo运动鼓励女权主义者，学者和决策者重新审视社会各阶层中对妇女的持续侵犯行为。尽管在涅rb惨案发生后实行了严格的法律制度，对妇女的虐待仍然没有减弱。女权主义者认为，面对不断减少的刑事司法制度无法解决她们的困境，对妇女的暴力行为仍然是一个持续不断的关切。对系统的不信任使妇女不愿与当局接触，在#MeToo指控中可见一斑，在这种情况下，妇女宁愿面对社会不可避免的反应，警察和检察官缺乏支持与合作以及保持沉默而保持沉默最终，法院将受害者安排为被告，负责回答有关如何以及为什么的问题？

本文在犯罪率不断攀升和随之而来的刑事司法系统未能对此做出回应的背景下研究#MeToo运动。

关键词: #MeToo ; 性暴力 ; 受害者 ; 刑事司法 ; 继发性虐待

الخطوة

في الماضي القريب ، هزت حركة #MeToo الهند. خضعت قائمة بأسماء رفيعة المستوى ، من السياسيين إلى المشاهير والصحفيين ، للفرص بسبب مزاعم عن انتهاك جنسي للنساء. شجعت حملة #MeToo في الهند ، التي أشرفت عليها ممثلة بوليود ، النسويات والكاديميين وصانعي السياسات على إعادة فحص الانتهاكات المستمرة للمرأة في جميع قطاعات المجتمع. على الرغم من النظام القانوني الصارم الذي تم فرضه بعد مأساة نيربايا ، فإن الإساءة إلى النساء مستمرة بلا مواد. ترى النسويات أن العنف ضد المرأة لا يزال مصدر قلق مستمر يتصاعد في مواجهة نظام العدالة الجنائية المتضائل الذي يفشل في معالجة محنتهن. عدم الثقة في النظام يثني النساء عن الاقتراب من السلطات ، وهو أمر ملموس في مزاعم #MeToo ، حيث فضلت النساء التزام الصمت في مواجهة ردود الفعل الحتمية من المجتمع ، ونقص الدعم والتعاون من الشرطة والنيابة ، وأخيرا ، المحاكم ، حيث يتم وضع الضحية كمتهم للرد على أسئلة حول كيف ولم إذا؟
تبحث هذه المقالة في حركة #MeToo على خلفية الرسم البياني المتصاعد للجراءات وما يترتب على ذلك من فشل نظام العدالة الجنائية في الاستجابة لهال

الكلمات المفتاحية: #MeToo عنف جنسي ضحية عدالة جنائية إيذاء ثانوي

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