

Gender Perspectives to Sexual and Gender Based Violence: A Case Study of One Stop Centers under the Nirbhaya Fund in India

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Abstract

GBV/sexual Violence against women is the most pervasive form of persistent and deplorable gender based violence which permeates deep into the society as a social practice differentiated from random, individual acts of violence. In its most extreme manifestation, three cases in India shook the conscience of the nation; Nirbhaya case, Shakti Mills case and the Badaun gang rape. In this backdrop, chiefly triggered by Nirbhaya case in December, 2012, amendments were made in the Indian Criminal Law to specifically address gender based offences and bring in more stringent punitive measures. On the same lines, the Ministry of Women and Child Development (MWCD) established One Stop Centers (OSCs) in all States and Union Territories as the first point-integrated support to victims of gender based violence and sexual violence. Neither harsher legislation nor new initiatives seem to have had any impact. The need of hour is therefore to evaluate the existing OSCs effectiveness in providing an integrated intervention under one roof to majorly address woman's perceptions of fear & distrust to access this mechanism, eliminate secondary victimization when a woman victim is made to run pillar to post for separate services and focus on preventive role of OSCs through innovative and multi-thronged approach. The Paper weaves together the critical aspects of gender perspectives to sexual and gender

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based violence in order to establish a theoretical foundation that seeks a more complete and broader understanding of the complexity of issues that OSCs need to treat and thus offer expert engagement in policy development.

Introduction

The research is important because criminal justice system's response to Gender Based Violence (GBV)¹ specifically, rape and sexual assault against women have been critiqued for decades both at the national and international level. The system which is plagued by stereotypes like under reporting, secondary victimization or low convictions create multiple challenges for a woman's access to justice.²

¹ USAID's Strategy to Prevent and Respond to Gender Based Violence Globally defines Gender Based Violence or GBV as: "...violence that is directed at an individual based on his or her biological sex, gender identity, or perceived adherence to socially defined norms of masculinity and femininity. It includes physical, sexual, and psychological abuse; threats; coercion; arbitrary deprivation of liberty; and economic deprivation, whether occurring in public or private life. Gender-based violence can include female infanticide; child sexual abuse; sex trafficking and forced labor; sexual coercion and abuse; neglect; domestic violence; elder abuse; and harmful traditional practices such as early and forced marriage, "honor" killings, and female genital mutilation/cutting. Women and girls are the most at risk and most affected by gender-based violence. Consequently, the terms "violence against women" and "gender-based violence" are often used interchangeably. However, boys and men can also experience gender-based violence, as can sexual and gender minorities. Regardless of the target, gender-based violence is rooted in structural inequalities between men and women and is characterized by the use and abuse of physical, emotional, or financial power and control." Evaw-global-database.unwomen.org. 2021. Global Database on Violence Against Women. [online] Available at: <<https://evaw-global-database.unwomen.org/en>> [Accessed 15 September 2021].

² Global Database on Violence Against Women- Ending violence against women. Violence against women and girls is one of the most systematic and widespread human rights violations. According to a 2013 global review of available data, 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. <https://evaw-global-database.unwomen.org> Evaw-global-database.unwomen.org. 2021. Global Database on Violence Against Women. [online] Available at: <<https://evaw-global-database.unwomen.org/en>> [Accessed 15 September 2021].

One Stop Centers were established for a multi-faceted and integrated response mechanism in 2015 to deal with sexual violence against women. Nevertheless, National Crime Record Bureau (NCRB) data from 2015-2019 reveals an unacceptably high prevalence and consistent increase in cases of gender based violence spiraling another backwash effect and that is, the norm of utterly ineffective and insensitive frontline response mechanism pervading the OSCs which has become the single most dominant factor to erode the confidence of a woman victim/survivor of gender violence to seek help post her traumatic experience. Findings have revealed that the majority of victims/survivors who sought support from the center did not receive needed services or interventions sought only to ameliorate the abuse without factoring in intersecting forms of discrimination for instance; disability, migration issues, interpersonal violence like intimate partner violence etc. because of which the woman was unable to receive need-based/case-specific intervention. Summary findings are: difficult practicalities of trained staff and accessibility of timely assistance, formal redressal mechanisms focusing on rape myths, gender stereotypes and 'rational' ideal and absence of victim-centered approach and empowerment model. This brings to fore a crucial question; has OSCs functionality remained on paper despite the detailed policy relating to its implementation, training to its staff, monitoring by a three tier model at the national, state and department level and periodic reporting? The main focus of this thesis will be to use this applied research to help OSCs embrace a transformative approach in creating an integrated 'Person-Centered-Care Model' aligned to safety, care and empowerment approach for victims/survivors rather than a nondescript response mechanism. The thesis weaves together the critical aspects of gender perspectives to sexual and gender based violence and places reliance on primary data on victim perceptions in order to establish a foundation that seeks a more complete and broader understanding of the complexity of issues that OSCs need to treat, and, thus offer expert engagement in policy development.

How Effective Are The OSCs?

“By placing all necessary services in one place, we guarantee that their privacy is protected, and that they are not being victimized again by retelling their stories over and over again,”

- Major Abla Fazaa, the Head of the Family and Juvenile Protection Unit in Ramallah, who is also heading the One Stop Centre³

Gender based violations, particularly sexual assaults are perhaps the one-of-its-kind crimes in which the victim becomes the accused and, in reality, it is *she* who must prove her good reputation, her mental soundness, and her impeccable propriety which is in fact the single most important reason for under reporting. For instance, rape allegations are still coded as “unfounded,” where a “no” can sometimes still mean “yes” and prosecutors continue to elect not to prosecute many rape cases albeit the criminal law reforms. Though the statute books have taken away the legal requirement that a woman vigorously resist a man’s sexual advances to prove that she was raped, women are still believed to be vindictive shrews reflecting bondage of dogmatic social norms, prejudiced notions, rigid stereotypes, parochial mindset and bigoted perceptions. These myths and stereotypes continue to surface at all levels of the criminal justice system, a criminal system which completely dominates rape law and gender violence. The Supreme Court of India in Gurmit Singh's case⁴ almost more than two decades back, raised a note of caution that sexual crimes against women were rising holding that victims of sexual abuse or assault were treated without any sensitivity during the course of investigation and trial. The latest NCRB factsheet reveals a sharp surge in cases of sexual offences, kidnapping, dowry

³ Evaw-global-database.unwomen.org. 2021. Global Database on Violence Against Women. [online] Available at: <<https://evaw-global-database.unwomen.org/en>> [Accessed 15 September 2021].

⁴ The State Of Punjab vs Gurmit Singh & Ors, 1996 SCC (2) 384, Supreme Court of India. [2021].

deaths and other gender specific crimes is *a-fortiori* of the persistent and deplorable phenomenon of violence against women despite milestone Criminal Law amendments and establishments of One Stop Centers (OSC) post 2013.

The Nirbhya case, the Shakti Mills case in Mumbai and the Badaun gang rape in the late 2012 became the veritable line in the sand leading to stringent anti-rape laws and establishment of the milestone, OSCs, as central contact points for children and their families affected by gender violence to be funded from the 1000 Crore Nirbhaya Fund. Pragmatically though, in the real world it is unreasonable to expect that this normative exercise can be viewed as sufficient communication to ensure the safety of victims/survivors and for the accountability of perpetrators or that there will be automatic translation of legislation into behavioral attitudes unless the State disseminates, sensitizes and orients about this mechanism in a deliberated way. These changes therefore, hardly inspires confidence because, a woman's access to these formal information is still a far cry reinstating the atmosphere of insecurity and insensitivity *perceived and felt* by women. This is again a dominant factor for under-reporting which in turn becomes a main barrier for her access to justice on equal terms. The Crime in India Report 1999, itself acknowledges that this rate of crime may be reviewed with caution, as a sizeable number of crimes against women go unreported due to the social stigma attached and the lengthy court procedures. According to a report out of every 100 rape cases in India, only 10 are reported and out of every 100 reported cases only 5 offenders are convicted⁵. Almost universally, most perpetrators of rape go unreported or unpunished. For women to report in the first place requires a great deal of resilience to re-live the attack, a certain amount of knowledge of where to go, and a degree of confidence in the responsiveness of the services sought – if indeed there are services available to go to. In many countries, women

⁵ Lonavath, D., 2011. Spatial Patterns of Urban Centers: An analysis of Regional wise Towns in Andhra Pradesh, India. Indian Journal of Applied Research, 4(7), pp.537-540.

know that they are overwhelmingly more likely to be blamed than believed when they report sexual assault, and they have to cope with an unwarranted sense of shame. The result of these aspects is a stifling of women's voices around rape, significant under-reporting and continuing impunity for perpetrators.⁶ Unlike many other interpersonal crimes such as robberies or muggings, victims of sexual assault are particularly vulnerable to being blamed for their attack.⁷ The fallout is the negative treatment that may include victim-blaming which has been termed "the second rape" or "secondary victimization," and may exacerbate the distress caused by sexual assault.⁸ Negative social reactions to disclosure of sexual assault have been linked to increased severity of post-traumatic stress symptoms.⁹

In a study comparing accounts of rape survivors and medical and legal personnel, service personnel were aware of secondary victimization behavior, but highly underestimated the amount of distress that survivors experienced¹⁰. A recent study by the World Health Organization found

⁶ UN Women | Europe and Central Asia. 2021. UN Women Executive Director's Statement for the International Day for the Elimination of Violence against Women, 25 November 2019. [online] Available at: <<https://eca.unwomen.org/en/news/stories/2019/11/statement-ed-phumzile-day-for-the-elimination-of-violence-against-women>> [Accessed 15 September 2021].

⁷ Merriam, K., 1990. Book Reviews : The Female Fear. By Margaret T. Gordon and Stephanie Riger. New York: Free Press, 1988,225 pp., \$19.95 (hardbound. *Affilia*, 5(3), pp.114-115.

⁸ R, C., 2021. What really happened? A validation study of rape survivors' help-seeking experiences with the legal and medical systems. [online] PubMed. Available at: <<https://pubmed.ncbi.nlm.nih.gov/16047935/>> [Accessed 15 September 2021].

⁹ Clj.uic.edu. 2021. Ullman, Sarah E. | Criminology, Law and Justice | University of Illinois Chicago. [online] Available at: <<https://clj.uic.edu/profiles/sarah-e-ullman/>> [Accessed 15 September 2021].

¹⁰ *Supra* at 4.

that over 35 percent of women worldwide have experienced physical or sexual intimate partner violence (IPV) or non-partner sexual violence.¹¹

There is no understanding of the acuteness of the violation of human rights in respect of a woman by sexual assault and the psychological trauma she undergoes. The Supreme Court has recorded its strong disapproval against the practice of doctors in government hospitals, especially in rural areas, not to examine rape victims unless the police forwarded the case to them. It has observed that this attitude of the doctor's delays examination of the victim resulting in the evidence being either washed away or lost.¹² In some cases, victims have received counseling services but in few they didn't get referred for counseling. Many of them have not received the services like, free legal aid and financial support¹³.

If it were to be an ideal situation where the world is without pervasive sexism in which women and men are *defacto* held to be of equal worth—a victim would be able to perceive a gender-based crime against her as an anomaly, something truly random. This reinforces the understanding of violence which is ubiquitous in its prevalence as a *social* rather than an individual problem, requiring concerted formal and non-formal responses, beyond just that immediate event, individual perpetrators and victims/survivors. To draw a corollary to the framework of environmental law, which identifies cases in which a polluted environment and a particular person's (or corporation's) toxic action interact to injure an individual or group, we should understand that the harm of gender-based violence reverberates deep into the roots of the

¹¹ Devries, K., Mak, J., García-Moreno, C., Petzold, M., Child, J., Falder, G., Lim, S., Bacchus, L., Engell, R., Rosenfeld, L., Pallitto, C., Vos, T., Abrahams, N. and Watts, C., 2021. The Global Prevalence of Intimate Partner Violence Against Women.

¹² Sweeney, B., 2004. Trans-ending women's rights: The politics of trans-inclusion in the age of gender. *Women's Studies International Forum*, 27(1), pp.75-88.

¹³ Annual Report 2016-17, MINISTRY OF WOMEN AND CHILD DEVELOPMENT, Wcd.nic.in. 2021. Home | Ministry of Women & Child Development. [online] Available at: <<https://wcd.nic.in/>> [Accessed 15 September 2021].

society more than the acts of individual perpetrators. Such an environment also makes such crimes more harmful to their victims than they otherwise would be. In a news Report entitled, '*Urban Design And Women's Safety*', part of a special series of Safety of women in Indian cities, it is put on record that, if there has to be a real change in the mindsets of those who are at the helm of decision making on matters of policy, more women should be brought in leadership positions to make environments accessible to women as against the current situation designed by men, for men.¹⁴

As we look deeper, departing from the strict legal and formal lens, into the causes and widespread prevalence of gender based violence, the social discriminations tolerating violence becomes apparent; societal gender stereotypes, institutional patriarchy, female subjugation are deep rooted and systematic making it a pervasive social practice. Its cascading disadvantage is that, complaints of rape or gender-specific violence are treated as mere matters of formality and low on priority, One Stop Centers' (OSC) exists more as a compliance or a formality matter, failure of State's mechanism to sensitize, create awareness and disseminate information on institutional redressal systems, recurring secondary victimization patterns against women complainants in total callousness to the acuteness of the violation of human rights and the psychological trauma that the woman undergoes.

Given the compounding scenario it is critical that victims be given power as one of the early antidotes to the helplessness which accrues from the assault. In this sense, it would be unjustified to make rape law fundamentally criminal law as it has thus far dominated legal scholarship. This gives little or no space to victim empowerment approach. The researcher strongly argues for an early intervention through One Stop Centers (OSC) for Victims of Sexual Assault, as an integrated person-centered-care model. Increasingly there is evidence to

¹⁴:Ntokos, D. and Ntokou, P., 2020. Defining a safe design distance from tectonic structures in urban and regional planning. *Cities*, 96, p.102446.

suggest that the most effective interventions use a combination of strategies in a multi-sectoral fashion, working at different levels from the individual to the societal.¹⁵ By promoting women's independence and economic self-reliance, centres, shelters and service programme providers may help changing women's perceptions of themselves. Centres sometimes have the goal of transformation of the society that produced the rape, rather than simply reintegrating women back into a rape-producing society¹⁶.

Having regard to the Constitutional mandate of equality, the State in its due diligence obligation to take appropriate measures to provide support for victims of violence against women should use a 'gendered understanding' and focus on 'the human rights and safety of the victim' approach. Victims' human rights include dignity, privacy and bodily integrity.¹⁷ Transformative approach by OSGs using prevention-focus,¹⁸ gender perspectives,¹⁹ victim and witness-protection,²⁰ long term follow up and empowerment model is what will result in a comprehensive

¹⁵ Mukwege, D. and Berg, M., 2016. A Holistic, Person-Centred Care Model for Victims of Sexual Violence in Democratic Republic of Congo: The Panzi Hospital One-Stop Centre Model of Care. *PLOS Medicine*, 13(10), p.e1002156.

¹⁶ R, C., 2021. What really happened? A validation study of rape survivors' help-seeking experiences with the legal and medical systems. [online] PubMed. Available at: <<https://pubmed.ncbi.nlm.nih.gov/16047935/>> [Accessed 15 September 2021] & Walby, S., 2003. Policy Developments for Workplace Gender Equity in a Global Era: The Importance of the EU in the UK. *Review of Policy Research*, 20(1), pp.45-64.

¹⁷ Article 18 of the Istanbul Convention and its explanatory report (paragraphs 111 to 123).

¹⁸ 'Prevention' encompasses education, work with perpetrators, public awareness and self-defense for women and girls. Developing and disseminating accessible information, through diverse and accessible media and community dialogue, aimed at women will be examined as a part of this research.

¹⁹ 'Perspective' means underpinning principles of gender equality, human rights, due diligence and non-discrimination.

²⁰ 'Protection' includes encompasses support networks, civil law, safety in public places, and non-discrimination.

policy²¹ engagement to strive for a paradigm shift of OSCs to ‘Person-Centered-Care Model’. The feasibility of “Representational System’ as against the conservative ‘Referral System’ which can be used in the OSCs to strengthen the coordinated and sustained approach will need to be investigated through the methodology of Focus Group Discussions or in-depth interviews with the gender specialists, counselors, staff of the OSCs and victims/survivors in this study.

To strive to transform ‘victims’ to ‘empowered and well-informed survivors’ as one of the early antidotes to the helplessness which accrues from gender violence will form the major contribution of this research.

What Does The Preliminary Findings On The Basis Of The Secondary Data Reveal?

- Excerpts of an interview with S T Ramesh, former DGP and IGP of Karnataka Police²²- Surveys indicate that while only 30% of women share their experiences of harassment, only 1% of them report and pursue a case. What would you attribute that to? Women across all societies are reluctant to share their harassment experiences for reasons which are well known. Women in India are much more reluctant in this regard. While societal issues, patriarchy and family pressure stop them from reporting the case to the police, one needs extraordinary patience and perseverance to negotiate the case through our problem-ridden criminal justice system. Getting an FIR registered in a police station is often the principle hurdle.

²¹ ‘Policy’ refers to an integrated strategy that addresses all forms of VAW and intersections between them; an agreed definition; research and disaggregated statistics; analysis of causes of VAW; and mainstreaming VAW into all policy areas.

²² <https://bengaluru.citizenmatters.in/interview-with-s-t-ramesh-former-dgp-and-igp-of-karnataka-police-39992>, ,

- Excerpts of Interview with Swati Lakra, IGP Law & Order, Telangana on the Women's safety initiatives from Telangana police: ²³

How has Bharosa helped women and child survivors of violence?

Bharosa is an integrated multi-pronged one-stop Support Center to provide a slew of police, medical, counselling, legal and prosecution services for women and children who are victims of violence and sexual abuse. Either they or their family can get immediate assistance from multiple specialised services under a single roof for their relief, rehabilitation and protection as per the requirements.

Bharosa was implemented in 2016 after a lot of research. The Supreme Court has acknowledged that good practices are being followed. They have identified Bharosa, Hyderabad, as the best model in the country. As per the judgement of the Hon'ble Supreme Court Judges, Madan B. Lokur and Deepak Gupta in the *Nipun Saxena and Ors. v. Union of India (UOI) and Ors*, December 11, 2018, the one-stop center BHAROSA in Hyderabad is to be used as a model for establishing other similar one-stop centres in the country.

- A news report in Citizen Matters on- "How have Indian states put the 'Nirbhaya Funds' to use?"²⁴ – Reports- The progress does not come anywhere near satisfactory. An analysis of data

²³ Jan 22, 2020 ... But the Telangana police have taken some steps to provide speedy assistance to women in trouble. In an interview to Citizen Matters, Swati Lakra ... <https://citizenmatters.in/womens-safety-initiatives-from-telangana-police-15384>

²⁴ How have Indian states put the 'Nirbhaya Funds' to use? | Citizen ... On January 7 2020, more than seven years after the brutal gang rape and murder of a 23-year-old student in a moving public vehicle in Delhi, a death warrant ... <https://citizenmatters.in/how-have-indian-states-put-the-nirbhaya-funds-to-use-15368>

shared by the government on Nirbhaya Funds allocated shows that of the Rs 2,264 crore (63 per cent of the corpus of Rs 3,600 crore) allocated to states and UTs, around 89 per cent of the sanctioned funds were not used. As far as universal helplines are concerned, 14 states have seen over 60% utilisation of the funds allocated for the scheme, with Telangana, Chhattisgarh and Arunachal Pradesh topping the list with 78.3%, 74.9% and 74.7% respectively. But even for this scheme, ten states — Delhi, Goa, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Puducherry, Rajasthan, Tripura and West Bengal have shown zero utilization.

- In news report in Hindu, “Is ‘compromise’ the route that one stop centers should choose?” – it was reported that “When a victim of domestic violence comes here, she is asked what relief she wants. If she wants a compromise, the husband is called and both of them are counseled. After this, she is asked to sign on an agreement letter and is sent back to her home and a follow-up is conducted.

Victim’s statement to Hindu- “I don’t want a compromise. There is a threat to my life and I need safety and maintenance,” the 26-year-old mother of three tells The Hindu at the dimly-lit make-shift centre. She has dragged her husband and brother-in-law here after both men beat her up. Following her protests, the matter is escalated and the center in-charge agrees to treat her case as one of domestic violence.

A Nuanced Approach & Conclusion

The researcher emphasizes increasing women’s capacity to prevent and respond to Gender Based and sexual violence through access to official information on integrated centers like OS as a process for

campaigning against Gender based Violence, confidence building and skills development. The main focus is to use this applied research to help OSCs embrace a transformative approach in creating an integrated 'Person-Centered-Care Model' aligned to safety, care and empowerment approach for victims/survivors rather than a nondescript response mechanism. This uses the empowerment approach with goal of transforming victim to empowered and informed survivor. Apart from redressal strategies, preventive strategic response which take into account the institutional biases, gender stereotypes and cultural discriminations are addressed. The research weaves together the critical aspects of gender perspectives to sexual and gender based violence and places reliance on victim perceptions to establish a foundation that seeks a more complete and broader understanding of the complexity of issues that OSCs need to treat. This is the 'model' One Stop Centre which provides an integrated and holistic service all under one roof. The services include medical, legal, psychological and counseling support.