

CRITICAL ANALYSIS OF RAPE

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RESEARCH PROMBLEM.

Root Cause Analysis is a method for determining the fundamental causes of a problem's existence. Furthermore, it discusses what and how the problem arose, as well as the technique's efforts to understand why the problem arose and to make advice for preventing its recurrence. "A organized inquiry that tries to determine the true cause of an issue and the steps necessary to eliminate it," according to the definition. This method of analysis is diverse and generally involves a set of processes that can be identified. The root cause analysis on the topic of rape in India is carried out in this study using a five-step procedure. The first phase entails explaining the nature and symptoms of the problem under study. After that, the researcher must carefully assess the circumstance before looking for the source of the problem. The proof for the problem is established in the second phase. The third phase entails examining the circumstances that allow the problem to arise. It also looks for alternative sources of difficulties that contribute to the current issue. To delve deeper into the problem, the fourth phase entails discovering the underlying causes, or the true reason behind the problem. Finally, recommendations based on the root reasons are offered in the fifth stage. For instance, how might such occurrences be avoided in the future? Who will be in charge of putting the solutions into action? How can the solutions be put into action?

RESEACH QUESTION.

1. The root cause for analysis of rape and examining the circumstances that allow the problem to arise?

RESEARCH OBJECTIVE.

1. To determine the root cause for analysis of rape and providing recommendation to curtail the problem.

RESEARCH METHODOLOGY.

Since the objective of the study is made reference to case laws, statue Criminal amendment act is the consent matters relating to rape under Sec.375 of IPC. The data is already published/ available in public domain hence the study is doctrinal research. The primary and secondary sources is aiding in the collection of information of data. The data involves making use of Journals, articles, Law Commission Report and Criminal law amendment act such as POSCO. The Context writing use of empirical data mixed approach since it includes Qualitative and Quantitative analysis and empirical data.

Step 1- Defining Rape.

The word rape comes from a Latino verb that means 'to seize.' Rape is defined as "sexual assault, usually involving sexual intercourse, perpetrated by one or more people against another person without their consent." In India, rape is defined as "intentional, unlawful sexual intercourse with a woman without her consent" under Section 375 of the Indian Penal Code. This definition is overly limited, and it has been criticized on occasion for failing to include other types of sexual assaults.

Step 2: Magnitude of the problem in India

The phenomenon of rape in India also has a sociocultural dimension. Rape not only causes bodily injury to the victim, but it also disgraces and tarnishes the victim's soul, having a terrible effect on the victim. Rape has been categorized into numerous categories based on a number of conditions, including acquaintance rape, stranger rape, gang rape, statutory rape, and spousal rape, to name a few. A link or association exists between the victim and the perpetrator(s) in acquaintance rape. Stranger rape occurs when the victim is unfamiliar with the perpetrator; gang rape, on the other hand, is frequently the most violent and demeaning, as it involves a group of perpetrators raping the victim; Having sexual intercourse with a minor under the age of 18 (below the age of legal consent) is referred to as statutory rape; forcing sexual intercourse with a spouse is referred to as spousal rape. According the National Crime Records Bureau (NCRB), India saw 24,206 deaths in 2015. In 2011, there were rape incidents that were registered. Between 2007 and 2011, the number of rape incidents reported increased by 9.2 percent. After the United States and South Africa, India ranks third in the world for rape incidences. As "a woman is raped every twenty minutes in India," the situation is terrible and requires root because study reveals that the rate of rapes has risen dramatically in recent years. It has been 40 years. A further examination finds an

alarming rise in the number of cases of from 2007 to 2008, there were rapes in India. However, in 2009, there was a slight drop by a steady climb; with a 9.2 percent gain from 2010 to 2011 presents a depiction of rape incidences by region. Rape is most common in the north, followed by the central, eastern, and southern regions. The West has recorded the fewest incidences, followed by the North East of India.

Step 3: Identifying the possible causal

It's paradoxical that crimes against women are on the rise in India, a country where many female gods are revered. The questions are: 'How does a rape happen?' and 'Why does a rape happen?' 'What motivates someone to rape?' 'What factors contribute to it?' is a difficult question to answer. Nonetheless, diving into these issues is necessary in order to devise a strategy for preventing crimes. To explore the possible causal elements contributing to the problem, this section of the study investigates both macro and micro level factors, such as societal structure, social beliefs, legislation, and the like, as well as motivation and psychology of the assailant.

Patriarchal Society: Patriarchy is a system and ideology in which the father is considered the family's head and rules as a result of this position. "A system of social structures and practised in which men dominate, oppress, and exploit women," according to the definition. Women's lives are the most difficult in such communities since men are predisposed to regard them as personal property. The patriarchal ideals that define the Indian mind-set are likely a major contributing reason to the high instances of crime against women, which manifest as female feticide, dowry deaths, sexual harassment, and even rape.

Sex as Taboo: It is a paradox that sex is deemed taboo in the world's second most populous country, which generated Kama Sutra (book on sex) for the globe. This inconsistency was exacerbated by the historical setting. In ancient times, sex was not regarded a stigma, but "Victorian values condemned sexual liberalism in India." Since then, conservatism has become ingrained in Indian culture, and sex has become a taboo subject. Indirectly, the fundamental shifts in Indian thought resulted in a large increase in the number of rapes. b)
Cultural Factors

Power Distance: The degree to which members of a social system tolerate social disparity is represented by the power distance dimension. India receives a score of 77, indicating that

the country accepts hierarchy and a top-down social system. In India, gender inequality is a cause of power disparity, with women often wielding far less power than their male counterparts. This could be one of the reasons for males' easy sexual exploitation of girls and the high rate of rape in the country.

Masculinity: The masculinity vs femininity component is concerned with the various roles that men and women play in society. Masculinity cultures with low scores allow for gender equality. India receives a 56 on this scale and is classified as a masculine society. Because of its patriarchal culture, the roles of the two genders are markedly different. "Men control women's sexuality, and their feeling of honour is contingent on this control being socially regarded as acceptable" In India, such a scenario could lead to crimes such as rape.

Legislation: Despite the fact that India has a number of laws to prevent rape, the number of rape incidents has increased. The following is an example of a legal loophole used by the criminals. "Sexual intercourse with a woman and the absence of permission" are the key ingredients of rape law, according to section 375 of the Indian Penal Code. As a result, acts of forced oral sex, sodomy, or penetration by foreign objects are not covered by this definition; instead, they are punishable under Section 354 of the IPC, which deals with "criminal assault on a woman with intent to violate her modesty." The methods for gathering evidence in rape cases are far from conventional. India has been chastised by Human Rights Watch for continuing to employ "one of the most antiquated forensic methods." The procedures and methods in India are characterized by challenges in getting the complaint recorded, proving the rape actually occurred, the impact of a low conviction rate, an embarrassing inquiry, and the stigma associated with the victim. Criminals take advantage of these circumstances, resulting in rape cases in India.

Migration: There has been a significant increase in the country's urban population. In 1901, there were 25 million people living in urban areas. Today, there are 290 million people living in urban areas. A major reason driving rural-urban migration is a lack of opportunity in rural areas. According to World Urbanization Prospects, this figure will rise to 497 million by 2030. As a result of migration, social constraints have loosened and the socioeconomic divide between the rich and the underprivileged has widened. Security and violence have never been considered central considerations in urban planning. This is one of the primary causes of

rising crime rates in society. Separation from family, a lack of identity, and the potential anonymity of migrants could all be factors in the rising occurrence of rape.

Motivational Reasons: The urge to dominate/overpower the victim; to demonstrate one's manhood; to exact revenge on a woman; to damage the image of the woman or her family members; to compensate one's underlying feelings of inadequacy, and so on are some of the motivations for committing this crime. "Rape can also be perpetrated in an intentional, premeditated, and coercive manner out of sadism or a need for power and control.

Step 4: Identifying the root causes

The gang rape suspect's anatomy With the goal of conducting an in-depth investigation into the motives for a crime committed by the accused, it is necessary to establish a brief demographic profile.

Assailant 1: He was a 35-year-old widower from a neighbouring state who had been living in a slum in south Delhi as the main accused in the crime. He drove a school bus for two schools in Delhi and Noida and had access to the bus used in the crime. At the time of the occurrence, he was inebriated and engaged in aggressive behaviour, inciting the crime. Close circuit television (CCTV) footage from the bus was used to track him down.

Assailant 2: He was in his early thirties and was Assaulter 1's brother. He worked as a bus cleaner with his brother and occasionally drove the bus. He was charged with rapping the woman and assaulting her and a friend with an iron rod. When the incident occurred, he was driving the bus.

Assailant 3: a 19-year-old fruit vendor. He was accused of attacking a friend of the victim. He also assisted in the couple's exit from the vehicle.

Assailant 4: A 20-year-old married guy and father of two children who worked as a bus helper and lived in a community in a neighbouring state. After the incident, he was accused of sexually abusing the victim and deleting evidence.

Rational Choice Theory (RCT)

The Rational Choice Explanation is another theory that helps explain the offenders' actions in the incident (RCT). RCT originated in the field of economics, but it has since been used to a wide range of fields. The theory looks at how incentives and restrictions influence behaviour. Beccaria applied this theory to the field of criminology, claiming that criminals consciously analyse the potential dangers vs the rewards before deciding whether or not to commit a crime. The accused must have evaluated the risk involved in the recreational activity and concluded that it was not only minimal risk but also that they could get away with it. This is because the conviction rate for rape in India is extremely low, owing to low case reporting and the societal shame associated with the crime, which prevents victims from filing a complaint. The frequent leniency with which such cases are dealt with, as well as the consistently moderate sentences of punishment, would have likely encouraged the perpetrators' willingness to commit the crime.

Social Disorganization Theory

Social Disorganization Theory (SDT), which provides yet another lens through which to examine this case. "Crime and deviance reflect conditions that disturb the integrity of local communities and impair the regulatory authority of social norms," according to the theory. Some of the motivations for criminal activity include migration, separation from family, and marital troubles. Three of the accused were natives of neighbouring states who had migrated to New Delhi for work, according to their profile. It also demonstrates that all but one of them were working away from their spouse. Due to a lack of family life, security, and secrecy, societal control loosened, pushing the accused to commit such a horrific deed.

Strain Theory

General strain theory has evolved into a crime-related social psychology theory. advocated that strain theory be utilized to better understand how people cope with bad emotions by engaging in criminal behaviour. This hypothesis proposes that when people are unable to achieve their goals through legal methods, they turn to illegal means, such as crime. The defendants in this case come from low socioeconomic backgrounds and work jobs that barely cover their two square meals a day. To satisfy their wants, they engaged in a variety of unethical behaviour. They boarded the bus without permission and robbed a passenger of INR 8000 who was induced to board on the way. They would have most certainly spent that

money on whiskey to have a good time on the pleasure ride. It's probable that they committed more rape crimes in order to satisfy their physical cravings and demonstrate their masculinity.

The Protesters

Indians of all ages and genders descended on streets and public spaces around the country to protest the gang rape of a 23-year-old psychotherapy student. Thousands of people gathered, chanting slogans and waving protest signs. The crowds in Delhi and the national capital region were unprecedented, blocking major roadways and making police control nearly difficult. Nothing could stop people from taking part in protests, marches, and rallies. The mob disregarded all attempts to keep them away from the press to demand that the guilty be sentenced to death and that a robust legislation against crime against women be enacted immediately. In addition, candle vigil marches in favour of the cause were held in many locations. Protesters urged that the victim receive prompt justice and that the country's rape laws be strengthened. Two conceptual frameworks can be used to understand crowd behaviour: social identity and compassion, as explained below.

Step 5: Recommendations

Based on the issues addressed in the research, we provide some advice in this part to help alleviate this upsetting phenomenon. We use the notion of required variety to guide us. It argues that "when the diversity of stimuli is higher than the variety of the system's internal set of responses," a "control system may not be able to respond effectively." We propose a multi dimensional method for minimizing the problem of rape in India based on this premise and keeping in mind the complicated character of the situation.

Social & Cultural:

Begin large-scale campaigns to address India's patriarchal norms and cultural bias in favour of the male sex. The causes and accelerators of India's gender imbalance should be addressed by the entire society.

Institutional:

Policing: Increase the number of people convicted of rape Ensure that complaints are filed as soon as they are received. Education and training for police officers in these circumstances regarding investigation and interrogation procedures. Encourage police officers to uphold ideals such as honour and integrity. Legal sanctions and deterrents: Rape legislation has to be updated and revitalized in accordance with worldwide norms.

- Improve the quality of the investigation, methodologies, and procedures, particularly in light of the victim's psychological suffering.
- Revise the penalties imposed on offenders.
- Improve the enforcement of existing laws by establishing watchdogs and other victim assistance networks.
- Ensure that justice is served and that punishment is carried out in a timely manner.
- Re – examine victim compensation policies.

Victim Support:

Dedicated, professionally trained caseworkers should be ready to provide both legal and psychological aid to the victim, such as personal counselling, attention, and representation services.

- Measures to protect the victim and her family from embarrassment.
- Create victim support centers and other support groups to bring consolation to victims.
- Medical personnel will receive specialized training in rape cases, as well as monthly updates.
- Medical initiatives to address the victims' and their families' immediate and long term needs.
- Medical examinations should be as sensitive as possible to the victim's emotional and physical state.

Education and Awareness building:

Introduce a sex education course in schools that is not politicized.

- At the grassroots level, involve schools and universities in launching awareness campaigns, victim assistance programmed, sensitization campaigns, workshops, and other activities.
- Hold sex education workshops for teachers and parents.

- Conduct human rights and legal rights training workshops for local women leaders and support them in continuing to organize such workshops at the grassroots.
- Invest in proper education for all professionals who deal with the incident, victim, or perpetrator and have the potential to have an impact at the elementary, secondary, or post secondary level. This can apply to:
 - Responding to allegations of sexual assault.

Methods for teaching young people about prevention.

- Training on how to keep track of a victim's history of sexual abuse and trauma, as well as how to respond to disclosures.
- Expose commonly held falsehoods about sexual violence by challenging widely held but factually erroneous views.

Environmental factors:

Community Action:

- Initiate community policing programme. •Initiate a 'beat officer' initiative, in which a police officer is assigned to a certain neighbourhood to help kick-start community policing. The beat cop can become a part of local networks and play a key role in the redevelopment of community ties and social controls.
- Start community and community leaders, as well as law enforcement, training programme.
- Create a social and physical infrastructure that will enable community action.
- Community patrols can be a useful tool, and women's active engagement can help community efforts have a greater impact.
- Establish community-based clinically trained counselling and support centers to decrease the threshold for reporting crime.
- Initiate pilot projects using the above components in chosen communities, including a wide range of stakeholders, including NGOs, local schools, youth groups, teachers, legislators, and healthcare organizations and professionals.

Role of media. Begin large-scale media campaigns centred on defining/reinterpreting masculinity in the position of a 'protective ally.'

- Reintroduce government-sponsored short films on social themes to be broadcast before commercial films in order to attract a larger audience.
- Use other high-rated network productions, such as TV soaps, to deliver social messages about gender issues that are embedded or aired separately.
- Enlist the help of celebrities to contribute their voices to anti-rape awareness efforts.
- Coverage of rape cases in the media to improve knowledge of the legal process and the penalties that perpetrators face.
- Use social media to connect with younger demographics.
- Take advantage of the mobile platform's wide reach to broadcast campaigns and promote preventative efforts.

Tukaram and others Vs. State of Maharashtra

Facts of the case:

“Ma-thura, an adivasi girl between the ages of 14 and 16, lived with his brother Gama after her parents died. Nunshi's house was where she used to work. She met Nunshi's nephew, Ashok, there, and the two began an intimate relationship before deciding to marry. On March 26, 1972, Gama filed a report with the Desai Gunj police station, stating that Mathura had been kidnapped by Ashok's relatives. At 9:00 p.m., Head Constable Baburao summoned Mathura, Gama, Ashok, and Nunshi to give their testimony. It was 10:30 p.m. when the statements were taken, so Baburao went to his residence and ordered the four of them to go as well. As Mathura, Gama, Ashok, and Nunshi were departing, Constable Ganpat invited Mathura to accompany him inside. In the restroom, he sexually attacked her by shining a torch on her private parts. Then he abducted her and raped her in the back of the police station. Tukaram, the head constable, sexually abused her by fondling her private parts but was unable to rape her due to his inebriation. On the suggestion of Dr. Khume, who initially examined her, Mathura filed a FIR against the two police constables. Dr. Kamal Shastrakar examined her on the 27th of March at 08:00 PM and discovered no bruises on her body or traces of intercourse. Though semen was found on both Mathura's and Ganpat's clothing”.

Issue:

- Whether Tukaram, the first appellant, had committed an offence under Section 354 of the Indian Penal Code, and Ganpat, the second appellant, had committed an offence under Section 376 of the same code.

High Court's Judgment:

The High Court concurred with the learned Sessions Judge's age determination, but concluded that the charges made by Mathura against Ganpat were credible due to circumstantial evidence, particularly the existence of semen stains on the girl's and Ganpat appellant's clothing. Although the learned Sessions Judge was correct in stating that there is a world of difference between sexual intercourse and rape, the High Court went on to add that there is a difference between consent and "passive acquiescence." The sexual intercourse in question was forced and amounted to rape, according to the High Court.

Supreme Court's judgment:

The type of the victim's permission had to be judged from the circumstances, and the circumstances made it evident that the assent was not "passive," according to the Supreme Court. There was no physical harm to the girl, and it was impossible to infer that she had been exposed to or was under any kind of fear or force that would warrant an inference of "passive acquiescence." In terms of the claims leveled against Tukaram, the girl's first information report contained significant allegations, which she refuted at the trial, and the acts covered by which she assigned to Ganpat instead in her deposition. Where is the assurance that the girl's word is true in connection to what she currently says about Tukaram if she may change her mind about these severe claims at will? As a result, the charge against Tukaram appellant remains unproven. Finally, the appeal is successful and accepted. The High Court's ruling is reversed, and the convictions and sentences imposed on the appellants are vacated. As a result, the appellants have been found not guilty.

Mukesh and Anrs. Vs NCT Delhi

FACTS

“On a freezing night, a twenty-three-year-old paramedical student and her companion boarded a bus at Munirka transport station to be dropped off at a certain location; one of the accused encouraged them to board an unoccupied bus with colored/tinted windows. They

were attacked by six men, one of them was a 17-year-old child. When the companion sought to apprehend Nirbhaya he was pounded and abused by the perpetrators. Nirbhaya's body was disfigured and private parts were ruptured to satisfy their perverted sexual hunger, and her body was explicitly injured and sexually abused. Her intestinal tracts were removed, and her private parts were disfigured and wrecked, and she became a victim of a gang of six's lust and merciless attack. The young lady's companion was able to survive despite being thrown outside the transport with her, and the charged appellants' attempt to run them over failed because Nirbhaya and her companion were able to avoid being squashed under the transport due to their slight movement, and the appellants left them believing they were no longer alive. They yelled for help as the garments were ripped from their bodies, and as luck would have it, a late-night patrolling vehicle, a motorcycle, arrived, and the said man, Raj Kumar, gave the shirt to her companion and proceeded to the control room, where a Bolero watch van arrived, and they brought a bed sheet and torn it in two sections, giving a piece to each so that they could cover themselves and feel civil. The victims were taken to the Safdarjung Hospital by the PCR van, where they were treated. On the 29th of December, Nirbhaya died of different organ failure, internal bleeding, and cardiac arrest in a hospital in Singapore where she had been transferred in the hopes of saving her life. Because of the horrible event, there was a lot of social shock. A lot of candlelight marches, solidarity actions, and protests took place. The shock was not limited to India; it had affected the entire world's perception of India”.

ISSUES RAISED

1. Does rape, as defined by section 375 of the IPC, cover the full offence?
2. Can the convicted be sentenced to death as a punishment for such a horrific crime?
3. Should a kid who commits the crime receive the same punishment as an adult?
4. Can public outcry impact a court's decision in a case?
5. Is it true that sexual offence against women are properly prosecuted in India?

DECISION OF THE COURT

The court determined that both mitigating and aggravating factors should be considered, with a balance struck between the two. There were mitigating considerations in this case, such as the convicts' dependent and ailing parents, their age, their behaviour in jail, their lack of criminal antecedents, and their post-crime regret, but the aggravating factors outweighed

them. The plot including gang rape and murder aboard a moving bus was savage, barbaric, and diabolic, according to the court, and the victim's companion was raped, viciously beaten, and robbed. Furthermore, after throwing them out of the bus naked on a cold winter night, they attempted to run the bus over her. The victim's internal organs were punctured and slayed open owing to repeated insertion of iron rods and hands, causing grave damage to the victim, who subsequently died as a result of her injuries, according to the evidence. The inmates also attempted to destroy evidence by cleaning the bus and burning the deceased's clothes, following which they divided the wealth among themselves, confirming the death penalty. To effectively combat sexual offence, a committee was constituted and the Criminal Law (Amendment) Act of 2013 was enacted. The court notes that the mitigating factors were insufficient to move the case out of the category of the rarest of the rare, and therefore the death sentence was upheld.

Conclusion

Despite the fact that rape is considered a horrific and illegal conduct, the number of victims and the severity of the crime has increased. This crime is on the rise in all civilizations, whether prosperous or impoverished, educated or uneducated, open or closed. The study examines the recent Delhi Gang Rape case through many theoretical lenses, highlighting the problem of rape from multiple viewpoints, including social, cultural, institutional, environmental, and individual aspects. The work contributes both theoretically and practically to a little-studied topic of rape as a kind of crime against women. A multi dimensional study of the rape case could yield numerous benefits. A greater understanding of the motivation for the rape would almost certainly lead to the adoption of preventative measures. The theoretical underpinnings presented in the case analysis would also assist law enforcement authorities in their investigations, prosecutions, and rehabilitation of the criminal. Furthermore, legislation can be enacted on more rational and non-emotional grounds. Finally, the rape victim's ability to cope with the social and psychological stress produced by rape would be aided. After a nine-month court trial, the decision in the Delhi Rape case was announced in September 2013. The four surviving perpetrators in the gang rape were given the death penalty by the court (the first accused committed himself while in police custody, and the sixth was a minor). This case was classified as the rarest of the rare by the court. Various provisions of the Indian Penal Code were also amended by the government to add the death sentence in select rape cases. Sexual harassment, voyeurism, acid attacks, and

stalking were all added in the Act, which had previously been left out. All of this was done in order to strengthen the country's rape statute and avoid future tragedies. Although there are many points of view in the realm of rape and related crimes, these studies are fragmented and require a holistic approach to delve further into the causes and repercussions of rape. The goal of this research is to not only bring together a variety of ideas, but also to make them work together.

Gang rape

When a number of persons participates in the rape of a single victim, it is known as gang rape. In many regions of the world, rape involving two or more perpetrators. However, systematic data on the scope of the problem is scarce. According to one study, offenders and victims in gang rape events were younger and more likely to be unemployed. Compared to solo rapes, gang rapes involved higher alcohol and other drug use, night attacks, and serious sexual assault results, as well as less victim resistance and fewer weapons. Another study discovered that group sexual attacks were more violent and elicited higher victim resistance than individual assaults.

Spousal rape

Spousal rape, also known as marital rape, wife rape, husband rape, partner rape, or intimate partner sexual assault (IPSA), is rape committed by one spouse against the other without the agreement of the other. Spousal rape is a type of domestic violence and sexual abuse that occurs between spouses. When comparing victims of marital/partner, date, and stranger rape, research shows that there is no substantial difference in post-psychiatric illnesses (depression, obsessive-compulsive disorder, social phobia, and sexual dysfunction). A subsequent study comparing marital rape victims to stranger rape victims revealed that both groups of victims had similar types and levels of post-trauma suffering.

Rape of children.

Child rape is a type of child sexual abuse. Child-on-youngster sexual abuse occurs when a child or adolescent is sexually abused by another child (typically older or stronger). It's also incest when it's done by a parent or other close relatives like grandparents, aunts, and uncles, and it can cause serious and long-term psychological distress. When a kid is raped by an adult who is not a relative but is a caretaker or in a position of power over the child, such as school instructors, religious authorities, sports trainers (coaches), or therapists, to name a few, the repercussions can be similar to instinctual rape.

Prison rape

In the United States, rates of prison rape have been claimed to affect between 3% and 12% of inmates. Although most prison rapes are same-sex crimes (since prisons are normally divided by sex), the perpetrator does not usually identify as homosexual. Mentally ill people are more likely to be found in jails than in psychiatric clinics, according to statistics. These people are in a high-risk category for sexual assault. Law protecting rape victim Section 375 IPC. Rape is defined as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation, or fraud, or at a time when she is intoxicated or duped, or is of unsound mental health, and in any case if she is under 18 years of age," according to Section 375 of the Indian Penal Code. Punishment under rape. Sexual assault is punishable by a maximum of one year in prison (a) Except in the conditions specified in subsection (2), anyone commits sexual assault shall be punished by imprisonment of either description for a duration of not less than seven years but not more than ten years, as well as a fine.