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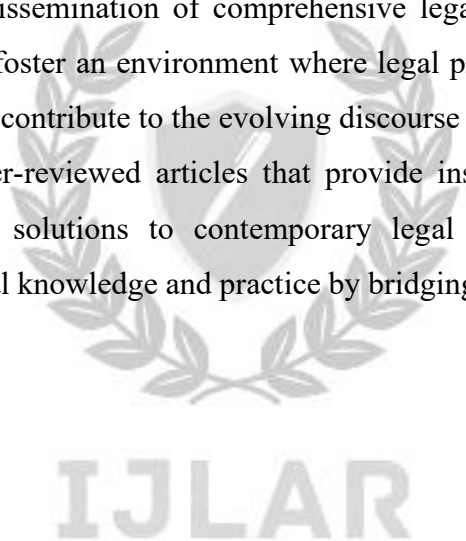
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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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UNDERSTANDING CRIMINAL INTENTION IN SEXUAL VIOLENCE: A CRIMINOLOGICAL ANALYSIS OF PERPETRATOR PSYCHOLOGY

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Abstract

Sexual violence is a major focus in criminology and law, but the psychological roots of criminal intention (mens rea) in these cases are not well studied in legal doctrine. Legal systems define mens rea as intention, knowledge or recklessness, but these terms often miss the complex ways perpetrators develop and justify their intent. This gap is clear in sexual offence trials, where courts usually have to guess intent based on actions instead of direct statements.

This study uses doctrinal and analytical methods to review laws, court decisions and key cases about mens rea in sexual offences, with a special focus on the psychology of offenders. It brings together theories like neutralization, moral disengagement and cognitive distortions to show how people justify sexually violent acts to themselves. Using well-known research, the study looks at how sexual desire can turn into criminal intent, highlighting how moral barriers like pity and honesty can break down over time and allow intentional harm.

The findings indicate that perpetrators frequently engage in sophisticated cognitive distortions and neutralization techniques to suppress empathy, externalize blame and legitimize coercive conduct, thereby sustaining intentional sexual violence while preserving internal moral coherence. However, prevailing legal doctrines inadequately account for these psychological dimensions of intent, often reducing mens rea to narrow evidentiary markers detached from cognitive reality.

Further, this research contributes to criminological jurisprudence by bridging doctrinal criminal law with psychological theories of intent formation in sexual violence cases.

Keywords: *Criminal Intention, sexual violence, perpetrator psychology, pity, probity, cognitive distortions, criminological.*

1. Introduction: Sexual Violence, Criminal Intention and The Missing Psychological Lens

Sexual violence remains one of the most devastating crimes in modern society, affecting millions of individuals worldwide. Despite its prevalence, understanding the criminal mind behind such acts continues to challenge legal scholars, criminologists and psychologists. The question of what drives someone to commit sexual violence is not just academic, it has real-world implications for prevention, prosecution and rehabilitation.

Sexual violence is more than just a physical act; it represents a complex interplay of psychological factors, cognitive distortions and criminal intent. When we read news reports about rape cases in India or elsewhere, we often see the surface-level facts- who, what, where, and when. But the critical question of “why” remains largely unexplored in public discourse.¹ This gap in understanding perpetrator psychology creates significant obstacles in both legal proceedings and preventive measures.

Recent statistics paint a troubling picture. According to research, sexual crimes are massively underreported, with estimates suggesting that only a small fraction of actual incidents appear in official crime statistics.² The “latency” or hidden nature of these crimes means that what we see reported is merely the tip of the iceberg. Studies indicate that the ratio between recorded and actually committed sexual offenses can range from 1:20 to even 1:100 in some cases.³ This massive underreporting occurs due to victim shame, fear, social stigma and a general distrust of the justice system.

Despite decades of criminological research, several critical gaps persist in our understanding of sexual violence. First, there is limited integration between legal concepts (like mens rea, the guilty mind) and psychological understanding of perpetrator behaviour. The law asks “did they intend to commit the crime?” but rarely explores the deeper psychological mechanisms that create and sustain that intention.⁴

Further, there’s insufficient dialogue between disciplines. Legal scholars study intent from a

¹ Bhavya Sharma, ‘A Criminological Perspective on Sexual Crimes in India’ (The Criminal Law Blog, National Law University Jodhpur, 27 March 2021) <https://criminallawstudiesnluj.wordpress.com/2021/03/27/a-criminological-perspective-on-sexual-crimes-in-india/> accessed 20 December 2025.

² Aldona Kipāne, ‘Criminological Characteristics of Sexual Violence’ in *SHS Web of Conferences* 51 (2018) 01010 <https://doi.org/10.1051/shsconf/20185101010> accessed 20 December 2025.

³ Aldona Kipāne, ‘Criminological Characteristics of Sexual Violence’ in *SHS Web of Conferences* 51 (2018) 01010 <https://doi.org/10.1051/shsconf/20185101010> accessed 20 December 2025.

⁴ D A Simons, ‘Chapter 3: Sex Offender Typologies’ in Sex Offender Management Assessment and Planning Initiative (SMART Office of Justice Programs) <https://smart.ojp.gov/somapi/chapter-3-sex-offender-typologies> accessed 20 December 2025.

doctrinal perspective, while psychologists examine cognitive distortions and behavioural patterns, but these conversations rarely intersect in meaningful ways. This siloed approach limits our ability to develop comprehensive interventions. Lastly, the emergence of new forms of sexual violence, particularly internet-facilitated crimes has outpaced our theoretical frameworks. Traditional typologies struggle to account for offenders who operate both online and offline.⁵

Understanding criminal intention in sexual violence is not merely an intellectual exercise. It has profound practical implications; with better understanding of perpetrator psychology can improve investigation techniques, help in accurate charging decisions and inform sentencing that balances punishment with rehabilitation possibilities.⁶ By understanding what factors contribute to the formation of criminal intent, we can develop more effective prevention programs targeting at-risk individuals before they offend.

By examining case studies from India, it's to notice how these theoretical concepts play out in real-world scenarios. Finally, ending with a discussion on why current legal frameworks, while necessary, are insufficient without incorporating psychological insights and what this means for future policy and practice.

Understanding these mechanisms doesn't excuse the behaviour, it equips us to fight it more effectively. As we'll see, sexual violence is not simply about uncontrolled sexual desire, but rather a complex psychological phenomenon involving power, control, distorted cognition and moral disengagement that we must comprehend to combat.

2. Literature Review and Legal Context

This section sets out the legal and scholarly background to the study. It first considers how mens rea is conceptualised in sexual offences, with particular reference to Indian law and then reviews the criminological and psychological literature on perpetrator psychology, including cognitive distortions, pathways to offending, deviant sexual interests and empathy deficits.

2.1 Conceptualising Mens Rea in Sexual Offences

In criminal law, mens rea- literally "guilty mind" in Latin, represents one of the most

⁵ D A Simons, 'Chapter 3: Sex Offender Typologies' in Sex Offender Management Assessment and Planning Initiative (SMART Office of Justice Programs) <https://smart.ojp.gov/somapi/chapter-3-sex-offender-typologies> accessed 20 December 2025.

⁶ D A Simons, 'Chapter 3: Sex Offender Typologies' in Sex Offender Management Assessment and Planning Initiative (SMART Office of Justice Programs) <https://smart.ojp.gov/somapi/chapter-3-sex-offender-typologies> accessed 20 December 2025.

fundamental principles: for someone to be criminally liable, they must have had a culpable mental state when committing the act.⁷ In simple terms, did the person intend to do what they did? Did they know it was wrong? Were they aware of what they were doing?

The doctrine of mens rea recognizes that not all harmful actions deserve the same punishment. Someone who accidentally bumps into another person causing injury should not be punished the same way as someone who deliberately attacks that person. Intent matters, both morally and legally.⁸

Sexual offenses present unique challenges for mens rea analysis because they involve questions of consent, perception and power dynamics that complicate the assessment of intent.⁹ Under Section 375 of the Indian Penal Code (Section 63 of the BNS)¹⁰, rape is defined as sexual intercourse with a woman against her will, without her consent, with her consent obtained by coercion or deception, or when she is unable to give meaningful consent (due to age, mental incapacity, intoxication, etc.).¹¹ The mens rea requirement here centres on whether the accused knew or had reason to believe that: The woman did not consent, the consent was obtained through force, fear, or deception, the woman was incapable of giving valid consent.

Unlike many crimes where intent is straightforward (you either intended to steal or you didn't), sexual violence involves layers of cognitive complexities¹² such as:

Knowledge of Non-Consent: The law requires that the perpetrator knew the victim did not consent. But what if the perpetrator claims they believed the victim consented? This is where the concept of "reasonable belief" comes in. Courts must determine whether a reasonable person in the same circumstances would have understood that consent was absent.¹³

Recklessness and Wilful Blindness: Sometimes perpetrators may not actively intend to rape, but they are reckless about whether consent exists. They deliberately don't ask, don't check and proceed anyway. This "wilful blindness" is increasingly recognized as sufficient mens rea because ignoring obvious signs of non-consent is itself culpable.¹⁴

The Role of Cognitive Distortions: Here's where psychology intersects with law. Many sexual offenders hold distorted beliefs about consent, women's behaviour and sexuality. They may

⁷ Sharma (n 1)

⁸ Sharma (n 1)

⁹ Sharma (n 1)

¹⁰ Bharatiya Nyaya Sanhita 2023, s 63.

¹¹ Sharma (n 1)

¹² D L Polaschek, T Ward and S M Hudson, 'Rape and Rapists: Theory and Treatment' (1997) 17 *Clinical Psychology Review* 117 <[https://doi.org/10.1016/S0272-7358\(97\)00007-5](https://doi.org/10.1016/S0272-7358(97)00007-5)> accessed 11 December 2025.

¹³ Sharma (n 1)

¹⁴ Sharma (n 1)

genuinely (though wrongly) believe that “no means yes” or that certain behaviours indicate consent.¹⁵ From a legal standpoint, the question becomes: do these cognitive distortions negate mens rea, or should the law hold people accountable for maintaining such distorted beliefs?

Some jurisdictions have moved toward strict liability or “absolute liability” for certain aspects of sexual offenses, particularly regarding age.¹⁶ For instance, sexual activity with a minor may not require proof that the accused knew the victim was underage, the mere fact of the victim’s age is sufficient. This reflects a policy decision that adults should bear the responsibility of ensuring their sexual partners are of legal age.

Traditionally, if an accused person held an honest but mistaken belief (a “mistake of fact”), this could potentially negate mens rea. In sexual offense cases, this has been particularly controversial. Can an accused claim they mistakenly believed the victim consented?¹⁷ Modern legal reforms have tried to address this by; Requiring the mistake to be “reasonable” rather than just “honest”, placing obligations on the accused to take positive steps to ascertain consent, recognizing that certain situations (like when the victim is unconscious or incapacitated) make any claim of mistaken belief unreasonable.

Different sexual offenses require different levels of mens rea,¹⁸ in this case, rape typically requires intention or knowledge that the victim does not consent. The perpetrator either intends to have non-consensual sex or knows it is non-consensual but proceeds anyway. Sexual assault may include recklessness, where the person doesn’t think about whether the victim consents and proceeds without caring. Statutory rape often operates with strict liability regarding age, though some jurisdictions require knowledge or reasonable grounds to know the victim’s age. Sexual harassment may require only that the conduct was intentional, not that the perpetrator intended to harass (though knowing the behaviour was unwelcome is often required).

One persistent challenge in sexual offense law is the gap between perpetrator intent and victim impact. A perpetrator might claim they “didn’t mean any harm” or “thought it was just flirting,” while the victim experiences trauma. The law must decide: should we focus on what the perpetrator intended, or what a reasonable person would have understood their actions to mean?¹⁹ Increasingly, legal systems are moving toward objective standards, what would a

¹⁵ D S Hayashino, S K Wurtele and K J Klebe, ‘Child-molesters: An Examination of Cognitive Factors’ (1995) 10 *Journal of Interpersonal Violence* 106 <<https://doi.org/10.1177/088626095010001007>> accessed 9 December 2025.

¹⁶ Sharma (n 1)

¹⁷ Sharma (n 1).

¹⁸ Kipane (n 2)

¹⁹ Polaschek (n 15).

reasonable person understand about consent in these circumstances? Rather than purely subjective standards based on what the particular accused person claims they thought.

In India, concepts like “honour,” family reputation and patriarchal norms influence how mens rea is understood and proved.²⁰ For instance, marital rape was not recognized for many years, reflecting an assumption that marriage implied permanent consent, victim character assassination during trials suggested that certain women could not be raped being a deeply problematic notion and cultural beliefs about female sexuality and behaviour influenced whether juries and judges believed perpetrators’ claims about mistaken belief in consent.

Recent legal reforms have tried to address these cultural biases, recognizing that a woman’s past sexual history is generally irrelevant to whether she consented on this particular occasion or that certain behaviours (like what someone wore or drinking alcohol) do not indicate consent and one being that marriage does not eliminate the requirement of consent.²¹

While mens rea is legally necessary, it’s insufficient for understanding sexual violence. The law asks “did they intend it?” but doesn’t deeply explore “why did they intend it?” or “how did they come to form that intention?”²² This is where criminology and psychology become essential- they help us understand the formation of criminal intent, not just its legal presence or absence.

2.2 Perpetrator Psychology: Desire, Intent and Cognitive Distortions

One of the most persistent and dangerous myths about sexual violence is that it stems from uncontrollable sexual desire, that perpetrators are simply men who “couldn’t help themselves.”²³ Research in perpetrator psychology tells a very different story. Sexual violence is rarely about satisfying sexual needs. Instead, it’s about power, control, anger and deeply entrenched cognitive distortions about sex, consent and gender relations.²⁴

Sexual offenders are not a monolithic group. They vary significantly in their backgrounds, motivations and psychological characteristics. However, certain patterns emerge such as:²⁵

Child Sexual Abusers often exhibit poor social skills, feelings of inadequacy, loneliness and

²⁰ Sharma (n 1).

²¹ Sharma (n 1)

²² Simons (n 5).

²³ T A Gannon, R M Collie, T Ward and J Thakker, ‘Rape: Psychopathology, Theory and Treatment’ (2008) 28 *Clinical Psychology Review* 982 <<https://doi.org/10.1016/j.cpr.2008.02.005>> accessed 9 December 2025.

²⁴ A N Groth, ‘Sexual Trauma in the Life Histories of Rapists and Child Molesters’ (1979) 4 *Victimology: An International Journal* 10 <<https://doi.org/10.XXX/...>> accessed 11 December 2025.

²⁵ Simons (n 5).

difficulty forming adult relationships.²⁶ They may view relationships with children as less threatening and more controllable than adult relationships. Research indicates they're more likely than rapists to describe their offending as uncontrollable and internal, showing deficits in information-processing skills.²⁷

Rapists, in contrast, tend to be younger, more socially competent and often have engaged in intimate relationships.²⁸ They're more likely than child molesters to have antisocial tendencies, substance abuse issues and personality disorders. Their sexual violence is often an expression of anger, hostility and a desire to dominate rather than primarily sexual gratification.²⁹ "Crossover" or "Indiscriminate" Offenders who victimize both children and adults show characteristics of both groups.³⁰ Research indicates they often have childhoods marked by both sexual exposure and violence, suggesting a complex interaction of risk factors.

Cognitive distortions are thinking errors that perpetrators use to justify or minimize their behaviour.³¹ These aren't mere excuses made after the fact; they're deeply held beliefs that shape how offenders perceive the world, interpret others' behaviour and justify their actions. Common Cognitive Distortions in child sexual abuse being³² "Children are sexual beings who enjoy sexual contact with adults", "If a child doesn't physically resist, they're consenting", "Sex with children is a form of teaching or showing affection", "I'm not hurting them, it's society's reaction that causes harm" or "My special relationship with the child is mutual and loving" etcetera.

These distortions serve multiple functions: they help the offender justify the behaviour beforehand, minimize guilt during the act and avoid taking responsibility afterward.³³ The disturbing reality is that many child sexual abusers genuinely believe their relationships with children are consensual and mutual, a profound misunderstanding of consent and power dynamics.

²⁶ W L Marshall, 'The Role of Attachments, Intimacy, and Loneliness in the Etiology and Maintenance of Sexual Offending' (1993) *Sexual and Relationship Therapy* 8, 109–121 <<https://doi.org/10.1080/14681999308412784>> accessed 11 December 2025.

²⁷ Y Garlick, W L Marshall and D Thornton, 'Intimacy Deficits and Attribution of Blame Among Sex Offenders' (1996) 1 *Legal and Criminological Psychology* 251–258 <<https://doi.org/10.1111/j.2044-8333.1996.tb00561.x>> accessed 12 December 2025.

²⁸ Gannon (n 26)

²⁹ Polaschek (n 15), 117-144.

³⁰ P Heil, S Ahlmeyer and D Simons, 'Crossover Sexual Offenses' (2003) 15 *Sexual Abuse: A Journal of Research and Treatment* 221 <<https://doi.org/10.1177/107906320301500401>> accessed 12 December 2025.

³¹ Hayashino (n 18) 10, 106-116.

³² Simons (n 5).

³³ Hayashino (n 18).

Here, Common Cognitive Distortions in rape being³⁴- “Women say ‘no’ but mean ‘yes’”, “She was asking for it by how she dressed/acted”, “She enjoyed it even if she said she didn’t”, “It’s my right as her husband/boyfriend”, “I was so drunk I’m not really responsible” or “She’s had sex with others, so she’ll have sex with anyone” etcetera.

These distortions reveal deep-seated misogyny and hostility toward women. Rapists often display distorted perceptions of women and sex roles, blame victims for their offenses and show hostility rather than the loneliness and inadequacy more common in child sexual abusers.³⁵ It’s crucial to distinguish between sexual desire and criminal intent in understanding perpetrator psychology:

Sexual Desire may be present, but it’s rarely the primary motivation. Research shows that rapists are motivated more by power and anger than sexual gratification. Many rapists have available consensual sexual partners but still choose to rape, indicating the behaviour isn’t about satisfying sexual needs.

Criminal Intent forms through a complex process involving pre-existing vulnerability factors such as childhood trauma, attachment issues, exposure to violence. Development of cognitive distortions that being learning to interpret the world through a distorted lens. Opportunity and disinhibition through situational factors like alcohol, presence of a vulnerable victim or low perceived risk of consequences and active decision-making for example, despite claims of losing control, research shows most sexual violence involves planning and decision-making.

The Self-Regulation Model (SRM), developed by Ward and Hudson, helps explain how intent forms and leads to offending.³⁶ It identifies four pathways to sexual offending:

Avoidant-Passive Pathway: The offender wants to avoid offending but doesn’t have adequate skills to prevent it. They may experience unwanted sexual thoughts but lack strategies to manage them effectively. Intent forms almost passively as they fail to take active steps to prevent the behaviour.³⁷

Avoidant-Active Pathway: The offender tries to avoid offending but uses counterproductive strategies. For example, they might masturbate to deviant fantasies thinking this will prevent actual offending, but this actually reinforces the fantasies and increases risk. Intent here is

³⁴ Polaschek (n 15).

³⁵ Garlick (n 30).

³⁶ T Ward and S M Hudson, ‘A Model of the Relapse Process in Sexual Offenders’ (1998) 13 *Journal of Interpersonal Violence* 700 <<https://doi.org/10.1177/088626098013006003>> accessed 11 December 2025.

³⁷ T Ward and S M Hudson, ‘A Self-Regulation Model of Relapse Prevention’ in D R Laws, S M Hudson and T Ward (eds), *Remaking Relapse Prevention with Sex Offenders: A Sourcebook* (Sage Publications 2000) 79–101 <<https://uk.sagepub.com/en-gb/eur/remaking-relapse-prevention-with-sex-offenders/book9144>> accessed 12 December 2025.

complex, they consciously don't want to offend, but their coping mechanisms inadvertently create the conditions for offending.³⁸

Approach-Automatic Pathway: The offender's goal is to offend, but they act impulsively based on well-established patterns and cues. Intent is present but not carefully planned, they respond automatically to situations based on entrenched cognitive-behavioural scripts. Many rapists follow this pathway, offending impulsively when opportunity presents.³⁹

Approach-Explicit Pathway: The offender explicitly wants to offend and carefully plans their actions. Intent is clear, deliberate and involves strategic planning. Child sexual abusers who "groom" victims over time and sadistic offenders who plan their crimes in detail, follow this pathway.⁴⁰

Not all sex offenders are paedophiles (people sexually attracted to children), but understanding how deviant sexual interests develop is crucial for prevention and treatment which incorporates;

Childhood Factors: Research shows that exposure to sexual content at an early age, being sexually abused, witnessing sexual violence and engaging in problematic sexual behaviours as children all correlate with later sexual offending. These experiences can sexualize emotions (using sex to cope with stress), create confusion about appropriate sexual behaviour and normalize problematic patterns.

Adolescent Crystallization: Deviant interests often crystallize during adolescence, when sexual identity is forming. Masturbation to deviant fantasies during this critical period reinforces neural pathways and behavioural patterns. The fantasy becomes associated with arousal and pleasure, making it increasingly salient and difficult to change.

Maintenance Factors: Once established, deviant interests are maintained through; Continued fantasy and masturbation reinforcing the neural pathways, cognitive distortions that normalize the interests, association with like-minded individuals (increasingly facilitated by the internet) and actual offending behaviours that provide real-world reinforcement.

Contrary to popular belief, many sex offenders have intact general empathy, they can feel empathy in most situations. What they lack is victim-specific empathy, the ability to empathize specifically with their victims during the offense process.

This selective empathy deficit operates through several mechanisms like Cognitive Distortions

³⁸ Ward, T (n 39).

³⁹ Simons (n 5).

⁴⁰ Simons (n 5).

present as Minimization, Denial of injury, Victim-blaming, Intent Evidence and Victim Impact.

3. Methodology and Analytical Framework

3.1 Research Design

This study adopts a doctrinal and analytical research design. The doctrinal component examines the statutory framework governing sexual offences, the mens rea requirements attached to them and the judicial treatment of intention in decided cases. The analytical component applies established criminological and psychological theories to explain how criminal intention in sexual violence is formed, justified and sustained. The study is qualitative and relies entirely on secondary and publicly available sources; it does not involve interviews with, or clinical assessment of, offenders.

3.2 Sources and Materials

The primary legal materials include Section 375 of the Indian Penal Code and the corresponding provision of the Bharatiya Nyaya Sanhita 2023, the Criminal Law (Amendment) Act 2013 and judicial decisions on sentencing and the rarest of rare doctrine, such as *Bachan Singh v State of Punjab*, *Machhi Singh v State of Punjab* and *Mukesh v State (NCT of Delhi)*. The case studies draw on court proceedings and published reports relating to the Nirbhaya, RG Kar and Shakti Mills cases. The secondary materials comprise books, peer-reviewed journal articles and online sources on sexual offending, cognitive distortions, moral disengagement, empathy and rape culture, all of which are listed in the References.

3.3 Analytical Framework

The analysis is organised around four complementary frameworks. First, the doctrine of mens rea (intention, knowledge and recklessness) supplies the legal baseline against which intent is assessed. Second, Sykes and Matza's techniques of neutralisation and Bandura's theory of moral disengagement are used to explain how offenders justify their conduct and set aside internal moral restraints. Third, the literature on cognitive distortions is used to identify the offence-supportive beliefs about consent, gender and sexuality that shape perpetrators' perceptions. Fourth, Ward and Hudson's Self-Regulation Model is used to trace the pathways through which intent forms and translates into offending. Together, these frameworks allow the legal question of whether an accused intended the act to be examined alongside the psychological question of how that intention came to be formed.

3.4 Case Selection and Limitations

Three Indian cases are analysed: the Nirbhaya case (2012), the Shakti Mills case (2013) and the RG Kar Medical College case (2024). They represent different contexts of sexual violence, namely group offending on public transport, serial group offending in an isolated location and an offence committed by a person with institutional access, and each has prompted significant legal or policy debate.

The study has two principal limitations. First, the psychological analysis of the accused is necessarily inferential, because it relies on reported facts, judicial findings and secondary literature rather than on clinical assessment; the observations about individual accused are therefore analytical interpretations and not diagnostic conclusions. Second, the findings are drawn from a small number of cases, and much of the psychological literature relied on was not developed primarily in the Indian context, so the conclusions should not be read as generalisations about all offenders.

4. Discussion and Analysis

This section applies the analytical framework set out above. It first analyses the neutralisation techniques, moral disengagement mechanisms and processes of empathy suppression through which offenders sustain criminal intent, and then examines three Indian cases to show how these mechanisms, and the legal treatment of intent, operate in practice.

4.1 Neutralisation, Moral Disengagement and Suppression of Empathy

How do people commit horrific acts that clearly violate moral norms? This question has puzzled researchers for decades.⁴¹ The answer lies in psychological mechanisms that allow individuals to disengage from moral standards that would otherwise prevent them from causing harm. In sexual violence, these mechanisms are particularly powerful and well-developed. Sykes and Matza's neutralization theory, developed in criminology, identified techniques that offenders use to neutralize their internal moral standards.⁴² In sexual violence, these techniques are disturbingly common:

1. Denial of Responsibility- "I was drunk and didn't know what I was doing" "I couldn't control myself" "Something just came over me"

⁴¹ A Bandura, 'Moral Disengagement in the Perpetration of Inhumanities' (1999) 3(3) *Personality and Social Psychology Review* 193 <https://doi.org/10.1207/s15327957pspr0303_3> accessed 12 December 2025.

⁴² G M Sykes and D Matza, 'Techniques of Neutralization: A Theory of Delinquency' (1957) 22(6) *American Sociological Review* 664 <<https://doi.org/10.2307/2089195>> accessed 12 December 2025.

This technique shifts blame away from the offender's choices onto external factors. Research shows this is particularly common among rapists, who often attribute their offenses to alcohol, stress, or uncontrollable impulses.⁴³ The reality is that sexual violence almost always involves planning and decision-making,⁴⁴ but this neutralization allows the offender to avoid facing their agency in the crime.

2. Denial of Injury- "I didn't hurt her" "She'll be fine" "It wasn't violent" "She's done this before, so it's not like I damaged her"

This technique minimizes the harm caused. Offenders may focus on the absence of physical injury while completely ignoring psychological trauma.⁴⁵ In child sexual abuse cases, offenders frequently claim the child "enjoyed it" or "wasn't harmed" because there was no force,⁴⁶ completely missing how power imbalances make consent impossible and create long-lasting trauma.

3. Denial of the Victim- "She was asking for it" "She led me on" "She didn't say no clearly" "Look at how she was dressed"

This insidious technique transforms the victim into someone who deserved what happened or caused it themselves.⁴⁷ It's particularly common in rape cases and reflects deep misogyny.⁴⁸ The "honour crime" phenomenon takes this to an extreme, the woman is seen not as a victim but as someone who brought shame and therefore deserved punishment.

4. Condemnation of the Condemners "The police are corrupt anyway" "Society is hypocritical about sex" "Everyone would do it if they had the chance" "The law is unfair to men"

This technique attacks the legitimacy of those who would judge the behaviour. By undermining the moral authority of society, law enforcement and the justice system, the offender attempts to level the moral playing field, suggesting everyone is equally compromised.

⁴³ D Scully and J Marolla, 'Convicted Rapists' Vocabulary of Motive: Excuses and Justifications' (1984) 31(5) *Social Problems* 530 <<https://doi.org/10.2307/800385>> accessed 15 December 2025.; Polaschek (n, 15).

⁴⁴ Ward, T (n 39) 13, 700-725.

⁴⁵ Marshall, W. L., Hudson, S. M., Jones, R., & Fernandez, Y. M. (1995). Empathy in sex offenders. *Clinical Psychology Review*, 15, 99-113.

⁴⁶ Hayashino (n 18).

⁴⁷ Scully, D (n 46).

⁴⁸ M R Burt, 'Cultural Myths and Supports for Rape' (1980) 38(2) *Journal of Personality and Social Psychology* 217 <<https://doi.org/10.1037/0022-3514.38.2.217>>, accessed 13 December 2025.

5. Appeal to Higher Loyalties- “I was protecting my family’s honour” “Our relationship/marriage required it” “It’s my right as her husband/father”

This technique invokes supposedly superior moral obligations that override laws against sexual violence.⁴⁹ “Honor” crimes explicitly use this neutralization, the perpetrator claims they were upholding family honour, which they present as a higher moral duty than respecting bodily autonomy.

Beyond simple neutralization, offenders engage in cognitive restructuring, they actually reconstruct reality to make their behaviour seem acceptable or even positive with components such as;

Moral Justification: Reframing the behaviour as serving a moral purpose.⁵⁰ Child sexual abusers may frame their abuse as “sex education” or “showing love.”⁵¹ Some perpetrators of marital rape frame forced sex as fulfilling marital duty or maintaining the relationship.

Euphemistic Labelling: Using sanitized language to obscure the true nature of the act.⁵² “Having a relationship” instead of abusing a child. “She came on to me” instead of acknowledging they manipulated a vulnerable person. “Things got out of hand” instead of admitting they raped someone.

Advantageous Comparison: Comparing their behaviour to worse acts to make it seem less serious.⁵³ “At least I didn’t kill her” or “At least I didn’t use a weapon” or “Other people do much worse things.”

Initially, comes Empathy- the ability to understand and share another’s feelings- is a crucial brake on harmful behaviour. For sexual violence to occur, perpetrators must suppress empathy for their victims.⁵⁴ This suppression happens through several mechanisms. Dehumanization being the most prevalent, viewing the victim as less than fully human.⁵⁵ This is particularly evident in cases involving prostituted women (viewed as commodities rather than people), women from marginalized communities (racial/caste dehumanization) or children (sometimes

⁴⁹ Sykes, (n 45) 22(6), 664-670.; P Baxi, S M Rai and S S Ali, ‘Legacies of Common Law: “Crimes of Honour” in India and Pakistan’ (2006) 27(7) *Third World Quarterly* 1239 <<https://doi.org/10.1080/01436590600850524>> accessed 13 December 2025.

⁵⁰ Bandura (n 44).

⁵¹ G G Abel, D K Gore, C L Holland, N Camp, J V Becker and J Rathner, ‘The Measurement of the Cognitive Distortions of Child Molesters’ (1989) 2(2) *Annals of Sex Research* 135 <<https://doi.org/10.1007/BF00851314>> accessed 15 December 2025.

⁵² Bandura (n 44) 3(3), 193-209.

⁵³ Bandura (n 44) 71(2), 364-374.

⁵⁴ Marshall (n 29) 15, 99-113.

⁵⁵ N Haslam, ‘Dehumanization: An Integrative Review’ (2006) 10(3) *Personality and Social Psychology Review* 252 <https://doi.org/10.1207/s15327957pspr1003_4> accessed 15 December 2025.

viewed as non-sexual being's incapable of harm, or as sexual beings without rights).

Once dehumanized, the victim's suffering doesn't register as morally significant. Research shows that rapists often exhibit hostility toward women generally, suggesting a pre-existing tendency to dehumanize female victims.⁵⁶

Objectification is one of the other prevalent mechanisms as well, viewing the victim as an object for use rather than a person with their own thoughts, feelings and rights.⁵⁷ Pornography and rape culture contribute to objectification by presenting people (especially women) as existing primarily for others' sexual gratification.⁵⁸ Creating psychological distance from the victim's experience, offenders may focus on their own arousal rather than the victim's distress or misinterpret signs of distress as something else ("she enjoyed it"). They also dissociate during the act, operating almost mechanically.

The mechanism of Selective Empathy is also worth taking note of as many sex offenders have intact empathy in other contexts- they can feel for people they care about, respond to others' distress in general situations. The empathy deficit is specific to their victims during offending.⁵⁹ This selective impairment suggests active suppression rather than a general inability to empathize.

Then comes the Role of Patriarchy and Rape Culture where moral disengagement doesn't happen in a vacuum. Societal structures and cultural beliefs provide ready-made neutralizations-⁶⁰ and Patriarchal Beliefs offer numerous justifications such as Men's superior position justifies controlling women, women exist primarily for men's pleasure and use, female sexuality must be controlled by men, men have greater sexual needs that require satisfaction or that marriage creates ownership rights over a spouse's body.⁶¹

Whereas Rape Culture normalizes sexual violence through Victim-blaming ("what was she wearing?"), Minimization ("boys will be boys"), Romanticization of persistence and boundary-

⁵⁶ Garlick, Y (n 30).

⁵⁷ N Haslam, 'Dehumanization: An Integrative Review' (2006) 10(3) *Personality and Social Psychology Review* 252 <https://doi.org/10.1207/s15327957pspr1003_4> accessed 16 December 2025.

⁵⁸ R Jensen, *Getting Off: Pornography and the End of Masculinity* (South End Press 2007) <<https://www.jstor.org/stable/10.2307/j.ctt1np2k0>> accessed 16 December 2025; D F Herman, 'The Rape Culture' in J Freeman (ed), *Women: A Feminist Perspective* (Mayfield Publishing 1989).

⁵⁹ Y M Fernandez and W L Marshall, 'Victim Empathy, Social Self-Esteem, and Psychopathy in Rapists' (2003) 15(1) *Sexual Abuse: A Journal of Research and Treatment* 11 <<https://doi.org/10.1177/107906320301500102>> accessed 16 December 2025.; Ward, T. (n, 39) 7(1), 67-83.

⁶⁰ Burt, M. R. (n 57) 38(2), 217-230.

⁶¹ S Brownmiller, *Against Our Will: Men, Women and Rape* (Simon and Schuster 1975) <<https://archive.org/details/againstourwillme00brow>> accessed 16 December 2025.; P R Sanday, 'The Socio-Cultural Context of Rape: A Cross-Cultural Study' (1981) 37(4) *Journal of Social Issues* 5 <<https://doi.org/10.1111/j.1540-4560.1981.tb01068.x>> accessed 18 December 2025.

pushing in media or Trivialization of consent.⁶²

These cultural factors don't cause sexual violence- individuals are still responsible for their choices- but they make neutralizations and moral disengagement easier by providing culturally available scripts that offenders can adopt. Research indicates that viewing women's sexuality as property or commodity facilitates moral disengagement.⁶³ When sexuality is commodified, rape becomes theft rather than violation of personhood. "Damaged goods" thinking emerges (focus on "ruining" the victim rather than their suffering). Family/community "honour" centred on female sexuality makes sense and victim's experience becomes secondary to property loss. This explains why convicted rapists sometimes describe their motive as taking something that was "just there", they've mentally transformed the victim into an object to be taken rather than a person to be respected.

Moral disengagement mechanisms don't just facilitate the initial offense, they make continued offending more likely,⁶⁴ by preventing genuine remorse and taking responsibility, by protecting the offender's self-image as a "good person", by making it easier to reoffend (the neutralizations are already in place) or by creating cognitive barriers to treatment (can't address behaviour you won't acknowledge).

Breaking this cycle requires confronting and dismantling these mechanisms, which is why effective treatment for sex offenders focuses heavily on cognitive restructuring and developing empathy.⁶⁵ Recognizing these mechanisms isn't about providing excuses, it's about understanding how prevention and intervention can work. For prevention, we can challenge cultural narratives that provide ready-made neutralizations, build empathy and respect for others from childhood, teach genuine consent and healthy sexuality.

For intervention, we can target these specific cognitive mechanisms in treatment, helping

⁶² Herman, (n, 61) 20–44; B E Buchwald, P R Fletcher and M Roth (eds), *Transforming a Rape Culture* (Milkweed Editions 1993) <<https://www.milkweed.org/book/transforming-a-rape-culture/>> accessed 15 December 2025.

⁶³ C Pateman, *The Sexual Contract* (Stanford University Press 1988) <<https://www.sup.org/books/title/?id=2611>> accessed 15 December 2025; F Agnes, 'Protecting Women Against Violence? Review of a Decade of Legislation, 1980–89' (1992) 27(17) *Economic and Political Weekly* WS19 <<https://www.jstor.org/stable/4397922>> accessed 18 December 2025.

⁶⁴ T Ward and S M Hudson, 'A Self-Regulation Model of Relapse Prevention' in D R Laws, S M Hudson and T Ward (eds), *Remaking Relapse Prevention with Sex Offenders: A Sourcebook* (Sage Publications 2000) 79–101 <<https://uk.sagepub.com/en-gb/eur/remaking-relapse-prevention-with-sex-offenders/book9144>> accessed 18 December 2025.

⁶⁵ R K Hanson, G Bourgon, L Helmus and S Hodgson, 'The Principles of Effective Correctional Treatment Also Apply to Sexual Offenders: A Meta-Analysis' (2009) 36(9) *Criminal Justice and Behavior* 865 <<https://doi.org/10.1177/0093854809338545>> accessed 18 December 2025.; W L Marshall and H E Barbaree, 'An Integrated Theory of the Etiology of Sexual Offending' in W L Marshall, D R Laws and H E Barbaree (eds), *Handbook of Sexual Assault* (Plenum Press 1990) 257–275 <https://doi.org/10.1007/978-1-4684-5766-8_15> accessed 18 December 2025.

offenders recognize and challenge their neutralizations, develop victim empathy and take genuine responsibility and for justice, understanding these mechanisms helps prosecutors counter defence strategies, helps judges understand the psychology behind claims of “diminished responsibility” and helps victims understand that the self-serving narratives offenders create are exactly that- self-serving distortions, not truth.

4.2 Law in Action: Case Studies from India

The following three cases from India illustrate how the mechanisms discussed above operate in practice and how questions of intent arise in sexual violence prosecutions.

4.2.1 Case Study 1: The Nirbhaya Case (2012, Delhi)

On December 16, 2012, a 23-year-old physiotherapy student was gang-raped and brutally assaulted on a moving bus in Delhi.⁶⁶ The case shocked India and the world, leading to massive protests and significant legal reforms.

Perpetrator Psychology Analysis: The six perpetrators exhibited multiple concerning psychological patterns such as:

Power and Humiliation: The violence went far beyond rape. The victim and her male companion were beaten, humiliated and subjected to horrific brutality. This suggests motivation rooted in power, control and misogyny rather than sexual desire.⁶⁷ **Group Dynamics and Diffusion of Responsibility** as research on group sexual violence shows that group settings can intensify violence through social facilitation (each person escalating to prove masculinity) and diffusion of responsibility (each person feeling less individually accountable).⁶⁸ The perpetrators' subsequent statements revealed attempts to shift blame to each other.

Yet were present Cognitive Distortions such as, victim-blaming where defence arguments focused on why she was out late with a male friend, Denial of injury despite causing injuries that led to her death and Minimization, attempting to characterize it as “just” rape rather than the torture it was.

Moral Disengagement: The perpetrators showed no remorse initially. One perpetrator's lawyer

⁶⁶ S Veena and S Kumar, ‘Nirbhaya Gang Rape Case: A Landmark in the Indian Judicial System’ (2014) 9(1) *International Journal of Criminal Justice Sciences* 116 <<http://www.sascv.org/ijcjs/pdfs/VeenaKumarIJCS2014.pdf>> accessed 18 December 2025.

⁶⁷ Groth (n, 27); Gannon (n, 26) (2nd ed., pp. 336-355).

⁶⁸ M A H Horvath and L Kelly, ‘Multiple Perpetrator Rape: Naming an Offence and Initial Research Findings’ (2009) 15(1) *Journal of Sexual Aggression* 83 <<https://doi.org/10.1080/13552600902774789>> accessed 18 December 2025; C A Franklin, ‘Male Peer Support and the Police Response to Complaints of Sexual Assault’ (2004) 27(3) *Policing: An International Journal of Police Strategies & Management* 324 <<https://doi.org/10.1108/13639510410553198>> accessed 19 December 2025.

infamously stated, “A woman is more responsible for rape than a man”⁶⁹ - a stark example of cultural neutralizations available to offenders.

Intent Evidence: The planned nature of the crime (the bus was operating illegally specifically to find victims), the escalating violence and subsequent attempts to destroy evidence all demonstrated clear criminal intent, this was neither impulsive nor accidental.

Legal Outcome: Four perpetrators were sentenced to death (later upheld by the Supreme Court and executed in 2020), one died by suicide in custody and one juvenile was sentenced to three years in a reform facility.⁷⁰

Significance: The case catalysed amendments to Indian sexual assault laws, including broader definitions of rape, harsher penalties and faster trial procedures. However, it also revealed the challenge of proving and prosecuting mens rea when cultural attitudes provide ready-made neutralizations.⁷¹

4.2.2 Case Study 2: RG Kar Medical College Case (2024, Kolkata)

A 31-year-old junior doctor was raped and murdered while resting in a seminar hall at RG Kar Medical College in Kolkata. The accused, Sanjay Roy, a civic volunteer, allegedly committed this crime.⁷²

Perpetrator Psychology Analysis points towards Predatory Behaviour as Roy allegedly used his position to access the hospital premises and identify vulnerable victims- showing planning and predatory instincts rather than impulsive behaviour.

Power and Access: His role gave him access and perceived authority, which he exploited. This mirrors patterns seen in position-of-trust sexual offenses,⁷³ where perpetrators leverage their role for access and control.

Cognitive Distortions likely present such as Entitlement, belief that his position gave him

⁶⁹ BBC News, ‘Delhi Gang Rape: Timeline of Events’ (BBC, 2013) <<https://www.bbc.com/news/world-asia-india-20863869> accessed 20 December 2025>; The Guardian, ‘Delhi Gang Rape: How India Reacted’ (The Guardian, 2013) <<https://www.theguardian.com/world/2013/dec/16/delhi-gang-rape-india-reaction>> accessed 19 December 2025; The Guardian, ‘Delhi Gang Rape: How India Reacted’ (The Guardian, 2013) <<https://www.theguardian.com/world/2013/dec/16/delhi-gang-rape-india-reaction>> accessed 19 December 2025.

⁷⁰ *Mukesh v State (NCT of Delhi)* (2017) 6 SCC 1 (SC) (Supreme Court death sentence confirmation)

⁷¹ The Criminal Law (Amendment) Act 2013, No 13 of 2013 (India); J Krishnan, ‘India’s “Poverty of Rights” Paradigm: From Clinical Legal Education to Social Engineering’ (2014) 29(1) *Maryland Journal of International Law* 11 <<https://digitalcommons.law.umaryland.edu/mjil/vol29/iss1/3/>> accessed 19 December 2025.

⁷² *In Re: Alleged Rape and Murder Incident of a Trainee Doctor in R G Kar Medical College and Hospital, Kolkata and Related Issues*, Suo Motu Writ Petition (Criminal) No 1 of 2024 (Supreme Court of India).

⁷³ J Sullivan and A Beech, ‘Professional Perpetrators: Sex Offenders Who Use Their Employment to Target and Sexually Abuse the Children with Whom They Work’ (2002) 11(3) *Child Abuse Review* 153 <<https://doi.org/10.1002/car.742>> accessed 19 December 2025; B Gallagher, ‘The Extent and Nature of Known Cases of Institutional Child Sexual Abuse’ (2000) 30(6) *British Journal of Social Work* 795 <<https://doi.org/10.1093/bjsw/30.6.795>> accessed 20 December 2025.

certain rights or privileges and Dehumanization, viewing a sleeping woman as an object for his gratification and lastly Minimization of harm, potential belief that since she was alone/asleep, she was “available”

The “Opportunistic” Offense Myth, while this might appear opportunistic, research shows that “opportunity” offenses usually involve pre-existing cognitive distortions and patterns of boundary violations.⁷⁴ The opportunity doesn’t create the intent- it reveals pre-existing propensity.

Legal Analysis: The case falls under “rarest of rare” doctrine for death penalty consideration,⁷⁵ given the brutality and vulnerability of the victim. The Supreme Court of India has been monitoring the investigation, highlighting systemic concerns about institutional responses to sexual violence.

Significance: This case highlights ongoing challenges such as safety of women in professional settings, how position and access facilitate sexual violence, the need for institutional mechanisms to prevent and respond to sexual harassment and public anger at perceived inadequate institutional responses.

4.2.3 Case Study 3: The 2013 Mumbai Gang-Rape (Shakti Mills Case)

A 22-year-old photojournalist was gang-raped by five men in an abandoned textile mill in Mumbai. The same perpetrators had gang-raped a telephone operator in the same location one month earlier.⁷⁶

Perpetrator Psychology Analysis points towards Serial Behaviour and Specialization, the repeat offense in the same location suggests, successful commission of the first crime without consequences reinforced the behaviour. The isolated location was deliberately chosen, indicating planning and lack of empathy or remorse made recommitting the crime easy.

Cognitive Distortions such as Environmental cues- they may have viewed the abandoned location as a “free zone” where normal rules didn’t apply, Victim selection- both victims were in vulnerable positions (isolated, alone), suggesting predatory targeting and Desensitization- The ease of committing a second offense suggests the first crime lowered internal barriers

Legal Outcome: All five accused were convicted. Three received life imprisonment and two received death sentences for being repeat offenders. The case established important precedents

⁷⁴ Ward, T (n 39), 8(4), 319-351.

⁷⁵ *Bachan Singh v State of Punjab* (1980) 2 SCC 684 (SC); *Machhi Singh v State of Punjab* (1983) 3 SCC 470 (SC).

⁷⁶ *State of Maharashtra v Vijay Jadhav and Others* Sessions Case No 289 of 2013 (Sessions Court, Mumbai) and recent trends in India. *Journal of Punjab Academy of Forensic Medicine & Toxicology*, 14(1), 35-40.

about repeat sexual offenders.⁷⁷

Significance: The case highlighted urban safety challenges and isolated spaces that become crime hotspots, serial offending patterns in sexual violence, need for environmental design (CPTED—Crime Prevention Through Environmental Design) approaches and Importance of connecting similar crimes to identify serial perpetrators.⁷⁸

5. Findings and Conclusion

5.1 Key Findings

The analysis yields two principal findings. First, perpetrators of sexual violence frequently rely on cognitive distortions and techniques of neutralisation to suppress empathy, externalise blame and legitimise coercive conduct. This allows them to sustain intentional sexual violence while preserving a sense of internal moral coherence and it depends in particular on the suppression of victim-specific empathy. Second, prevailing legal doctrine does not adequately account for these psychological dimensions of intent and often reduces mens rea to narrow evidentiary markers detached from the way intent actually forms. The first finding is elaborated below and the second is taken up in Section 5.2.

These empathy deficits don't just happen, they're actively created and maintained through cognitive distortions. The offender must work to suppress empathy, which ironically demonstrates that at some level, they're aware their actions are harmful. Research consistently shows that sex offenders often have insecure attachment styles stemming from childhood. They experienced inconsistent, unresponsive, or abusive parenting that prevented the formation of secure attachment bonds.

The inability to form healthy intimate relationships isn't an excuse, it's an explanatory factor that highlights areas for intervention and prevention. Understanding perpetrator psychology shows us that criminal intent in sexual offenses doesn't emerge from nowhere. It develops through factors like, developmental risk factors creating vulnerability, formation and reinforcement of cognitive distortions, deficits in self-regulation, empathy and relationship skills, deviant sexual interests (in some offenders) and active choices to offend despite knowing it's wrong.

⁷⁷ *State of Maharashtra v Vijay Jadhav and Others*, Sessions Case No 289 of 2013 (Sessions Court, Mumbai, judgment dated 20 March 2014).

⁷⁸ P M Cozens, G Saville and D Hillier, 'Crime Prevention through Environmental Design (CPTED): A Review and Modern Bibliography' (2005) 23(5) *Property Management* 328 <<https://doi.org/10.1108/02637470510631483>> accessed 20 December 2025.

This understanding doesn't diminish responsibility; if anything, it highlights how many points of intervention exist where different choices could have been made. The offender may have cognitive distortions, but maintaining those distortions is itself a choice. They may have poor self-regulation, but they're responsible for developing those skills. Intent is present and culpable- we simply now understand better how it formed.

5.2 Doctrinal Limitations and Need for Psychological Integration

Traditional legal approaches to mens rea in sexual offenses, while necessary, are insufficient for fully addressing sexual violence.⁷⁹ Several limitations stand out such as Binary Thinking where law tends toward binary categories- guilty or not guilty, intended or didn't intend but perpetrator psychology reveals gradients and complex processes,⁸⁰ that don't fit neatly into these categories.

Moment-in-Time Focus where Mens rea analysis often focuses on the moment of the offense- what did they know/intend at that exact time? This misses the longer developmental process through which criminal intent forms,⁸¹ the history of cognitive distortions and patterns that predict future risk. Further is Cognitive Distortion Problem- How should law handle genuine but distorted beliefs? If someone truly believes their victim consented (due to deep cognitive distortions about consent), does this negate mens rea? Current law struggles with this question. Another big limitation can be Culture Blindness. Legal doctrine often treats perpetrators as if they exist outside cultural context, missing how patriarchal structures, rape culture and social narratives provide ready-made neutralizations and shape intent formation and lastly, Individual Focus- law focuses on individual culpability, sometimes missing how institutions, systems and social structures enable sexual violence,⁸² and must be addressed for prevention.

Effective response to sexual violence requires integrating psychological insights into legal practice, understanding perpetrator psychology helps investigators identify patterns, collect relevant evidence and prosecutors counter defence strategies that rely on common cognitive

⁷⁹ R A Duff, *Intention, Agency and Criminal Liability: Philosophy of Action and the Criminal Law* (Basil Blackwell 1990); S J Morse, 'The Status of Neurolaw: A Plea for Current Modesty and Future Cautious Optimism' (2011) 39(4) *Journal of Psychiatry & Law* 595 <<https://doi.org/10.1177/009318531103900402>> accessed 20 December 2025.

⁸⁰ S J Morse, 'The Status of Neurolaw: A Plea for Current Modesty and Future Cautious Optimism' (2011) 39(4) *Journal of Psychiatry & Law* 595 <<https://doi.org/10.1177/009318531103900402>> accessed 20 December 2025.

⁸¹ T Ward and A Beech, 'An Integrated Theory of Sexual Offending' (2006) 11(1) *Aggression and Violent Behavior* 44 <<https://doi.org/10.1016/j.avb.2005.05.002>> accessed 20 December 2025.

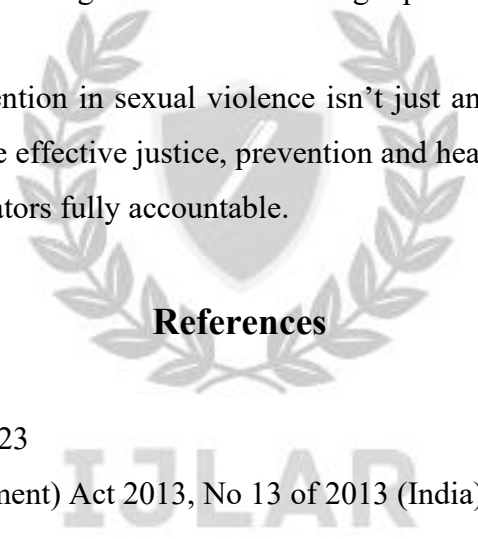
⁸² R Campbell and S Raja, 'The Sexual Assault and Secondary Victimization of Female Veterans: Help-Seeking Experiences with Military and Civilian Social Systems' (2005) 29(1) *Psychology of Women Quarterly* 97 <<https://doi.org/10.1111/j.1471-6402.2005.00171.x>> accessed 20 December 2025.

distortions. Psychological assessment can inform evidence-based sentencing decisions that balance punishment, incapacitation and rehabilitation potential. Court-mandated treatment must be based on psychological research about what actually works, challenging cognitive distortions, developing empathy, addressing attachment and intimacy deficits.

For Prevention, understanding how criminal intent forms points toward prevention strategies-challenging rape culture, building healthy relationship models, early intervention with at-risk youth.⁸³ Psychological insights reveal where legal reforms are needed such as better consent education, institutional accountability mechanisms, trauma-informed victim services.

Moving Forward, the future of addressing sexual violence lies not in choosing between law and psychology, but in meaningful integration of training in perpetrator psychology, expert testimony, specialized courts with psychological expertise for certain sex offenses, better mechanisms to translate psychological research into legal practice and policy and a holistic Approach.

Understanding criminal intention in sexual violence isn't just an academic exercise- it's the foundation for creating more effective justice, prevention and healing systems that protect the vulnerable and hold perpetrators fully accountable.



References

Legislation

Bharatiya Nyaya Sanhita 2023

The Criminal Law (Amendment) Act 2013, No 13 of 2013 (India)

Cases

Bachan Singh v State of Punjab (1980) 2 SCC 684 (SC)

In Re: Alleged Rape and Murder Incident of a Trainee Doctor in R G Kar Medical College and Hospital, Kolkata and Related Issues, Suo Motu Writ Petition (Criminal) No 1 of 2024 (Supreme Court of India)

Machhi Singh v State of Punjab (1983) 3 SCC 470 (SC)

Mukesh v State (NCT of Delhi) (2017) 6 SCC 1 (SC)

⁸³ S DeGue, L A Valle, M K Holt, G M Massetti, J L Matjasko and A T Tharp, 'A Systematic Review of Primary Prevention Strategies for Sexual Violence Perpetration' (2014) 19(4) *Aggression and Violent Behavior* 346 <<https://doi.org/10.1016/j.avb.2014.05.004>> accessed 20 December 2025; S Smallbone, W L Marshall and R Wortley, *Preventing Child Sexual Abuse: Evidence, Policy and Practice* (Willan Publishing 2008) <<https://www.routledge.com/Preventing-Child-Sexual-Abuse-Evidence-Policy-and-Practice/Smallbone-Marshall-Wortley/p/book/9781843922952>> accessed 20 December 2025.

State of Maharashtra v Vijay Jadhav and Others, Sessions Case No 289 of 2013 (Sessions Court, Mumbai)

Books

Brownmiller S, *Against Our Will: Men, Women and Rape* (Simon and Schuster 1975)

Buchwald BE, Fletcher PR and Roth M (eds), *Transforming a Rape Culture* (Milkweed Editions 1993)

Duff RA, *Intention, Agency and Criminal Liability: Philosophy of Action and the Criminal Law* (Basil Blackwell 1990)

Herman DF, 'The Rape Culture' in Freeman J (ed), *Women: A Feminist Perspective* (Mayfield Publishing 1989)

Jensen R, *Getting Off: Pornography and the End of Masculinity* (South End Press 2007)

Marshall WL and Barbaree HE, 'An Integrated Theory of the Etiology of Sexual Offending' in Marshall WL, Laws DR and Barbaree HE (eds), *Handbook of Sexual Assault* (Plenum Press 1990)

Pateman C, *The Sexual Contract* (Stanford University Press 1988)

Smallbone S, Marshall WL and Wortley R, *Preventing Child Sexual Abuse: Evidence, Policy and Practice* (Willan Publishing 2008)

Ward T and Hudson SM, 'A Self-Regulation Model of Relapse Prevention' in Laws DR, Hudson SM and Ward T (eds), *Remaking Relapse Prevention with Sex Offenders: A Sourcebook* (Sage Publications 2000)

Journal Articles

Abel GG and others, 'The Measurement of the Cognitive Distortions of Child Molesters' (1989) 2(2) *Annals of Sex Research* 135

Agnes F, 'Protecting Women Against Violence? Review of a Decade of Legislation, 1980–89' (1992) 27(17) *Economic and Political Weekly* WS19

Bandura A, 'Moral Disengagement in the Perpetration of Inhumanities' (1999) 3(3) *Personality and Social Psychology Review* 193

Burt MR, 'Cultural Myths and Supports for Rape' (1980) 38(2) *Journal of Personality and Social Psychology* 217

Baxi P, Rai SM and Ali SS, 'Legacies of Common Law: "Crimes of Honour" in India and Pakistan' (2006) 27(7) *Third World Quarterly* 1239

- Campbell R and Raja S, 'The Sexual Assault and Secondary Victimization of Female Veterans: Help-Seeking Experiences with Military and Civilian Social Systems' (2005) 29(1) *Psychology of Women Quarterly* 97
- Cozens PM, Saville G and Hillier D, 'Crime Prevention through Environmental Design (CPTED): A Review and Modern Bibliography' (2005) 23(5) *Property Management* 328
- DeGue S and others, 'A Systematic Review of Primary Prevention Strategies for Sexual Violence Perpetration' (2014) 19(4) *Aggression and Violent Behavior* 346
- Fernandez YM and Marshall WL, 'Victim Empathy, Social Self-Esteem, and Psychopathy in Rapists' (2003) 15(1) *Sexual Abuse: A Journal of Research and Treatment* 11
- Franklin CA, 'Male Peer Support and the Police Response to Complaints of Sexual Assault' (2004) 27(3) *Policing: An International Journal of Police Strategies & Management* 324
- Gallagher B, 'The Extent and Nature of Known Cases of Institutional Child Sexual Abuse' (2000) 30(6) *British Journal of Social Work* 795
- Gannon TA and others, 'Rape: Psychopathology, Theory and Treatment' (2008) 28 *Clinical Psychology Review* 982
- Garlick Y, Marshall WL and Thornton D, 'Intimacy Deficits and Attribution of Blame Among Sex Offenders' (1996) 1 *Legal and Criminological Psychology* 251
- Groth AN, 'Sexual Trauma in the Life Histories of Rapists and Child Molesters' (1979) 4 *Victimology: An International Journal* 10
- Hanson RK and others, 'The Principles of Effective Correctional Treatment Also Apply to Sexual Offenders: A Meta-Analysis' (2009) 36(9) *Criminal Justice and Behavior* 865
- Haslam N, 'Dehumanization: An Integrative Review' (2006) 10(3) *Personality and Social Psychology Review* 252
- Hayashino DS, Wurtele SK and Klebe KJ, 'Child-molesters: An Examination of Cognitive Factors' (1995) 10 *Journal of Interpersonal Violence* 106
- Heil P, Ahlmeyer S and Simons D, 'Crossover Sexual Offenses' (2003) 15 *Sexual Abuse: A Journal of Research and Treatment* 221
- Horvath MAH and Kelly L, 'Multiple Perpetrator Rape: Naming an Offence and Initial Research Findings' (2009) 15(1) *Journal of Sexual Aggression* 83
- Kipāne A, 'Criminological Characteristics of Sexual Violence' (2018) 51 *SHS Web of Conferences* 01010
- Krishnan J, 'India's "Poverty of Rights" Paradigm: From Clinical Legal Education to Social Engineering' (2014) 29(1) *Maryland Journal of International Law* 11

Marshall WL, 'The Role of Attachments, Intimacy, and Loneliness in the Etiology and Maintenance of Sexual Offending' (1993) 8 Sexual and Relationship Therapy 109

Marshall WL and others, 'Empathy in sex offenders' (1995) 15 Clinical Psychology Review 99

Morse SJ, 'The Status of Neurolaw: A Plea for Current Modesty and Future Cautious Optimism' (2011) 39(4) Journal of Psychiatry & Law 595

Polaschek DL, Ward T and Hudson SM, 'Rape and Rapists: Theory and Treatment' (1997) 17 Clinical Psychology Review 117

Sanday PR, 'The Socio-Cultural Context of Rape: A Cross-Cultural Study' (1981) 37(4) Journal of Social Issues 5

Scully D and Marolla J, 'Convicted Rapists' Vocabulary of Motive: Excuses and Justifications' (1984) 31(5) Social Problems 530

Sullivan J and Beech A, 'Professional Perpetrators: Sex Offenders Who Use Their Employment to Target and Sexually Abuse the Children with Whom They Work' (2002) 11(3) Child Abuse Review 153

Sykes GM and Matza D, 'Techniques of Neutralization: A Theory of Delinquency' (1957) 22(6) American Sociological Review 664

Veena S and Kumar S, 'Nirbhaya Gang Rape Case: A Landmark in the Indian Judicial System' (2014) 9(1) International Journal of Criminal Justice Sciences 116

Ward T and Beech A, 'An Integrated Theory of Sexual Offending' (2006) 11(1) Aggression and Violent Behavior 44

Ward T and Hudson SM, 'A Model of the Relapse Process in Sexual Offenders' (1998) 13 Journal of Interpersonal Violence 700

Online Sources

BBC News, 'Delhi Gang Rape: Timeline of Events' (BBC, 2013) <https://www.bbc.com/news/world-asia-india-20863869> accessed 20 December 2025

Sharma B, 'A Criminological Perspective on Sexual Crimes in India' (The Criminal Law Blog, National Law University Jodhpur, 27 March 2021) <https://criminallawstudiesnluj.wordpress.com/2021/03/27/a-criminological-perspective-on-sexual-crimes-in-india/> accessed 20 December 2025

Simons DA, 'Chapter 3: Sex Offender Typologies' in Sex Offender Management Assessment and Planning Initiative (SMART Office of Justice Programs)

<https://smart.ojp.gov/somapi/chapter-3-sex-offender-typologies> accessed 20 December 2025

The Guardian, 'Delhi Gang Rape: How India Reacted' (The Guardian, 2013)

<https://www.theguardian.com/world/2013/dec/16/delhi-gang-rape-india-reaction> accessed 19 December 2025

