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RESEARCH ARTICLE

Assessing the Consequences of Criminal Intervention in Sexual Violence Cases in Iran: Psychological Redefining Justice

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Abstract

Some of the most important factors affecting criminal intervention are the defined goals of criminal law and the lack of knowledge toward the effects of sexual violence on the victim's psyche and body, the patriarchal structure of the legal system, and the unique characteristics of the victim and injuries due to the crime from a psychological perspective, which all result in sexual violence cases. These factors have gradually cast serious doubts on the effectiveness of formal and traditional justice interventions in crime cases since late 50s due to the limited capacity of the criminal justice system to respond to the victim's psychological and emotional needs, re-traumatization, and high levels of attrition and prompted justice to be redefined from the perspective of the needs of victims in the form of restorative justice. In recent years, the Iranian criminal justice system has been influenced differently by the discourse of restorative justice, although limited in its various laws.The result of this paper which is qualitative in terms of type and descriptive-analytical in terms of method, is based on interviews with 20 judges of Tehran province at criminal court 1, and 15 victims of sexual violence, showing that judges adopt a less-detailed and structured restorative approach, and apply available penal policies in sexual offenses to meet a part of the psychological needs of the victim, in line with the restorative lens. However, it is impossible to talk about the satisfactory provision of all their justice needs and demands in the present situation.

Keywords: Victims; Sexual Violence; Psychiatric Need/Harms; Restorative justice; Perpetrator.

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1. Introduction

The empirical findings show that the widespread efforts of legal systems to protect individuals, especially women, from sexual offenses in various forms within the formal and traditional system of justice[1] have not been sufficient. The symbolic and instrumental purpose of the criminal law (i.e. official and state endorsement of the damages caused by the crime (Daly, 2001, p. 1)), to regard crime only as a form of a wrong against the state, the government's recognition as the sole owner of litigation and the seizure of justice) and the myth of the rape of men to the women and the myth of the vengeful victim prevents formal and traditional justice from always being the best and most appropriate response to sexual violence[2] (Mcglynn, 2011; Zinsstag, 2017; Herman, 2005; Murphy, 1998; Abbasi, 2003). Since this research focuses on Sexual violence, with accord to WHO Sexual violence encompasses a continuous spectrum of unwanted behaviors of a sexual nature, ranging from verbal acts such as unsolicited sexual comments and jokes or intrusive staring, to physical contact with the victim's body, sexual harassment, sexual abuse, rape, and more organized forms such as sexual exploitation, sex trafficking, and commercial sexual exploitation. Sexual violence may be perpetrated by a spouse, intimate partner, family members, acquaintances, colleagues, or strangers, and may occur in private settings (such as the home) or public spaces (such as workplaces, streets, or educational institutions). What unifies this broad spectrum of behaviors is their non-consensual character and the absence of the victim's informed consent, as well as their gendered nature, which is rooted in structural power imbalances and patriarchal social arrangements.

It should be mentioned that while the injuries caused by sexual assault can vary from victim to victim, the major factors which have a significant role in intensifying the impact of sexual violence are the highly likelihood of post-traumatic stress disorder in victims of sexual violence, the intensification of psychological trauma with subsequent reactions by criminal justice practitioners, including forensic authorities, severe feeling of physical contamination in the victim (one of the most common physical reactions to sexual violence), dynamics of violence in some forms, shame due to the sexual nature of the crime and imbalance of power in the victim and perpetrator[3], (Mercer & Madsen, 2011,; Zehr, 1990).

Caring and compensation of the psychological trauma of sexual violence are associated with far more complexities and difficulties than other crimes because of the difference in the trauma of sexual violence in comparison with other crimes due to the profoundly and fundamentally gendered myths from sexual behavior in most cultures and its impact on the public's understanding of the consequences of sexual violence, self-esteem, and its impact on

1. Like broadening definitions and legal grounds for rape, enacting laws to disregard the past sexual behavior of victims of crime and thus establishing rape shield protections, removing the requisites and verification requirements of victimization, opening up avenues for claims to obtain damages, increasing punitive and punishment giver responses to sexual offenses, training staff and criminal justice practitioners, introducing compensation plans, and the right of notification of victims.

2. This is in a situation where sexual violence is widespread and very common, according to media reports, but it is a crime that the majority of the victims are not compensated by the evidence of narrative explanations and scientific reports (Zinstach, 2017).

3. In this study, it was attempted to identify the victim as female and the perpetrator as male.

the judicial discretion (Ibid), this is also mainly bacause of the diminishing the responsibility of offenders and minimilizing the effectiveness of criminal interventions in these cases. In a situation where the criminal justice system, as well as its organizational culture and the sexual stereotypes of judicial actors, lacks minimum facilities and expertise needed to deal with victims and, sex offenders. efforts to restore victim's mental health and compensate for sexual harm, in particular, psychological and emotional harm are to some extent unexpected by resorting to criminal law resources and responding to the psychological needs of victims of sexual violence (the need for voice, validation, vindication, participation, non-blame, responsibility & accountability in perpetrator) (Daly, 2001).This is because the response to these needs require, an organizational structure and framework for treatment and care that includes adequate knowledge and understanding of the trauma of sexual violence, recognition of trauma and providing a good response to their effects. On the other hand, it is based on five values: a sense of security in the process of handling, reliability and confidence, the power of victim`s choice, collaboration and empowerment.

For the past several decades, restorative justice either as an option to the traditional adversarial justice, or as an alternative to going to court has redefined justice as a new paradigm of thinking in criminal cases which were introduced as "a set of informal procedures of justice outside the judicial process that often employs traditional means of resolving disputes" (Strang, 2002). Restorative justice, in contrast to conventional criminal justice—which conceptualizes crime as a violation of law and an offense against the state, focusing primarily on the punishment of the offender—regards crime principally as a violation of individuals and human relationships, and emphasizes repairing the harms inflicted upon the victim, the community, and even the offender. This paradigm of justice is grounded in five core values: (1) the voluntary participation of all stakeholders (victim, offender, and community) in the justice process; (2) direct or indirect encounter and dialogue between the parties; (3) the offender's active accountability for his or her conduct; (4) a focus on reparation of harm (material, physical, and psychological); and (5) the reconstruction of relationships and reintegration. Restorative justice programs encompass a diverse range of mechanisms—including victim–offender mediation, circle processes, group conferencing, and community decision-making forums—each applied in accordance with the nature of the offense, the characteristics of the parties, and the cultural context of the society.[4] Therefore, Restorative justice is based on three points: First, the elimination of the harm or mental trauma caused by sexual abuse and gender-centered in victim and other potential consequences; Second, creating a space for accountability and responsibility for the perpetrator and taking steps to reduce the risk of re-offence by making significant behavioral changes in him; and third, helping the community to reform its culture of sexual behavior and the re-writing of cultural narratives of rape and male hegemony.

Given the potential shortcomings and deficiencies of the criminal justice system in responding to all types of sexual violence, and the need to redefine justice from the perspective

[4]. Mirmajidi, Sepideh (2021). Characteristics of the Optimal Model of Restorative Justice Programs in Sexual Violence Cases; with a Look at the Judicial Discourse of Iran, *The Judiciary Law Journal*, vol. 85, Issue 114, 433–463.

of the psychological needs of victims of sexual violence, this study aims to investigate to what extent judges, based on empirical findings in Iranian judicial discourse to overcome problems and provide for victim needs, believe in the coexistence between restorative justice and criminal justice, for adopting a victim-centered and psychological approach to responding to sexual violence cases.

Corresponding to this issue, two questions were raised, one about the restorative interpretations of the criminal law on sexual offenses (the extent of meeting the needs of victims of sexual violence), and the other about the expectation of this group of victims from the criminal justice system. These two questions are, respectively, about judges and victims:

1. How is the current ruling on Iranian judicial discourse regarding restorative interpretations of criminal law in sex offenses assessed?

2. What do victims of sexual violence expect from justice?

Although sexual violence was widely interpreted, in practice, it was confined to two categories, rape and incest, in the criminal courts of Tehran province between spring and winter of 2019.

2. Methods

This research adopts a qualitative, interpretive, and trauma-informed methodological framework to critically examine how criminal justice systems respond to sexual violence and whether justice can be re-conceptualized through physiological and restorative perspectives. The methodology is specifically designed to investigate the relationship between bodily trauma, psychological harm, institutional responses, forensic procedures, and survivors lived experiences within criminal justice systems. Given the complexity, sensitivity, and multidimensional nature of sexual violence, the study integrates multiple qualitative methods in order to generate context-sensitive and survivor-centered knowledge.

2.1 Philosophical and Theoretical Foundations

This study is grounded primarily in the interpretivist paradigm. Interpretivism assumes that social reality is constructed through human experiences, meanings, and interactions rather than existing as an entirely objective phenomenon. In the context of sexual violence, survivors' experiences of trauma, fear, shame, bodily violation, and justice are deeply subjective and cannot be fully understood through purely quantitative or legalistic approaches. Accordingly, this research explores how survivors interpret their interactions with criminal justice institutions and how justice is experienced emotionally, psychologically, physiologically, and socially rather than merely as a legal outcome.

In addition to interpretivism, the research incorporates elements of critical theory. Critical approaches seek not only to understand social realities but also to examine structures of power, inequality, and institutional domination. Criminal justice systems have frequently been criticized for secondary victimization, institutional disbelief, patriarchal assumptions, and excessive reliance on narrow evidentiary standards. Therefore, this study critically evaluates

whether existing legal frameworks adequately recognize the physiological consequences of sexual violence and whether institutional practices unintentionally reproduce forms of structural violence against survivors. Through this framework, justice is examined as a lived and embodied experience shaped by institutional, social, and physiological realities.

2.2 Research Design

The research adopts a qualitative multiple case study design. This design was selected because it enables an in-depth examination of survivors' experiences across different institutional contexts, including police procedures, forensic examinations, courtroom processes, and interactions with legal professionals. The multiple case study approach allows the researcher to explore how criminal justice institutions operationally respond to sexual violence and whether these responses contribute to healing and restoration or instead produce re-traumatization and emotional harm.

The study further adopts a trauma-informed and restorative understanding of justice. Rather than defining justice solely through punishment or procedural legality, the research conceptualizes justice as involving recognition, dignity, emotional safety, bodily integrity, and survivor-centered restoration. This theoretical orientation directly informs all methodological decisions, including participant recruitment, interview structure, communication strategies, and analytical procedures.

2.3 Sampling Strategy and Participants

The study employs snowball sampling as the primary participant recruitment strategy. Snowball sampling is particularly appropriate in research involving hidden, vulnerable, stigmatized, or difficult-to-access populations. Survivors of sexual violence often remain inaccessible due to fear, trauma, stigma, confidentiality concerns, and distrust of legal institutions. Consequently, conventional recruitment methods may be ineffective or ethically problematic.

The sampling process was conducted in several stages. Initial participants were identified through women's rights organizations, trauma support centers, legal aid institutions, and survivor advocacy networks. These individuals subsequently referred other participants with relevant experiences and professional expertise.

The study includes several categories of participants in order to obtain diverse legal, physiological, institutional, and restorative perspectives. Participants included:

- 15 survivors of sexual violence;
- 20 judges from criminal courts in Tehran Province;
- criminal lawyers;
- forensic physicians;
- psychologists and trauma specialists;

- social workers; and
- women's rights advocates.

The inclusion of both survivors and institutional actors strengthened the study's ability to critically examine how justice is defined, implemented, and experienced within criminal justice systems.

2.4 Data Collection Methods

Semi-structured interviews constitute the primary method of data collection. This method was selected because it provides methodological consistency while also allowing analytical flexibility, emotional sensitivity, and participant-centered communication. The interviews were designed according to trauma-informed principles in order to minimize re-traumatization, prioritize emotional safety, support participant autonomy, and create respectful communication environments.

The interview process was divided into several thematic sections. First, participants discussed their institutional and personal backgrounds, including their involvement with criminal justice systems and general legal experiences. Second, participants were invited to describe the physiological and emotional consequences of sexual violence, including stress reactions, panic responses, dissociation, chronic fear, memory fragmentation, sleep disturbances, and trauma-related bodily symptoms. This section directly operationalized the study's concept of physiological justice.

Third, participants discussed their experiences with criminal justice institutions, including police behavior, courtroom procedures, forensic examinations, evidentiary practices, and interactions with legal professionals. Particular attention was given to identifying forms of secondary victimization, institutional disbelief, humiliation, and emotional invalidation. The interviews also explored participants' own understandings of justice, healing, accountability, and restoration.

In addition to interviews, the study utilized a comprehensive review of literature in order to contextualize the subject historically and theoretically and to situate contemporary institutional responses within broader legal and restorative justice debates.

2.5 Data Analysis

The study employs thematic analysis as the primary analytical method. Thematic analysis enables the systematic identification, interpretation, and comparison of recurring patterns across participants' narratives and institutional experiences. The analytical process involved several stages, including transcription of interviews, repeated reading and familiarization with the data, open coding, categorization of recurring concepts, identification of themes, cross-case comparison, and theoretical interpretation.

The coding framework focused on several major thematic categories. Physiological themes included hypervigilance, bodily fear, somatic symptoms, stress reactions, panic

responses, dissociation, and trauma-triggered bodily responses. Institutional themes included institutional disbelief, humiliating questioning, procedural neglect, forensic objectification, re-traumatization, and secondary victimization. Restorative justice themes included dignity, emotional validation, survivor agency, healing, safety, institutional accountability, and restoration.

Through thematic analysis, the study examined whether criminal justice systems contribute to recognition, recovery, and emotional restoration or whether they reproduce institutional violence, emotional harm, and physiological distress.

2.6 Validity, Trustworthiness, and Ethical Considerations

Given the sensitivity of sexual violence research, particular attention was devoted to ethical considerations and research trustworthiness. Trauma-informed interviewing techniques were employed throughout the research process in order to minimize emotional harm and respect participants' psychological wellbeing. Participation was voluntary, confidentiality was strictly protected, and participants retained the right to withdraw from the study at any stage.

The credibility and trustworthiness of the study were strengthened through methodological triangulation, cross-case comparison, and the inclusion of diverse participant groups. Repeated engagement with the data and continuous thematic refinement further enhanced analytical consistency and interpretive reliability.

Due to the emotional and psychological risks associated with discussing traumatic experiences, interviews were conducted in respectful and participant-centered environments designed to prioritize emotional safety and minimize re-traumatization.

2.7 Conclusion of the Methodological Framework

This methodological framework was specifically designed to investigate the embodied, physiological, and restorative dimensions of justice in cases of sexual violence. By integrating interpretivist and critical paradigms, multiple case study methodology, snowball sampling, trauma-informed semi-structured interviews, and thematic analysis, the research operationally examines how survivors experience criminal justice systems physically, emotionally, and institutionally.

The methodology is therefore directly connected to the central objective of the study: critically redefining justice not merely as punishment or procedural legality, but as recognition, dignity, healing, emotional safety, bodily integrity, and survivor-centered restoration.

3. Findings and Discussion

3.1. Judicial response to allegation of sexual violence in Iran: patterns of not recognition

There has been much criticism on the Iranian legislator's performance in the area of sex crimes, including the lack of criminalization of some sexual violence, such as domestic sexual violence, the unclear scope of sexual violence, the lack of relative determination of its instances, and limited evidence to substantiate these crimes. However,recent case studies of various branches

of the criminal court 1 in Tehran province show that in addition to the inadequate criminal responses to sex crimes in criminal discourse (the death penalty), the dominance of ideological approacheson the organizational culture of the Iranian judicial discourse also prevents crimes from issuing the legal decree.

The findings also suggest that the ideological dominance of Iranian judiciary discourse has led to the formation of an almost uniform decision-making pattern in the judicial system by creating mental stereotypes of the judge in the context of sex crimes. That is, 1) blaming the victims of sexual violence, 2) unfair interpretations of the concept of resistance specifically in rape, and 3) implicitly permitting rape based on the previous acquaintance between the plaintiff and the accused.

In such a situation, there arise some consequnces such as not recognizing the victim's claim of sexual violence, experiencing post-traumatic stress disorder and other types of anxiety disorders in most of these victims, feeling violation of the victim's sexuality, losing confidence, blaming those around and the criminal justice actors in most cases, and the victim's extreme responses (exaggerating/showing insignificance) to others. In turn, these lead to two outcomes: On the one hand, feeling re-victimization (secondary victimization) and re-traumatization in the criminal justice process from reporting to the police to the investigation courts and even medical examinations in the victim, and on the other hand, high levels of attrition.

The findings of the study show that out of 160 cases referred to Branch 2 of Tehran Criminal Court in 2018, 46 were related to rape. Of these, in one case, however, with the change of "rape" to "illegal sexual relationship", we witnessed the sentence of perpetrator to several lashes. The rest of the cases led to the issuance of the prohibition of prosecution injunction. Similarly, in the seventh branch of the court, 43 cases out of a total of 118 cases in 2018 were proscribed prohibition of prosecution. In only one case, the death sentence was issued and the rest resulted in flogging, both in Hadd and in Ta`zir. Statistics from another branch of the Criminal Court 1 of Tehran province also show that out of 1187,000 referral cases from 2016 to 2020, only 13 cases of rape were proven.

The suppression of the victim's voice in criminal processes and her being silenced transforms the victimization experience to false prejudices based on stereotyped, degrading and defamatory views on female sexual orientation. This silence diminishes both her personality and chances of succeeding in court in order to recognize her injuries. (Koss & Achilles, 2008).

The findings demonstrate that judicial responses to sexual violence in Iran are strongly influenced by ideological and patriarchal assumptions that frequently result in victim blaming, non-recognition of victimization, secondary victimization, and high attrition rates. Nevertheless, the findings also suggest that some judges attempt to partially acknowledge victims' psychological harm through alternative legal interpretations and mitigated criminal classifications.

Although many judicial responses result in the non-recognition of sexual violence claims, the findings also reveal limited restorative tendencies within Iranian judicial discourse. In some cases, judges attempt to partially acknowledge victims' psychological harm by reclassifying sexual violence into less severe criminal categories or encouraging compensation and reconciliation. This paradox reflects the coexistence of punitive and restorative orientations within the Iranian criminal justice system, where ideological and religious considerations continue to dominate judicial responses despite the growing influence of restorative justice discourse.

3.2 Beyond punitive justice: a victim-cnetered farmework for addressing the psycological needs of sexual viololence victims in Iran

Many of the empirical findings have outlined participation, voice, validation, vindication, and accountability as the most important demands and the justice needs of victims of sexual violence (Strange, 2002; Backer, 2014; Herman, 2005; Koss, 2010; Keenan, 2014; Zehr, 1990). These are closely related to the principles and criteria of restorative justice, including the need to adopt a victim-centered approach. Providing and responding to them is remarkably effective and helpful in reducing the psychological consequences of violence and helping the victim to transition from the subject of "victim" to the "rescued" subject.

In this study, only two of the needs that were repeated, and emphasized by most victims, have been addressed, namely, the recognition of the victimization experience and the acceptance of genuine responsibility by the offender. To explain how restorative justice can contribute to meeting these two needs, it should be noted that restorative justice in cases of sexual violence cannot be reduced merely to a set of dispute-resolution techniques. Rather, it is fundamentally grounded in the intersubjective nature of the lived experiences of both victim and offender, and in the effort to construct a shared narrative of the harmful event. The human dignity of the victim—often undermined within conventional criminal proceedings through blame-oriented attitudes, skepticism toward credibility, and marginalization of the victim's account—is restored within the restorative approach through recognition of the experience of victimization and validation of the harm suffered. Victim empowerment is contingent upon restoring a sense of agency and control, achieved by centering the victim's choice and volition at every stage of the restorative process—from the decision to participate to the determination of appropriate forms of reparation. Voluntary participation is not a rhetorical principle but a necessary condition for the legitimacy of restorative interventions; any form of coercion risks transforming the process into yet another instrument of a punitive system. Finally, offender-centered accountability entails moving beyond abstract criminal responsibility toward concrete and practical responsibility—manifested through genuine apology, material and symbolic reparation, and a demonstrated commitment to behavioral change. Therefore. in restorative justice, judicial actors acknowledge the truthfulness of the crime and the harm caused by it, and the victimization experience is recognized without the victim's moral blame (Daly, 2016). To this end, the judiciary officials are sufficiently emphasizing the "great, serious and heavy" conduct of the perpetrator and sufficiently discuss the harm caused by it. On the contrary, there is no self-blame, even by families and the judiciary officials, and it is challenged in the event

happening. The burden of proving the accusation is shifted from the victim to the judicial authorities, the local community, and the perpetrator. Thus, this allows the victim's family members or friends and legal authorities to come to side with the victim's account of what happened.

But as mentioned, this important matter is not seen in formal and traditional criminal justice. In fact, despite the victim's need for the recognition of their needs, as well as the genuine acknowledgment of the offender's criminal responsibility and accountability, empirical findings indicate that not only is the victim's experience of victimization not recognized, but also the responsibility for committing the crime is often implicitly or explicitly shifted onto the victim, which is a common phenomenon referring to in psychology as victim blame phenomenon. Victims who, in addition to suffering from abuse and violence, must undertake responsibility of crime committed by someone else fully or partially. Survivors who are blamed will most likely not report it if a subsequent crime occurs. Besides, the victim's blame affects other people's decision to report violence, the authorities' commitment to the prosecution of crime, offender, and court decisions.

3.2.1. Victim Recognition and Validation

As the title of this section suggests, this section solely addresses the victim's need for validation and confirmation, whereas the issue of the offender's accountability will be taken up in the following section. However, this first axis itself cannot be adequately examined through a single, unified analysis. It requires considering various assumptions and different forms of sexual violence.

Most sexual violence cases in the first place are faced with a judge's disapproval of the crime and the rejection of victim's claim; this, in the next step, changes the sexual violence to a lighter crime about which the judge tries to recognize the extent of the wrongdoing and the victim's claim. Therefore, the Iranian procedure suggests other forms of validation and recognition of the victim's experience. And this means that although the Iranian criminal justice system does not deliberately resort to restorative interventions regarding sexual violence, in practice it seemingly adheres, albeit unintentionally, to a certain level of restorative justice. Studying the procedure of different branches of the criminal court 1 of Tehran province, in this case, necessitates a distinction between three different assumptions.

3.2.1.1. Constrcuting consent through prior intimacy in rape proceedeing

In this case, there is always the possibility of a level of validation by the judge. However, the judge may not find the defendant's behavior completely harmful to the constituent elements of the rape and thus acquit him. But in the first step, the judge initially acknowledges the perpetrator as guilty, and considers the victims‘ claim of deception in marriage, and injuries to her, nevertheless, in practice he adopts mechanisms such as prolongation of the investigation phase, allowing the parties an opportunity to reach peace and reconciliation, threatening to imposeadditional punishment in the absence of compensation for crimes, the marriage proposal, and even the mitigation of punishment in case of plaintiff's` consent and accepting the marriage

proposal of plaintiff and her family by perpetrator (of course subject to the conditions of marriage). Otherwise, the whole prosecution changes the accusation of rape to an illegal sexual relationship by force and reluctance, and the judge tries to compensate for the injuries inflicted on the victim who confirms that she has sexually been assaulted. However, they disagree with each other about the type of sexual behavior:

"If we find that victime has been deceived, especially if she was a virgin, because the law is flawed (there is legal vacuum between 100 lashes and the execution), the security collected from the accused will be very heavy and also temporary detention will be issued and then a severe Complementary punishment, such as staying in remote border villages or even doing the municipal services there. As far as we can, we try to soothe the girl`s sadness. Complementary punishments are especially effective in cases of deception in marriage".

Elsewhere, he states: *"Because the law is flawed and we cannot have full compensation and support at all if we realize girl's sincerity, purity, innocence, and simplicity are endangered, here although there is no belief in rape in the true sense, we are trying to protect the victim'. Of course, in this case, the age of the perpetrator and victim is also very important".*

Therefore, validation of the victim find meaning in most criminal court procedure by accepting the victim's allegation of being deceived into marriage on the one hand, and proposing marriage to the accused and forcing him to make restitution on the other hand:

"In such cases (Deception in marriage), if the parties were single, we would offer them marriage. If they get married, we will certainly deal with alleviation. It often does. We don't even apply Hadd for adultery. Given the extent of the case, we do not even allow the parties to confess four times. And we judge under Article 232[5]. We even say that you were a concubine before if God willing! Even if it does not end to the marriage, we will issue the verdict of punishment to the illegal sexual relationship without force and reluctance, plus additional punishments that are very effective. Because of the fear of this additional punishment, they are either forced to marry or if the plaintiff wants and consents, they will admit paying for a sum"

If the marriage proposal or any other form of reconciliation between the parties fails, then the illegal sexual relationship by force and reluctance will eventually be handed down only to the defendant in the case, which in itself represents some sort of validation of some of the victim's claim. This has blamed the behavior of the perpetrators before the judges and led to the conviction of illegal sexual relationship by force and reluctance.

3.2.1.2. Incest: validation takes another form

If the evidence of the crime seems weak to the judge, he will make no further efforts to gather evidence and, by closing the case, will in practice lead to ethical and religious commitments and delivers the victim to her relatives, or otherwise to the rehabilitation center. But if the judge

5. Article 232: "Whenever a man or woman confesses to adultery less than four times, he/she is sentenced from thirty-one to seventy-four T`azir lashes of sixth degree…"

has strong evidence and the crime is committed, he will be sentenced to severe punishment with confirmation and authentication of victim[6].

In an interview with a judge in criminal court 1 in Tehran province, the procedure is outlined: *"It is difficult to prove and it carries a heavy penalty. We don't get too involved in the argument to prove it. The suspicions in these cases are high. There we give criterion action to most of the deterrent factors like splitting the house. Although we know that this has been done, but we are not legally obliged to collect the evidence and consider the denial sufficient. We deliver them to the rehabilitation center and get a commitment from their relatives. We are more concerned with staying concealed with the case, and with the punishment of the accused, no repair will be made for the girl. But it will get worse. The punishment, too – cannot be restored. If the evidence is weak, it would not even reach to the crime confirmation stage. But if there is proof and legally no suspicious, they will be severely punished".*

He mentions of another incestuous case in which the groom raped his mother-in-law. *"There is no serious will to pursue the case. We're not looking for that much. We consider religious evidence as un-submitted. The social and familial injury of these issues is very acute and disturbing. It hurts the family relaxation. We are now looking to see if these issues can be resolved or not. For those who are older, we are not much involved in proving rape. That is, we believe it was really a case of rape. We are not saying she is lying. For example, in this case, the rape of the groom must somehow be avoided. Because it is a matter of a man's respect for his wife whose mother was raped."*

Another judge argues: *"In the case of incest, the court's policy is covering the crime. The reason is the heavy burden of punishment on the one hand, and the consequences of the execution on the other hand. It's hard to prove. We try to confess half and finally treat the man's behavior as the crimes against public decency. In this case, we have tried to say that it has not been so. The effort is to give up. Even to the extent that we do not impose slight punishment on the offender ".*

3.2.1.3. Rape claims within marriage: evaluating consent and legal responsibility

In this case, the judge is more likely to cover the crime, even if the judge's knowledge leads him to a crime authentication. So in this case, it is not possible to confirm and authenticate the victim's claim: *"In the cases where the plaintiff is married ... because my approach is jurisprudential, I believe that married people are closer to the right, which did not establish rape but consider the illegal sexual relationship by force, especially for the sake of the family. It has even become a matter of principle to say that there is no crime at all".* He continues: *"We urge women in general not to be punished and try to compromise. On married women and men, we think by the closure of the case, their family foundation will be protected, we will do so".*

Another judge said in a similar comment: *"In a series of cases where a woman and a man are married and a complaint has been filed, in these crimes because its punishment is very*

6.both of these assumptions, however, the extent of the victim's insistence on the continuation of the proceedings, as noted earlier, has a significant effect in his legitimacy on justification of the judge.

severe, the court is trying to close the case and does not go into sideways to escape the severe punishment. Or, for example, where a child is born or newly married".

The office director of one of the branches of the Criminal Court 1 of Tehran province also says about his branch's practice: *"when they (both sides of the crime) are married, Their words make it seem as if it was not a relationship at all, while it is quite clear that it was. That is, they do not deliberately go for it themselves ".*

Therefore, in these two cases, incest and assuming each of the plaintiffs and defendants are married, the affirmation and authentication of the victim's claim and the recognition of the victim's experience is somewhat unexpected. One of the judges generally believe that: *"Given the sacred law and jurisprudence which is consistent with the preservation of human dignity, the judge in this type of crimes should not seek to prove their reason, but rather seek for acquittal because firstly religion respects the value of man and secondly because man is fundamentally a sinful being and the possibility of wrongdoing is in him, and thirdly because maintaining the dignity and integrity of imperfections is one of our human and moral duties, which is even more important than the duty of judgment".*

But is it reasonable that the cost of failing to prove some cases of sexual violence and neglecting the psychological and emotional damages and injuries suffered by the victim for adhering to the Islamic criminal policy based on covering the crime be left to the victim?

3.2.2. Perpetrator Accountqability and Restorative Justice

The third theme concerns offender accountability and the extent to which restorative justice principles are reflected in judicial practices related to apology, remorse, responsibility, and reconciliation.

Experiencing sexual violence in individuals typically results in negative thoughts and feelings such as anger or revenge. In contrast, through the process of restorative justice, somehow improving the relationships with the perpetrator, or to perform valiant behaviors that promote well-being and mental health, even as a means of treating victims of mental disorders. It goes on to have its past consequences of victimization, emancipation from negative feelings about the perpetrator, overcoming the anguish, avoiding anger, avoidance, separation, and revenge from the perpetrator. But this forgiveness depends on several factors, including apology by peroetrator, remorse and regret, and then responsibility and accountability of the perpetrator. In other words, the amount of forgiveness is directly correlated with the degree of remorse and apology and the extent of punishment associated with his apology.

Accordingly, in restorative justice, the mere conviction of the perpetrator in court do not imply his responsibility (Clark, 2015), and in addition to his emphasis and attempt to establish a guilty plea that confirms and authenticates the victim, indeed, he is obliged to explain the behavior, compensate the damage caused by it, and express sincere apology to the victim (Daly, 2016). To this end, in the first step, the alleged wrong-doers is called for the account to be questioned about his behavior. That is, he is asked for an explanation and given the opportunity

to do so. Then, in the event of an admission of fault, one is expected to show that he has accepted responsibility for his wrongful conduct, that is, for responsibility, appropriately, to convey his regret to the victim (Ibid).

Interviews with judges and participatory observations in the Iranian judiciary system show that this component of restorative justice is more emphasized by the judge because of its link to the goals of the retributive approaches. This happens as the judge tries to actively encourage him to accept responsibility by minimizing the obstacles of perpetrator`s responsibility and providing the ground for transferring his regrets to the victim. In an example of participatory observation, the head of the court said to the perpetrator of rape: *"... you need help now, and I want to help you. But it's up to you to come and tell the truth. If you tell the truth, maybe I can make a new decision for you. Take responsibility for your actions. I was also promising to make another decision for you ... Keep my words in your ear.... Another decision I wanted to make for you, now you know. But you have to be honest. Look, the plaintiff is talking right. It shows honesty in his speech. If she wanted to lie, she said that I would have been forced to go. So I advise you to be honest. If you were not honest, we would give you additional punishment ... But if you are honest, in the final judgment of the court, you will surely see the result".*

Elsewhere he says: "*Take the devil away from you ... The more you say the contrary, the more trouble you will get into. Helping you is to tell the truth."* And he repeatedly emphasizes the sincerity of the complainant's speech. In another case, he says to the defendant: *"Don't deviate from the path, tell the truth, because your situation is not so complicated ... I advise you, fatherly. Because I'm going to help you, "*and says to the accused lawyer*: "Help him, Ms. Lawyer. Concealing the truth is not the solution everywhere. It is better for him to tell the truth. so that our hands are open ... if he is honest, it's just a whip. But if not, then the situation is difficult".*

As it is clear, expressing remorse and regret by perpetrator and honesty in his speech and behavior is a prerequisite for diminishing the obstacles to accountability. That is to say, due to the heavy penalties of criminal proceedings pending in criminal court 1, defendants are often evaded responsibility. The practice shows that judges benefit from incentives such as reductions in penalties and the proposal to marry if the circumstances so warrant, to the threat of committing additional punishment. But the extent to which these mechanisms, including the fear of a punishment, lead to genuine remorse and regret is an issue that needs independent investigation. However, empirical findings suggest that for all victims, apology and regret are not always the most important and beneficial way to compensate, since many victims are not essentially very optimistic for the motivation of apology, apology value and the possibility of experiencing genuine regret and repentance in perpetrator. And while they value the idea of peace and reconciliation that is possible with a genuine and honest apology, they know it very unattainable to do so in practice. Even more than that, apology and regret by the perpetrator have been described as a deceptive game that in the words of a victims, it is expressed as aiming to "close the complinant’s mouth".

Therefore, to the extent that the victim may not be willing to impose severe criminal penalties on the perpetrator, she may not equally agree with peace and reconciliation with the perpetrator at least at the outset, since in principle, reaching peace with the perpetrator as untrue and unsubstantial: *"I never wanted him to be executed. His execution was not important to me, because I am geneally opposed to the execution of people. I was seeking more apology, but that person is completely apathetic and I don't think he has been changed at all."*

It is not surprising, then, that only a small number of victims expressed their desire for peace and forgiveness with perpetrator as an ideal goal, at least at the first step, and the rest considered it to be a kind of injustice in their own right which is imposed only for the sake of others' comfort. In their view, it is easy for observers who only encourage the victim to remise to satisfy themselves with the chilling feeling of "ending" a case that results from the pressure on the victim to forgive. Therefore, it is better to encourage the perpetrator to accept genuine responsibility rather than putting pressure on the victim to forbear the perpetrator. The important point is that comparing the views of victims interviewed in court with those questioned in psychology and counseling clinics, it can be realized how time and restorative processes for peace and reconciliation between the parties to the crime and the appropriate psychological and emotional preparation, especially the victim, is important to begin this process. If it is not properly fulfilled and managed, there will certainly be no satisfactory results from the restorative interventions.

The findings indicate that although judges often encourage offenders to accept responsibility and express remorse, many victims remain skeptical regarding the authenticity of apologies and restorative reconciliation processes. Victims generally prioritize recognition, validation, and genuine accountability over severe punishment or forced reconciliation.

4. Conclusion

Victims of any crime have needs and demands of the justice system that are not necessarily similar to the interests of the other victims of criminal justice. Sexual violence is no exception, and because of the damages it inflicts on the victim psyche, it requires much more attention and expertise in the consequences of sexual violence, and on how to deal with and fix them. Therefore, while emphasizing the need for general training on restorative justice to practitioners and executors of restorative justice, it is recommended that professionals and psychologists who are specifically trained in the field of sexual violence, and the dimensions, consequences, and outcomes of sexual offenses shouldbe used. For this reason, adherence to the principles governing the application of restorative justice in sexual violence cases is one of the preconditions for restorative intervention in such cases, including determining appropriate time and referral of the case to the restorative process according to a psychologist, identifying appropriate cases for referral to restorative interventions, the need to voluntarily paticipating in restorative justice programs, maintaining victim safety, and preparing her for appropriate interventions. This list can be added by clarifying the motives of the litigants to participate in the restorative program, determining where the victim was visited, and most importantly, agreeing with victime on the extent and manner of narrating the victimization experience and

the need to appoint a sponsor for both sides of the crime. Observing all of them are necessary to compensate the injury to the victim and reduce the chance of re-injury against her.

The first research question concerned the extent to which the needs of victims of sexual violence are addressed within Iranian judicial practice. The empirical findings—derived from interviews with judges and victims, as well as case file analysis—indicate that victims' needs are met in an unequal and selective manner. The need for acknowledgment and validation is primarily satisfied in cases involving deception in marriage, often through alternative mechanisms such as threats of supplementary punishment or proposals of marriage. However, in cases of incest or where both parties are married, this need is frequently disregarded due to policies of crime concealment. While judges emphasize the importance of offender accountability, victims often express skepticism regarding the authenticity of offenders' apologies and remorse and tend to reject them. The need for participation is rarely realized, except where the complainant persistently insists on involvement; in most instances, victims play only a marginal role in decision-making processes.

The second research question concerned victims' expectations of the criminal justice system. The findings reveal that, contrary to common assumptions, victims do not primarily seek retributive punishment. Rather than pursuing vengeance, they prioritize being heard, being believed, and receiving redress for the psychological and social harms they have endured. What they expect from the justice system—prior to the punishment of the offender—is recognition of their experience of victimization, freedom from moral blame, the opportunity to narrate their account, and, most importantly, genuine acceptance of responsibility and sincere apology from the offender.

The realization of justice in addressing gender-based violence necessitates the development of a multilayered framework in which dynamic jurisprudence, restorative justice principles, comparative legal experiences, and human rights imperatives operate in a coordinated and synergistic manner. Such an integrated structure ensures that legal responses are not only adaptive and context-sensitive but also grounded in transformative justice, informed by cross-jurisdictional insights, and aligned with international human rights standards.

Studying the procedure of different branches of the Criminal Court 1 of Tehran province indicates that if we do not consider restorative interventions to meet the psychological and emotional needs of the victim and even the perpetrator in extreme, and also believe in the variety of ratings, we can generally see some manifestations of the restorative approach of judges in sexual violence cases. But given the structural and organizational barriers to Iranian judicial discourse for resorting to outside intervention in the court system, and in particular, the need to deal directly with sexual violence cases in court as well as Islam's delinquency policy, what can be recommended in the current state of the criminal justice system for the application of restorative approaches to sexual violence cases is the adoption of "restorative language" and, for example, the use of "harm language". This means identifying the damage to and all that is necessary to compensate and correct the criminal event and the resulting injuries. To do so, it

is just enough to focus on sexual and gender-based abuse, and then on ways to actively commit responsibility of perpetrator and help the injured parties recover in judicial discourse more than to focus on violations of law. Therefore, even in traditional courts, adopting a restorative approach is possible to some extent. It is just enough to have the language of repair and harm. The same language that focuses, on the one hand, on identifying the benefits, needs, and injuries of the perpetrator, and on the other hand, on its compensation and responsibility of the perpetrator by re-conceptualizing justice and its aims in cases of sexual violence.

5. Recommendation for policy and instituatioanl reform

The realization of justice in responding to gender-based violence requires the design of multi-layered structures in which restorative justice, comparative experiences, and human rights considerations function in a coordinated and mutually reinforcing manner. On this basis, the following proposals are offered to improve the current situation:

a) Measures for legislative reform:

Under Research and Theoretical Measures, the focus should be placed on strengthening both the empirical and conceptual foundations of the study in order to enhance the understanding, interpretation, and legal analysis of sexual violence within the relevant jurisdiction. From a research perspective, there is a need for more systematic, methodologically rigorous, and context-sensitive studies that examine how sexual violence is defined, processed, and adjudicated within the legal system. This includes the collection and analysis of qualitative and quantitative data on judicial practice, evidentiary standards, patterns of decision-making, and the lived experiences of survivors within legal proceedings. Particular attention should be given to identifying structural gaps, inconsistencies in legal reasoning, and the influence of socio-cultural norms on judicial outcomes.

From a theoretical standpoint, it is essential to critically engage with and further develop legal and interdisciplinary frameworks that inform the understanding of consent, victimhood, and accountability. This involves drawing on feminist legal theory, socio-legal studies, and therapeutic jurisprudence to challenge dominant doctrinal assumptions that may limit the recognition of sexual violence or marginalise the experiences of victims. Strengthening theoretical approaches also requires re-examining how concepts such as consent, credibility, and harm are constructed and operationalised within legal discourse, and how these constructions impact judicial reasoning.

Overall, research and theoretical development should work in tandem to produce a more comprehensive and critically informed understanding of sexual violence law, ensuring that legal interpretation is not only doctrinally sound but also responsive to social realities and the psychological and structural dimensions of harm.

b) Judicial and Executive Measures for effective implementation:

Comprehensive institutional reform in this area may be advanced through the establishment of “Screening and Restorative Intervention Units” within the judicial system, operating as specialised auxiliary bodies attached to courts adjudicating sexual violence cases. These units

would function on an interdisciplinary basis, in close collaboration with qualified psychologists, psychiatrists, and social workers trained in trauma-informed and victim-centred methodologies. From a legal perspective, the creation of such units can be justified on the basis of ensuring the effective realisation of procedural justice, particularly the principles of fairness, dignity, and meaningful participation of victims in criminal proceedings. Their role would not be evidentiary in the strict sense, but rather facilitative, assisting the court in understanding the psychological and social dimensions of harm, thereby improving the quality of judicial fact-finding and sentencing considerations.

In parallel, it is necessary to develop, formalise, and promulgate specialised judicial guidelines for the adjudication of sexual violence cases. Such guidelines would serve to standardise judicial practice, reduce interpretive inconsistency, and mitigate the influence of extralegal or prejudicial assumptions regarding consent, credibility, or victim behaviour. From a doctrinal standpoint, these guidelines would reinforce the principles of legality, equality before the law, and non-discrimination, while also ensuring alignment with emerging international standards on gender-based violence. Importantly, they should require the use of neutral and non-stigmatising language in judicial reasoning, and explicitly discourage victim-blaming narratives or reliance on stereotypical assumptions about sexual conduct and consent.

Furthermore, judicial procedure should be restructured to mandate the formal consideration of the victim's psychological testimony or impact statement prior to the issuance of judgment. This requirement is grounded in the principle of individualized justice and the recognition of harm as a central component of criminal adjudication. Such a procedural safeguard would not only strengthen the evidentiary and contextual basis of sentencing but also ensure that the court adequately engages with the full scope of harm suffered, including non-physical and long-term psychological consequences. This approach is consistent with restorative and therapeutic jurisprudential principles, which emphasise the legal system's responsibility to acknowledge and address harm in a holistic manner.

Finally, the creation of a centralised and regulated database of offenders and case outcomes may be considered as part of a broader preventive and risk-management strategy aimed at reducing recidivism and improving inter-institutional coordination. From a legal and policy perspective, such a mechanism must be designed with strict safeguards to ensure compliance with data protection principles, proportionality, and due process guarantees. Its primary function would be to facilitate informed judicial decision-making, support risk assessment where legally permissible, and enhance long-term protective measures for potential victims, while maintaining a careful balance between public safety objectives and the rights of both victims and accused persons.

Collectively, these measures reflect a shift towards a more integrated legal framework in which adjudication is not limited to formal determination of guilt, but also incorporates structured mechanisms for understanding harm, ensuring procedural integrity, and preventing future violence through coordinated judicial and institutional responses.

c) Extra-Judicial and Structural responsees to systematic gaps:
A comprehensive reform in this domain may be advanced through the establishment of specialised, state-supported support centres for survivors of sexual violence, designed to operate as integrated service hubs providing free and confidential psychological counselling, social support, and legal assistance. From a legal and institutional perspective, such centres would serve an essential function in ensuring effective access to justice, particularly by reducing structural barriers that often prevent victims from engaging with formal legal processes. Their establishment may be justified under the principles of procedural fairness, equal protection before the law, and the State's positive obligation to ensure effective remedies for victims of serious harm. These centres should be formally linked, while remaining operationally independent, to the judicial and prosecutorial system in order to facilitate coordinated referral mechanisms, evidentiary support where appropriate, and continuity of care throughout the legal process.

In addition, it is recommended that supervised restorative dialogue programmes be developed and institutionalised as a regulated component of the criminal justice response, to be implemented strictly at an appropriate procedural stage and only where conditions of voluntariness, psychological readiness, and informed consent are clearly satisfied. Such programmes should explicitly exclude participation during acute phases of trauma and should instead be considered at a later stage, for example during post-investigation or post-conviction phases, depending on the legal framework. From a jurisprudential standpoint, the legitimacy of such mechanisms is grounded in restorative justice theory, which emphasises accountability, acknowledgement of harm, and structured dialogue as complementary to, rather than a replacement for, formal adjudication. Proper safeguards must be embedded to ensure that restorative processes do not reproduce coercion, power imbalance, or secondary victimisation.

Furthermore, judicial and legal education systems should be substantively reformed to incorporate mandatory training on trauma-informed practice, victim psychology, and the dynamics of gender bias in adjudication. Such reforms are essential to strengthening judicial impartiality and improving the evidentiary assessment of testimony in sexual violence cases. From a doctrinal perspective, enhanced judicial education contributes to the more accurate application of evidentiary standards, reduces reliance on implicit stereotypes regarding credibility or consent, and reinforces the integrity of judicial reasoning. This would also align with broader principles of judicial competence, professional ethics, and the effective administration of justice.

Finally, the development of a national protocol for restorative interventions in cases of sexual violence is recommended in order to ensure coherence, consistency, and legal certainty in the application of such measures across jurisdictions. This protocol should draw upon comparative experiences from leading jurisdictions while being carefully adapted to ensure full compatibility with Islamic legal principles and the socio-cultural context of Iran. In normative terms, such a framework should articulate clear criteria for case eligibility, procedural safeguards, ethical standards, and institutional responsibilities, thereby ensuring that restorative practices operate within a legally regulated and rights-compliant structure. The protocol should

also explicitly delineate the relationship between restorative processes and formal criminal proceedings, ensuring that restorative justice functions as a complementary mechanism within the broader criminal justice system rather than as a substitute for legal accountability. Taken together, these measures reflect an integrated and multi-layered reform strategy aimed at strengthening victim protection, improving judicial responsiveness, and expanding the procedural and substantive capacity of the legal system to address sexual violence in a manner that is both rights-based and contextually grounded.

d) Rcommendation for research and Theoretical development:
Afurther and more foundational dimension of reform concerns the development of an indigenous model of restorative justice tailored to the Iranian legal and socio-legal context, which systematically integrates the interpretive resources and doctrinal capacities of Imāmī jurisprudence (fiqh al-Imāmiyya) with contemporary principles of citizens' rights and procedural justice. From a legal-theoretical standpoint, such a model would require a careful re-examination of key jurisprudential concepts such as reconciliation (ṣulḥ), discretionary punishment (taʿzīr), and victim compensation (diyah), in order to explore their potential compatibility with restorative justice objectives, including accountability, harm reparation, and participatory resolution. Rather than importing restorative frameworks in an uncritical manner, this approach seeks to construct a normatively grounded model that is both doctrinally legitimate within Islamic legal tradition and responsive to modern standards of human rights and due process.

In order to ensure the credibility, effectiveness, and sustainability of such reforms, it is essential to establish a framework for continuous empirical evaluation of restorative justice interventions through longitudinal and quasi-experimental research designs. These methodologies would enable a systematic assessment of both short-term and long-term outcomes, including victim satisfaction, psychological recovery, rates of recidivism, compliance with agreements, and overall confidence in the justice system. From a socio-legal perspective, the incorporation of empirical evaluation mechanisms is crucial to bridging the gap between normative legal theory and lived institutional practice, thereby ensuring that restorative justice mechanisms are not only theoretically sound but also empirically effective and socially legitimate.

Moreover, a rigorous programme of comparative legal analysis across Islamic legal systems should be undertaken with particular attention to jurisdictions that have incorporated restorative or conciliatory approaches in the adjudication of sexual offences or related categories of harm. Such comparative inquiry would serve two interrelated purposes: first, to identify doctrinal convergences and divergences in the interpretation and application of Islamic legal principles; and second, to evaluate how different socio-legal contexts have operationalised restorative mechanisms within an Islamic normative framework. This comparative dimension is essential for situating the Iranian model within the broader landscape of Islamic legal thought and practice, while also enabling the identification of transferable institutional designs and safeguards.

Collectively, these measures aim to establish a coherent, context-sensitive, and empirically informed restorative justice framework that is both legally grounded in Islamic jurisprudence and methodologically aligned with contemporary standards of evidence-based legal reform.

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