

Assessment Of People's Perceptions On Death Penalty For Rape – An Empirical Analysis

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Abstract

Rape and murder convictions were given the death penalty in at least seven Indian trial courts in March 2021 (Azamgarh; Bulandshahr; Jaunpur; Jhunjhu; Nanded; Paravur; US Nagar). "The most violent and horrible deeds, which are beyond description, are the rarest of the rare situations" was the overall reason for all penalties. India's courts have used this option under a variety of statutes including those connected to homicide, terror, kidnapping with a motive to commit homicide or arson, narcotics offences, and even homicide in the context of rape, according to available statistics. According to Death Penalty India (2019), an annual report by the National Law University (NLU), New Delhi, there were over 40% of those sentenced to death in 2018 and 52.9 percent of those in 2019 who were guilty of sexual offences and murder.

Keywords: Death Penalty for Rape, Death Penalty in India, Rape, Nirbhaya Rape case, Legal Safeguards, Anti-rape Laws.

Introduction

In the available scientific literature, the definitions of "safety" and "security," vary largely depending on the context and topic of study and have been extensively debated. Safety is the capacity to reduce risk or avert harm brought on by an unanticipated accident in various aspects of life and living. The status of being protected from the effects of criminal activity is how the word "security" is frequently defined. Trips and falls, collisions, and assaults are some of the more typical accidents. However, it's not only about preventing injury or criminality; even simple rude behaviors like bumping, pushing, and yelling may escalate into something worse (Ceccato and Newton, 2015)¹. These two ideas pose a risk to a person's physical, emotional, and financial well-being as well as their own property.

Another issue is that people's feelings of safety and security do not always match their real level of security (Coppola, and Silvestri, 2020)². Socioeconomic level, personal beliefs, travel habits, prior victimization experiences, as well as the use of protective gear and preventative measures in the built environment, all have an impact on how safe and secure travelers perceive their surroundings to be.

Methodology

For this study, a mixed method approach was employed to comprehend and gather data from respondents in the Tricity region, which consists of Chandigarh (U.T.), Panchkula (Haryana), and SAS Nagar or Mohali (Punjab). The sample was chosen with purpose and was drawn at random from the general population and two streams of Law students (graduate and postgraduate levels). It is anticipated that both the general public and legal studies students would express their opinions on how they regard women's safety in relation to their existing social status.

The traditional empirical methods of interview, schedule-based questionnaire questions, and focus group discussion were used to gather the data. Qualitative answers from the populace have been added to the quantitative data.

The Focus Group Discussions (FGDs) were held with 6-8 persons in each group. There was selective segregation of the groups as follows:

- (i) Students of Legal Studies – 4 groups (1 of males, 1 of females and 2 mixed groups) = Total 20 participants
- (ii) Middle aged housewives comprised – 1 group of 5 participants

¹ Ceccato and Newton, (2015) Theoretical Perspectives of Safety and Security in Transit Environments, Palgrave Macmillan UK

² Coppola, and Silvestri, (2020) Assessing travelers' safety and security perception in railway stations. Case Studies on Transport Policy 8(4):1127-1136

- (iii) Working Women formed 2 groups of 10 participants each
- (iv) Retirees- 2 groups of 10 participants each
- (v) Government employees- 6 participants total

Total number of participants in the FGDs were = 51

Table 1: Number of Data Units

Sr. No.		
1	In depth interviews	15 (Students of Legal Studies)
2	Key person interviews	15 (Faculty)
3	Focus Group Discussion (FGD)	51
4	Google questionnaire	45
5	Total Data units	122

Source: Compiled by Researcher

The data collection and secondary sources have been taken up for conducting detailed research towards a book while some of the preliminary data findings are being used in this paper.

The Study Area

The region was a part of the sizable and rich Punjab Province from the Middle Ages to the Modern Era. East and West Punjab were created as a result of the country's division in 1947. In addition to serving as the capital of East Punjab, the city was designed to house thousands of refugees who had been evacuated from West Punjab.

The land at the foot of the Shivaliks was chosen as the location for the new capital by the Punjab government in March 1948 after consulting with the Indian government. According to District Ambala's 1892–1893 gazetteer³, the city site's location was a part of the formerly Ambala district. 1952 saw the laying of the city's cornerstone. After the State was divided into Punjab, Haryana, and Himachal Pardesh on November 1, 1966, the city was designated as a Union Territory and came directly under the Central Government's administration. As a result, it gained the distinction of serving as the capital city of both Punjab and Haryana.

Chandigarh (Union Territory)

Le Corbusier believed that there were five distinct parts to a human body: the head, the heart, the lungs, the intellect, the circulatory system (the road network), and the viscera (the open spaces and sector greens) (the Industrial Area). A city serves four primary functions: housing, employment, self-care, and movement within the city. Capitol Complex (containing Post Graduate Institute, Punjab Engineering College, and Panjab University) and City Center make up a significant portion of the city's working area (including the Industrial Area). Employees can take advantage of a wide range of physical and mental health services in the Leisure Valley. Backbone of the system is the 7Vs, which are the many types of roadways that make up the system. V8 (the cycling path) was later added to this network of roadways.

The "Secretariat," the "High Court," and the "Legislative Assembly" are three architectural wonders in the Capital complex, separated by vast piazzas. The Open Hand, the official symbol of Chandigarh⁴, stands in the middle of the Capital Complex, illustrating the city's motto of "open to give, open to receive."

Panchkula City

The city of Panchkula in Haryana's Panchkula⁵ district is a masterfully constructed township. It is a part of the Panchkula-Chandigarh-Mohali tri-city area. Systematic layout, spacious roadways covered with trees and structures that match the city's modern perspective are some of the city's features. Panchkula district has the state's heaviest forest cover. The district includes Pinjore, Kalka, Barwala, Morni, and Ranipur Rani in addition to Panchkula. Panchkula is located approximately 10 kilometres from Chandigarh, making it a vital part of the Tricity's infrastructure. It lies on the Ambala-Shimla National Highway No. 22, which connects the two cities. It is also possible to get to Panchkula through the National Highway 73 and the National Highway 21.

Sahibzada Ajit Singh Nagar (Mohali)

India's Punjab province is home to the city of Sahibzada Ajit Singh Nagar, which is located just north of Chandigarh. Sahibzada Ajit Singh, Guru Gobind Singh's eldest son, was the inspiration for the official name of the neighbourhood,

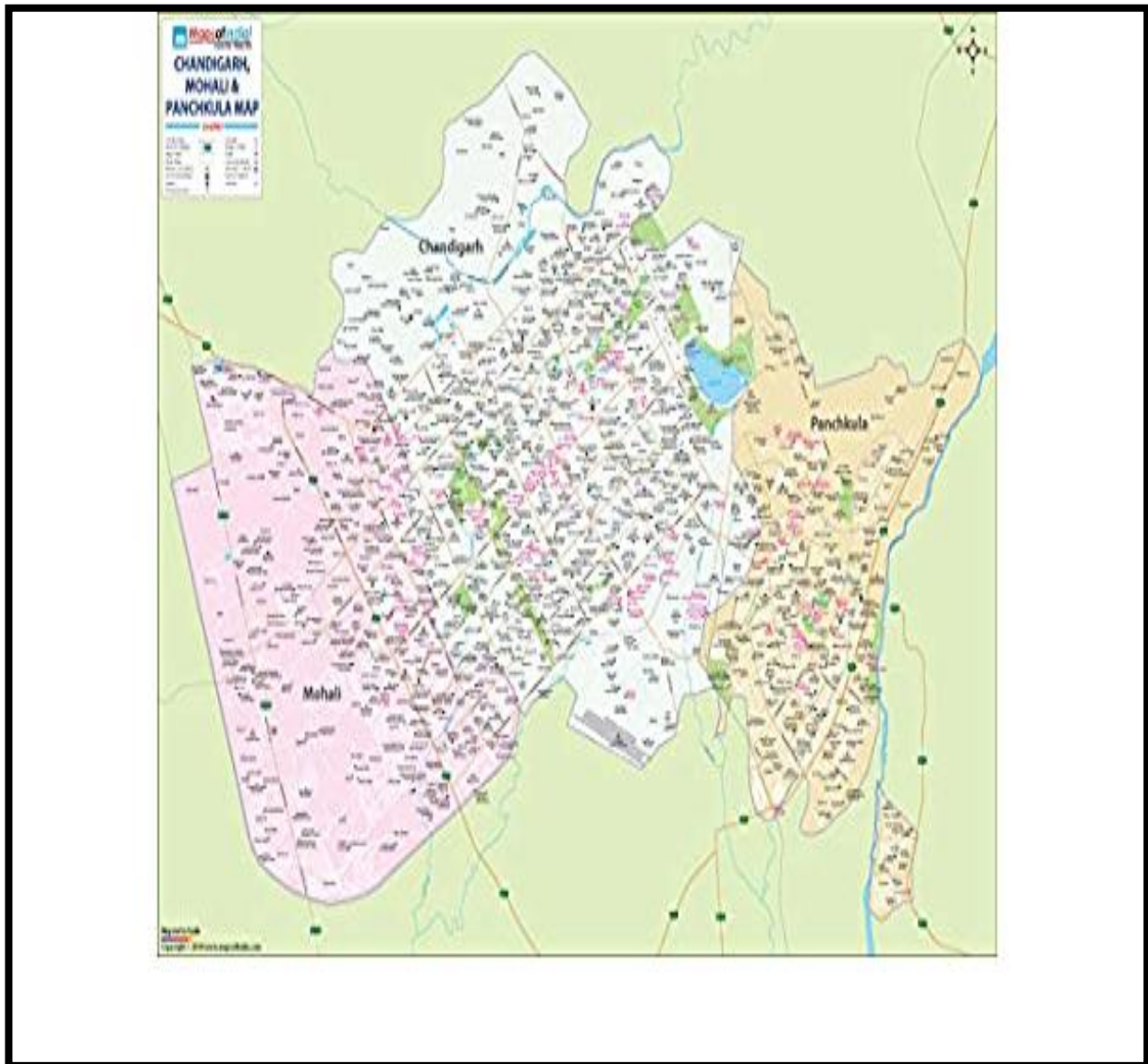
³ <https://revenueharyana.gov.in/document-category/ambala-district-gazetteer-1892/>

⁴ https://factsanddetails.com/india/Places/sub7_11e/entry-6946.html

⁵ <https://haryanatourism.gov.in/Panchkula-at-a-glance>

which is referred to as "SAS Nagar" by locals. All three are part of the Tricity of the Chandigarh Tricity. In the past, Mohali (now SAS Nagar)⁶ was a part of the Rupnagar District, has recently become its own district. Tri-city region (Chandigarh, Panchkula, and Sahibzada Ajit Singh Nagar or Mohali) is, therefore, a connected area. While Chandigarh was the first planned city in India and the capital of Haryana and Punjab states, the satellite townships of Panchkula and Sahibzada Ajit Singh Nagar were established (Mohali) gradually. Despite being known as Tricity, the three are all in various stages of development. Tri-city has a well-defined structure and is physically connected. There aren't many changes between the terrain and relief features; they're practically identical.

Map 1: Maps of India Chandigarh-Mohali-Panchkula City – Tricity Region



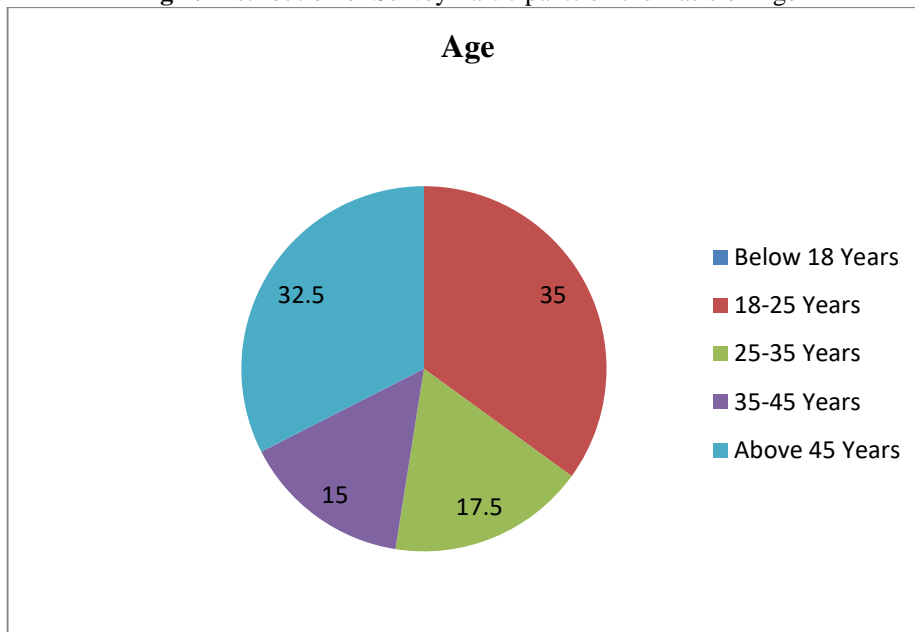
Source: <https://store.mapsofindia.com/print-on-demand/city-maps-1/india-1-2-3-4/chandigarh-mohali-panchkula-city-map-printed>

Survey Outputs

The data gathered through the use of questionnaires and interview guides was processed and presented in the form of tables and graphs.

⁶ <https://www.scribd.com/document/178143708/Punjab-1>

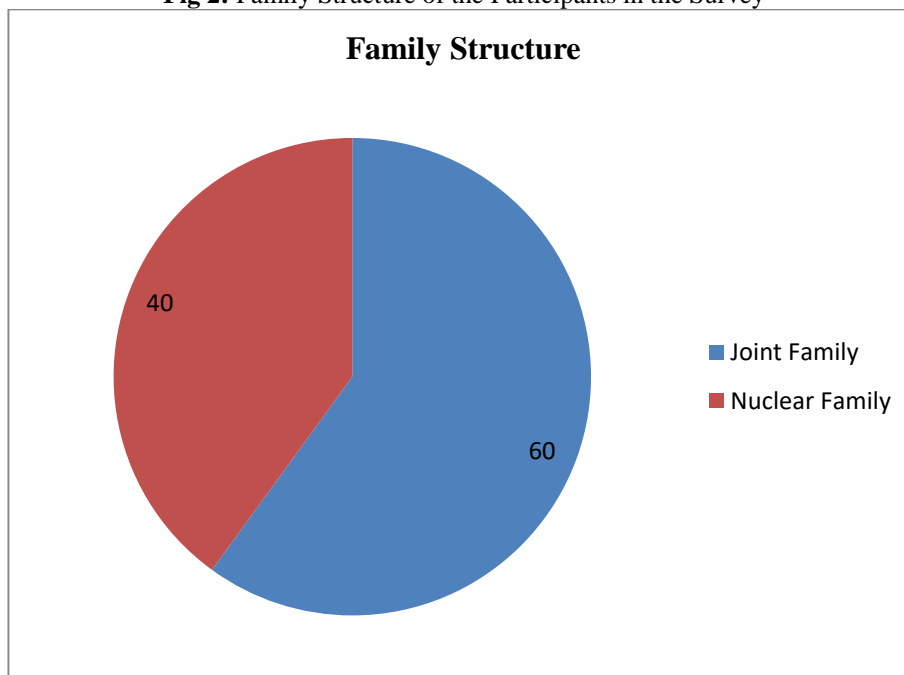
Fig 1: Distribution of Survey Participants on the Basis of Age



Source: Compiled by Researcher

The age segregation of the respondents showed that there were maximum respondents who were 18 to 25 years old (35 percent) and above 45 years old (32.5 percent). There were also only 17.5 percent who were 25 to 35 years old and 15 percent who were 35 to 45 years old. *Therefore a sizable composition of the respondents belonged to the age category of youth. They were concerned about a very real aspect of their lives - the safety of women after the Nirbhaya case.* The age representation is an example of the robust demographic dividend that India is currently experiencing.

Fig 2: Family Structure of the Participants in the Survey

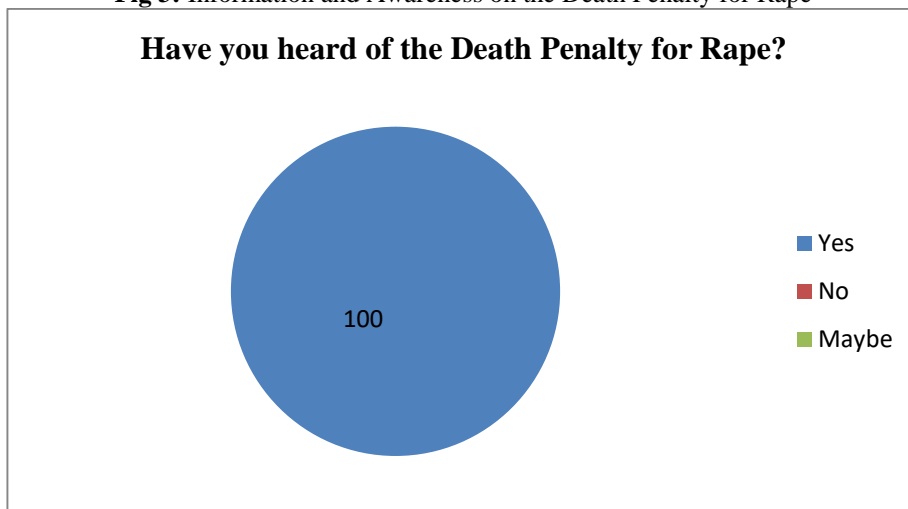


Source: Compiled by Researcher

When queried about their family structure there were 40 percent who said they belonged to a joint family set up and 60 percent reportedly belonged to the nuclear family set up.

Level of Awareness and Information on Death Penalty for Rape

Fig 3: Information and Awareness on the Death Penalty for Rape

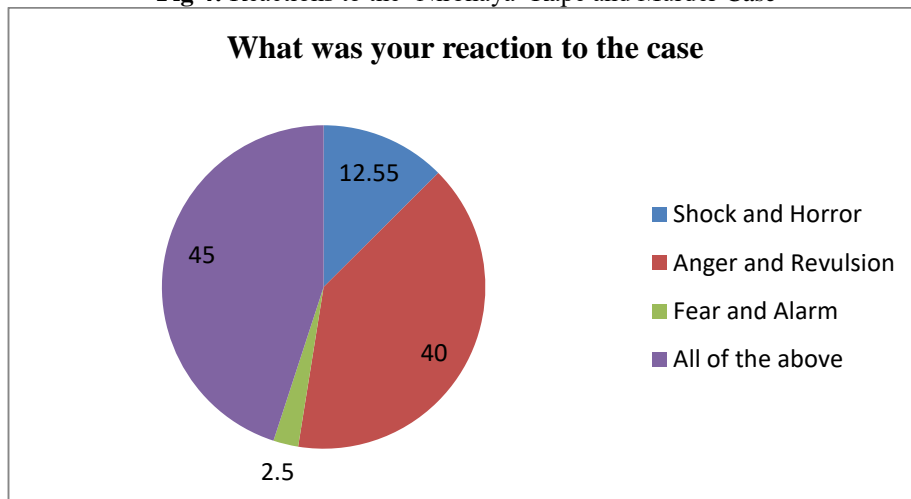


Source: Compiled by Researcher

The participants in the survey were asked whether or not they had heard about the 'Death Penalty for rape'. There were 100 percent of the respondents who had heard of the 'Nirbhaya' case. In fact, there were a number of shocked and concerned respondents who were categorically amazed that such a question should even be asked.

Thus, all the respondents had heard of the death penalty. They were also aware that the death penalty was being awarded for the heinous offence of rape.

Fig 4: Reactions to the 'Nirbhaya' Rape and Murder Case



Source: Compiled by Researcher

When asked to give their reaction of the 'Nirbhaya case', there were 45 percent of the respondents who gave vent to their mixed feelings of shock and horror, anger and revulsion, fear and alarm and all of them together. There were 40 percent who felt anger and revulsion while 12.5 percent felt shock and horror. There were a small proportion who felt fear and alarm.

Thus, overall respondents expressed total shock at the revelation of the case. The case proceedings dragged on for so long that justice was delayed while the perpetrators lives took such twists and turns that there was a feeling of enough not having been done to assuage the deep injury done to the status of women in the country. The Nirbhaya case seemed to have shaken and awakened the judiciary.

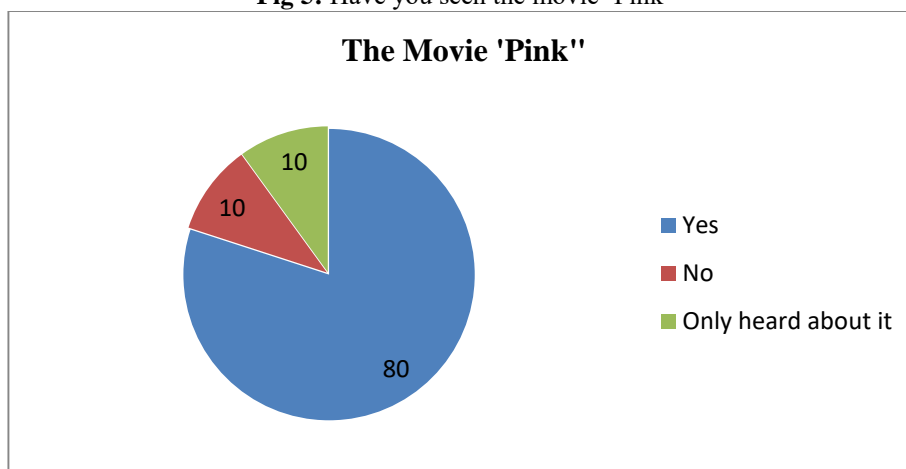
The researcher went on to ask if the respondents were aware of the legal safeguards against rape. The responses were enlightening, while there were 67.5 percent of the survey participants who were reporting that they were aware of the

legal safeguards for women, there were a significant 22.5 percent negatives and 10 percent who were unsure and said that they were probably aware of the legal safeguards but could not say with surety.

Apparently the sensationalism of the media can tend to create a hyped up atmosphere among the lay public. It was thought prudent to ask if the interest in rape cases had been maintained post the 'Nirbhaya' case in 2012⁷. There was a remarkable decline observed as the awareness of rape cases after the 'Nirbhaya' Case in 2012 plummeted from 100 percent to 92.5 percent. Significantly enough there were several respondents who were either unaware or did not want to be aware of rape cases after the 'Nirbhaya' Case. The reasons for this insensitivity were queried during the FGDs and several qualitative responses were recorded.

When asked about the awareness levels on the legal safeguards for rape victims the responses showed that the maximum proportion or 70 percent of the survey participants said that they were aware of most of them while 12.5 percent said that they are aware of a few of the legal safeguards and that too for only a few recent ones. There were 17.5 percent who were not at all aware of the legal safeguards for rape.

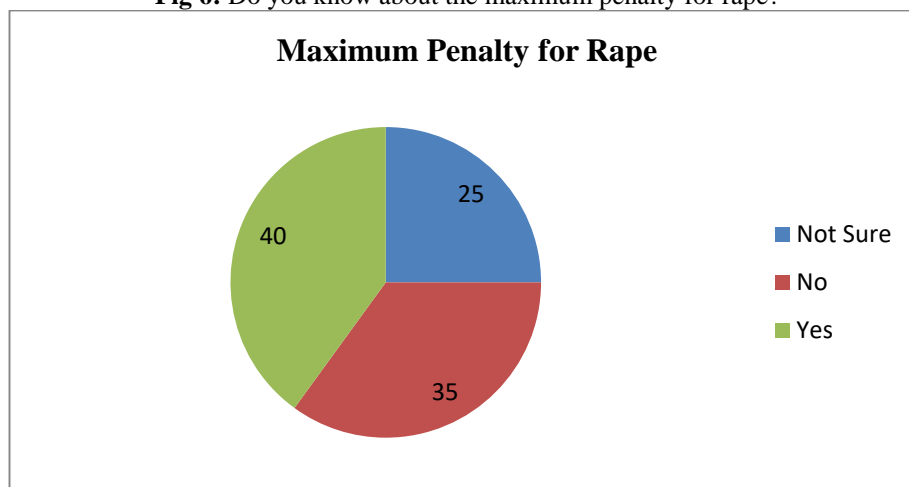
Fig 5: Have you seen the movie 'Pink'



Source: Compiled by Researcher

The respondents were asked if they had seen the movie 'Pink' as it made a significant contribution towards understanding the finer points of rape and rights of women as also the legislative safeguards mandated for them. There were 80 percent who reported in the affirmative and 10 percent in the negative. There were also another 10 percent who said that they had heard of the movie 'Pink' and knew its content but had not seen it.

Fig 6: Do you know about the maximum penalty for rape?

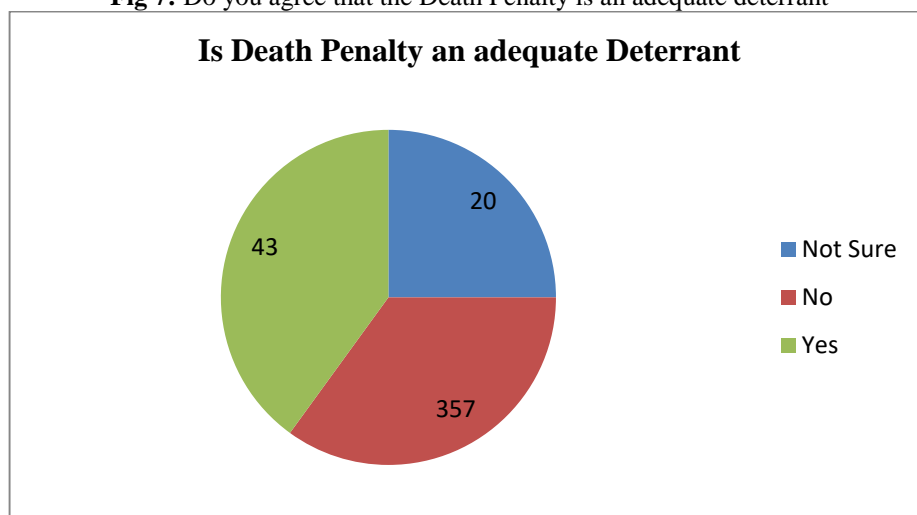


Source: Compiled by Researcher

⁷ Lapsia, Tina P., "Impact of the "Nirbhaya" Rape Case: Isolated Phenomenon or Social Change?" (2015). Honors Scholar Theses. 453. https://opencommons.uconn.edu/srhonors_theses/453

The participants in the survey were asked if they knew about the maximum penalty for rape. The responses showed that 40 percent said that they really knew about the maximum penalty for rape. There were 25 percent who were unsure whether what they thought was really the maximum penalty. There were also 35 percent who totally refused saying that they did not know at all about the maximum penalty for rape.

Fig 7: Do you agree that the Death Penalty is an adequate deterrant



Source: Compiled by Researcher

While there were 43 percent respondents who agreed that the death penalty is a deterrant, 37 percent did not agree that Death Penalty was an adequate deterrant. There were 20 percent who were not too sure.

Thus, the people were almost equally divided on Death Penalty being an adequate deterrant.

Critical Analysis

The survey participants were further asked if they agreed with the death penalty being stipulated for rape. There were 37.1 percent of the respondents who reported that they agreed with the stipulated maximum penalty. There were another 37.1 percent who said that they were not interested in responding 25.7 percent said that they were not neutral and were not satisfied with the given maximum penalty.

The respondents in the survey were asked for comments about whether they thought that the legal system should be changed to favour women. There were 75 percent of the responses in the affirmative as these respondents felt that the current legal system should be changed to be more supportive of life imprisonment. There were, however a significant 25 percent of the respondents who replied in the negative saying that the legal safeguards were probably adequate and there was no need to change them for further favouring life imprisonment.

The participants in the survey were also asked if they felt that juveniles involved in rape cases should be handled strictly and not be let off with a mere three years term in the reform home, there were 72.5 percent who agreed. They felt a more stringent punishment like the death penalty should be meted out to the juveniles for perpetuating a heinous crime like rape. There were 27.5 percent of the respondents who felt that the law should remain as such. They did not want to change the current proviso that juveniles be sent to the reform home for a few years rather than being punished more severely.

The participants in the survey were asked about what they thought the punishment for rape must be. There were 36 percent who emphasized that nothing less than the death penalty should be given to these rapists while 25 percent felt that life imprisonment right upto death and even solitary confinement for rapists was essential. There were 14 percent who felt solitary confinement till confinement death should be the punishment. There were 13 percent who felt rigorous imprisonment with labour intensive daily routine should be meted out to rapists and a significant 12 percent reported that rigorous imprisonment was essential.

Conclusion

Thus, seeing the perceptions of the people, especially the young about the present laws of the land it is essential to understand that there is not only rancor and ire at play in the decision making on death penalty as a deterrent to rape. There have been nationwide protest demonstration of the deep seated hurt and a popular movement to take the law literally in their own hands for sending out the message that the judiciary can no longer remain on a lofty pedestal without taking into consideration the thought processes of the common man on the subject of perpetuation of heinous crimes like rape. There is a great need to review and fine tune penalty for rape as based on the perceptions of the citizens of India themselves.

References

1. Anup Surendranath et. al, (2020). The Enduring Gaps and Errors in Capital Sentencing in India, 32(1) NAT'L L. Sch. INDIA REV. 45
2. Apel, Robert, (2013) 'Sanctions, Perceptions, and Crime: Implications for Criminal Deterrence', *Journal of Quantitative Criminology*, vol. 29, no. 1, pp. 67–101
3. Bowers, W. J. and Pierce, G. L. (1980) 'Deterrence or Brutalization: What Is the Effect of Executions?', *Crime & Delinquency*, 26(4), pp. 453–484
4. Espy, M. Watt, (1980), 'Capital Punishment and Deterrence', *Crime & Delinquency*, 26.4, pp. 537-544
5. Frost, Brian, (1983) 'Capital Punishment and Deterrence: Conflicting Evidence?', *The Journal of Criminal Law and Criminology*, Vol. 74, No.3, pp. 927 -942
6. Hood, R., Hoyle, C. (2009) 'Abolishing the Death Penalty Worldwide: The Impact of a 'New Dynamic'', *Crime and Justice*, Vol. 38, no. 1, 2009, pp. 1–63
7. Jill Cottrell, (1991) *Wrestling with the Death Penalty in India*, 7 S. AFR. J. oN HUM. Rts. 185
8. Kabir, D. L. (2017). *Lectures on the Penal Code with Leading Cases*. Dhaka: Ain Prokashan.
9. Malkani, B. (2013) 'The Obligation to Refrain from Assisting the Use of the Death Penalty', *International & Comparative Law Quarterly*, 62(3), pp. 432-457
10. Sinha S.B. (2012), *To Kill or Not to Kill: The Unending Conundrum*, 24 NAT'L L. Sch. INDIA REV. 1.
11. Schuessler, Karl F. (1952) 'The Deterrent Influence of the Death Penalty.' *The Annals of the American Academy of Political and Social Science*, vol. 284, pp. 54–62 Sutherland, *Murder and the death penalty*.
12. William C. Bailey (1975) *Murder and the Death Penalty*, 65 J. Crim. L. & Criminology 416