



Nirbhaya Case (Mukesh & Anr vs. State for NCT of Delhi & Ors., 2020)

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Background & Legal Proceedings

The Nirbhaya Case, one of the monstrous crimes ever happened to India.

This specific case pertains to the 2012 gang rape and ruthless murder of a 22-year-old Jyoti Singh widely known as *Nirbhaya*, meaning "fearless". This heinous incident challenged the scrutiny of women's safety and legal reforms in India resulting into nationwide protest and arose a sense of worldwide resentment. On December 2012, a Judicial Committee was setup to take public suggestions that could amend laws to provide quicker investigation which resulted into 80,000 suggestions after which the committee submitted a report stating the lack of integrity by the government and the police framing as the root cause of the crimes against the woman. The perpetrators namely Ram Singh, Pawan Gupta, Vinay Sharma, Akshay Thakur and Mukesh Singh (Ram Singh's brother), Mohammad Afroz (17-Year-Old Juvenile) were convicted under Sec. 120-B/365/366/376(2) (g)/377/201/395/397/412 IPC and sentenced to death by the Ld. Trial Court. Case was then referred to the Delhi High Court which upheld the guilty verdict and the death sentences. The Hon'ble Supreme Court later affirmed the conviction and confirmed the death sentence by dismissing the appeals. The four convicts Pawan Gupta, Vinay Sharma, Akshay Thakur and Mukesh Singh were executed by hanging on 20 March 2020. Accused Ram Singh committed suicide in the police custody and Mohammad Afroz (the juvenile) was given the maximum sentence of three years of imprisonment in a reform facility, as per the Juvenile Act, 2012.

Key Issues

- Victim's Right & Victimology

Victims have the right to be informed about the legal process and available resources that would be defending them. This particular case sparked a national debate on victimblaming, where societal opinions question the victims clothing, or thinking, rather than focusing on the perpetrator's wrong doings. The government implemented schemes for providing financial support to victims, ensuring they have access to immediate medical care and legal aid. The victim's case catalyzed discussion enhancing women's safety. Through this case victim's rights and protection has been highlighted into which provisions were established to protect victims and witnesses from intimidation. An imaginary name Nirbhaya meaning fearless was given to the victim Jyoti Singh as it is mandatory to not disclose the name of the rape victim to protect her identity. The case prompted reforms in laws regarding sexual violence, illustrating how intersectional awareness can lead to broader societal changes. This case not only emphasizes the rights of victims but also calls for a holistic approach to victimology and societal change to combat gender-based violence effectively.

- Juvenile Justice & Reforms in Law

In rape cases where a juvenile is a perpetrator, it is necessary to hold the juvenile accused for rape accountable. Rape charges against juveniles are sensitive issues and need a very strategic approach with efforts through speedy trials. Soon after the 2012 Nirbhaya Case, the Executive amended the law, that juveniles who commit brutal and severe murders and rapes between the ages of 16 and 18 will be tried and punished as adults. As a result, on March 19 2013, "Anti Rape Bill," was passed with modified laws and provisions. Following the bill to its maximum potential stricter punishments were brought into force with death penalty provisions in cases where the rape has led to the death of the victim. The criminal amendment bill is a combination of just thinking about gender and existing patriarchal attitudes in society, as well as the ones entrenched in the colonial IPC of 1860. The Juvenile Justice Board established to run proceedings against minors who have committed heinous crimes is a special body consisting a Judicial

Magistrate and two social workers, at least one of whom must be woman.

- Impact on Legal Precedent

India has not adopted retributive theory of punishment but not incorporated deterrent theory, from the point of view of human rights approach and Gandhian ideologies, death sentence is not appropriate. At this juncture we may still see the Judiciary working at its fullest capacity to serve justice and not let anyone fall into the shadow of injustice. The government established mandatory minimum sentences for sexual offences which includes a minimum sentence of seven years for gang rape which extend to death penalty. Death Penalties to the ones accused of serious crimes which showcase utter brutality and depravity and that have created a sense of shock among the society by the Hon. Courts is acknowledged. The judgments by the Hon. Ld. Courts reinforces the importance of protecting the rights of victims, by not only allowing in-camera trials in sexual offences cases to save guard the victim and its family's dignity and privacy. These

legal changes substantiate a framework for addressing sexual offence and reinforcing the principle that such heinous crimes warrant severe penalties and prompt judicial action.

- Critiques & Implementation Challenges

A sense of satisfaction was emerged among the fellow citizens when the offenders of one of the most disturbing rape cases that India and the world could get were hanged to death by the Hon. Supreme Court of India after 8 years of tough and extensive trial. However, several questions arise among the citizens which are no wrong. One of the entities criticized here is the Indian Judiciary and its hold on the legal system while delivering justice. Its fare from the peoples ends as they have rage and hatred filled inside as the country has been witnessing such disturbing crimes since ages and there's no stop to it. The Judiciary system has been at its finest to punish the offenders and make sure every victim gets justice and accused gets punishment. Similarly, 'Nirbhaya Fund' announced by the Union Government in its 2013 budget in the aftermath of the 2012 Delhi gang rape carries a contribution of 1000 crores for the empowerment of women, safety and scrutiny of women. However, a pile of criticisms and questions have piled up as there is no proper allocation of funds and affective implementations on different projects. The 60% of the Nirbhaya Fund is used by 7 States, while its needs to be implemented well in other states too and not disregard any. While implementing new provisions the judiciary takes note of the impact and its role to make sure that no other entity is disturbed through it or it is not in favor of a particular section.

- Social Stigmatization & Reporting Barriers

The 2012 Delhi Gang Rape Case emerged a wave of disgust and horror among the entire nation questioning women's safety throughout the country especially in the National Capital. Rape of a woman is deathless shame and must be dealt with as gravest against Human dignity. The audacity of the perpetrators here is questionable. It is alleged that hold of women in every sector are weak, that is because of the smudged mindset of Few. At this very instance one of the culprits Mukesh Singh while interviewing with BBC Vocalized, "A dissent girl wont roam around at 9 o' clock at night. A girl is far more responsible for rape than a boy." Education is the most crucial investment in human development and is an instrument for developing a prosperous society. Such vicious acts are very difficult to put in words. Time and again, new and stricter laws have been introduced and existing ones have been amended to tackle offences against women but a few incidents, to give an instance; 2013 Kamduni gang rape a murder case 2024 Kolkata rape and murder, happening after the 2012 Nirbhaya Case gets us to a conclusion that rape is such kind of offence which cannot be remedied by punishing the offenders only but needs a change in the mind of the whole society.

Conclusion

The Nirbhaya case not only reaffirmed the judiciary's stance on violent crimes against women but also emerged an initiative on Capital Punishment. Such a case has a tough trail to go through and questions the morality of capital punishments within the context of Indian Law. Throughout the trail and dozens of appeals the Hon'ble Supreme Court was firm on its decision that such a heinous crime needs to be punished heavily and that there's no place for mercy.

The Supreme Court rejected the convicts' appeal saying they had committed "a barbaric crime" that had "shaken society's conscience", the court upheld the death sentence of the four who had been charged in the murder, mercy petitions were rejected too. The States obligations were highlighted to protect its vulnerability. The 22-year-old physiotherapy graduate fought her 6 perpetrators bravely in a moving bus in Delhi. She fought till her last breath that is 29th November 2012 and will be forever remembered for her bravely and sacrifice to the society. Nirbhaya, meaning (fearless) is the perfect name designated to Jyoti as her acts were truly fear-free and full of hope. Plenty of rape, sexual violence survivors encounter various hurdles while seeking justice, including victim blaming and lack of support. Law enforcement agencies too, turn to be unrushed at such moments due to media coverage and public outrage. Long lasting court trials and backlash from the society discourages the victim from coming forward and stay strong. As we get to end of our article, we put forward a question, What measure can be implemented to better support the victims of the wrong doings of sexual offences and enhance their access to justice in the aftermath of cases like Nirbhaya's?