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Criminal Legislation and Women in Sexual Assault Cases: Justice or Victim Blaming?

Dalia Kadry Abdelaziz¹,

Abstract

Sexual assault is a critical social problem with extensive ramifications that deeply affect and displace models of women (Alfadhel, Fouada, & Awny, 2024). Not only does it have an impact on their physical and emotional health, but also on their sense of safety, autonomy, and ability to participate in society fully. This study offers a comparative analytical account of criminal legislation on sexual assault crimes because it intends to catch the actual role of such laws in the process of justice and the protection of the rights of women as victims or, on the contrary, in the blame they get from such crimes. It examines the relationship between legal provisions and societal culture and how, in turn, this affects the judiciary and society's treatment of women who are the victims of such crimes. But the fact is that while criminal laws are meant to protect rights and uphold the dignity of human beings, most legal systems do not have adequate laws to protect victims and what they have is often victim blaming" (Independent Office for Police Conduct [IOPC], 2024) This research highlights the ways in which cultural and social factors can affect the enforcement of legal provisions, resulting in victim blaming rather than the delivery of justice. It also deals with the influence of these cultural factors upon judicial processes and damage to justice in crimes against women. This study also incorporates a comparative overview between Sharia Islamic law and some Western and international legal systems to identify some legislative and cultural gaps that could prevent the realization of justice. The research seeks to provide legal and social solutions to amend the prevailing conditions and to reinforce the legal protection of women through legal amendments. It also features social awareness mechanisms that support judicial neutrality and work toward the realization of justice.

Keywords: Gender Justice; Criminal Justice System; Sexual Violence and Law; Patriarchy in Legislation; Victim Blaming

Introduction

Sex-related offenses are any crimes that have a sexual component. They may involve actual or threatened physical harm (e.g., sexual assault) or mental or emotional harm to a victim (e.g., child pornography) (National Institute of Justice, 2025). and 2018 WHO analysis of data from 161 countries (2000–2018) revealed that nearly 1 in 3 women globally (30%) have experienced physical and/or sexual violence by an intimate partner, non-partner, or both (World Health Organization [WHO], 2021).. Sexual assault stands as one of the most serious violations of human rights, striking at the very core of the principle of dignity and the premises of equality and justice laid down in international law. Despite modern criminal laws being framed as protective mechanisms for individual rights and societal morality, women who are at the receiving end of such crimes ask why they are often treated as second-class citizens when they become the scapegoats in an inherently misplaced system. A distressing practice of victim blaming lingers; legal texts, their interpretation, or judicial practices formed by cultural and social norms propagated to hold victims, not perpetrators, responsible. These dynamics corrode procedural fairness and the more general pursuit of justice. While the Holy Qur'an, foundational

¹ Assistant professor of criminal law , Prince Sultan University – Saudi Arabia. <https://orcid.org/0000-0002-7616-5827>. Research Gate: <https://www.researchgate.net/profile/Dalia-Ahmed-Abdelaziz>. Email: dkadry@psu.edu.sa.



text of Islam, provides the core principles of justice, morality, and social order (Ismail, 2010). It offers directives on a wide range of issues, including sexual conduct, which are vital in shaping the framework for penal provisions related to sexual offenses, including sexual assault. This study is an analytical investigation of sexual assault crimes in the criminal law context with a relevant comparison of questions about the extent of security that criminal law provides to the dignity and rights of women. For those whose lives depend on being met with fairness, does the rule of law still serve their best interest, or are there cultural blind spots or gaps in legislation led by soured women that allow others to abuse and manipulate society? This research employs a comparative legal approach to examine Islamic law, certain Western legal systems, and international systems of laws, to understand their response to sexual assault offenses. The research examines legislative texts and judicial practices, as well as their relationship to societal norms, revealing systemic gaps that prevent justice. It also examines whether trial procedures are appropriate and consistent with the principles of impartiality and equity prescribed by international human rights law. These results highlight marked discrepancies in addressing victims, especially when patriarchal values shape judicial procedures with authority. This study highlights the importance of bringing national law in line with international laws and agreements such as Convention on the elimination of all forms of discrimination against women to enable gender-sensitive justice (United Nations, 1979). This research underscores the urgent need for legislative and societal reform to fight victim-blaming, protect women's rights, and seek justice. Through the provision of actionable recommendations for harmonizing the legal and cultural practices, therefore, this study seeks to advance the broader discourse on gender justice under the lens of international and comparative criminal law.

Literature Review

Sexual violence can encompass numerous offenses and can include sexual assault, rape, harassment, and exploitation, all of which leave a significant impact on the victims of such crimes. Sexual assault, a term that differs in legal definition depending on jurisdictions (Rainn, 2025), includes any sexual act performed without consent and is certainly never the fault of the victim. Similarly, child sexual abuse is intentional abuse against minors, which can be said as physical, psychological, and sexual abuse (Rowan Center, 2025), which is done by trusted persons in this regard. Intimate partner sexual violence emphasizes the fact that the abuser can be a current partner, and incest emphasizes the lingering trauma of sexual contact you don't want from family members (Justia, 2025). The latest UN report highlights that women and girls make up more than 95% of the 3,622 verified cases of conflict-related sexual violence, with 1,157 of the victims being girls. In addition, 1,186 sexually violent cases involved children, and 21 cases in this category affected LGBTIQ+ individuals. Widespread destruction of health facilities greatly restricts access to lifesaving care for survivors (United Nations Regional Information Centre, 2024), underscoring the essential need for health and survivor-centered approaches, the report states. Additional types include drug-facilitated sexual assault, where the offender uses drugs to incapacitate the victim, and sexual harassment, which impacts workplace or school environments. Other emerging threats include stalking and technology-enabled sexual abuse, which use digital platforms to threaten and harm victims. Vulnerable populations, including those with disabilities, the elderly, and prisoners, face a distinctive set of challenges and risks, survivors of military sexual trauma, and multiple-perpetrator assaults (Rape Crisis England & Wales, 2025). Recent studies founded that sexual assault knows no age, gender, and culture, debunking harmful myths that blame victims (Hurst, 2024). Real justice will only come in the form of laws that unambiguously hold perpetrators responsible, not through victim-blaming

biases. Even as studies show that Turkey's rape laws characterize sexual violence as a moral crime, instead of something that can be defined through the absence of severe mental trauma as an indicator of victimization, it reinforces restrictive and gendered narratives (Ellialtı-Köse, 2024). It takes the medico-legal discourse to task, criticizes its closure to diverse survivor experiences and highlights system challenges, like patriarchal structure rape myths and evidentiary biases, that do not allow justice to powerful individuals. The study emphasizes the importance of more sophisticated changes in judicial procedures, with a preference for survivor testing, and also that rather than the answer residing solely in the law, feminists should not cease arguing for reform; rather, the solution lies in other parts of life and to honestly refrain from turning to law with the hope of solving all women's problems in a time of increasing authoritarian rule. Jessica underlines the complicated reasons women put off reporting sexual assault, such as self-blame, fear of being disbelieved, societal stigma, and personal trauma (Jessica, 2025). In the beginning, survivors do not talk about, or even deny, what they went through, struggling with post-traumatic stress disorder signs that develop over the years. The article highlights the importance of developing a critical awareness of the ways in which the current system (both judicial and societal) hinders survivors' ability to report crimes and begin the healing process, so that we can provide the necessary supports for them to do so. One piece of research finds that sexual violence has the above immediate and more long-term effects on women and girls, and internal healing is key, and that the #MeToo movement was beneficial in this regard. So, there is an urgent need for better education, research, and trauma-informed care, so that health and social care professionals understand that sexual violence is common and its long-term effect on women's health (Sigurdardottir & Halldorsdottir, 2021). The Senate committee discusses ongoing issues facing victims of sexual offenses in the criminal justice system, including how systemic issues could play a role, sexual abuse in new forms, and consistently varying prosecution and conviction rates (SAGE Publishing, 2025). Feminist perspectives promote reforms to address these issues as well as offering critiques of the limitations of the criminal justice system and exploring alternative, transformative approaches to preventing sexual violence. Research also shows how women identified as the "undeserving poor" are subjected to higher levels of victim-blaming in sexual assault cases because of the stereotypes of over-sexualization, irresponsibility, and lower societal value attached to them (Lubag, 2024). That women from lower socio-economic backgrounds are more likely to be blamed for their sexual assault has been revealed by this research again. Yet, somewhat unexpectedly, one recent study points out blame attribution in rape scenarios has more to do with the participant's gender than it does any fact of who committed or was subjected to such acts. The findings are that, on the whole, for male participants, there was less blame apportioned to the victim and a smaller proportion of it was directed toward perpetrators (de la Torre Laso & Rodríguez-Díaz, 2022). It also shows that the lower the resistance of the victim, the higher the blame falls on the victim instead of the perpetrator, which further indicates that there is a strong need for more sexual assault education and awareness among individuals. The report argues that although laws exist to protect women against sexual violence, they continue to legitimize patriarchy and unnecessary victimization among women due to the nature of our society, with patriarchy at its helm (Abdul Hamid, 2021). This ground allows a set of deeply ingrained patriarchal beliefs to spread and reinforce each other through the legal system, which too often accuses the victims of their own rape from the other side of the criminal trial, creating moral as well as physical harm for the victims and a pandemic of ineffective sexual violence legislation (Bogart, 2020). It emphasizes the importance of respecting victims, challenging biases, and providing equal support for all survivors, regardless of gender, race, or demographics. Supriyanto concludes that victim-

blaming in cases of sexual harassment and assault is rooted in gender inequality and reinforced by media narratives, which often suggest that women are responsible for the crimes against them (Supriyanto, 2023). It stresses the need for neutral journalism, early gender education, and stronger victim protection efforts by the government and NGOs to ensure that women's rights and identities are safeguarded in a patriarchal society. Abdelaziz explores the criteria criminals use to select their victims, shedding light on societal vulnerabilities that exacerbate victimization, particularly for women in patriarchal societies (Abdelaziz, 2024). Further research highlights how crime, including sexual assault, intersects with social and economic vulnerabilities, particularly in the context of illegal migration (Butt, 2024a), where victims are often marginalized and lack access to justice. Amuda, Y. J examines the prevalence of rape in Nigeria, emphasizing the inadequacies in legal and institutional mechanisms to protect victims, leading to their further stigmatization (Amuda, 2021). The Nigerian legal system's responses to such crimes, reveal inherent gaps in the constitutional framework that allow perpetrators to evade accountability. (Channak & Amuda, 2024). Meanwhile, comparative study on bail eligibility showcases how procedural inconsistencies can disadvantage victims, undermining their pursuit of justice. (Butt, 2024b). Furthermore, research argue that the mismanagement of public resources and judicial weaknesses not only perpetuate domestic violence but also hinder progress in addressing broader gender-based crimes (Amuda & Alghanmi, 2024). Collectively, these works underscore the pressing need for comprehensive reforms in criminal legislation to ensure justice for victims and dismantle the entrenched patterns of victim blaming. Legislative frameworks aimed at protecting women frequently fail due to systemic biases, cultural stigmas, and inadequate enforcement mechanisms. In cases from Palestine, as outlined, women face significant barriers, including legal shortcomings and societal norms that perpetuate victim-blaming (Butt, 2024c), and emphasizes the role of international organizations in addressing these challenges, noting that while global advocacy has led to incremental reforms, the implementation of protective policies remains inconsistent, leaving many survivors without justice. The research further illustrates specific case studies in Palestine, where international bodies attempted to mediate justice for women facing systemic oppression and societal judgment in sexual violence cases, underscoring the urgent need for comprehensive legislative and societal transformation. Study emphasizes the critical need to address negative police responses, as they profoundly impact survivors' healing and access to justice, often leading to re-victimization during the disclosure process. (Murphy-Oikonen et al., 2022). It highlights the importance of deconstructing rape myths and fostering trauma-informed, empathic communication among police officers to ensure survivors are taken seriously and justice is upheld. End Violence against Women International underscores the critical need for systematic, impartial, and evidence-based sexual assault investigations, free from gender-based stereotypes and biases, to ensure thorough victim support and accountability for offenders (EVAWI, 2022). Study also shows an essential overview of violence against women in India, revealing systemic gaps in addressing and preventing such violence (Karp, Marwah, & Manchanda, 2015). Their findings emphasize the inadequacy of legal frameworks in providing justice for victims, further complicated by cultural and institutional victim-blaming practices. Similarly, Tønnessen and Al-Nagar explore legal mobilization efforts in Sudan, illustrating the tension between religious interpretations of justice and survivors' rights (Tønnessen & Al-Nagar, 2021). Such research underscores the critical need for legal systems to balance cultural sensitivities with universal human rights standards to combat entrenched victim-blaming attitudes. Dunn expands the discussion by exploring the role of technology in enabling gender-based violence, noting how online platforms often amplify victim-blaming narratives (Dunn, 2020). This technological dimension complicates the legal

landscape, necessitating updated legislation that addresses not only physical but also virtual spaces of violence against women. Further studies analyse the media's impact, demonstrating how portrayals of acquaintance rape contribute to societal tendencies to question victims' credibility, ultimately influencing judicial outcomes (Gravelin, Biernat, & Kerl, 2024). Astashkevich's exploration of mass rape as a public spectacle during pogroms provides a historical lens on how sexual violence has been utilized as a weapon of power and control (Astashkevich, 2018). This historical perspective draws parallels to contemporary instances of sexual violence, where victim-blaming continues to serve as a tool to silence survivors and uphold patriarchal structures. Another study examine the evolution of laws addressing violence against women, highlighting the progress made and the challenges that persist (Htun & Jensenius, 2020). They argue that while legislation has improved in many regions, enforcement remains inconsistent, often influenced by societal norms that perpetuate victim-blaming. Similarly, Azam critiques India's Criminal Law (Amendment) Act, 2013, pointing out its limitations in changing judicial attitudes toward rape survivors (Azam, 2013). Research investigate how perceptions of power and powerlessness shape victim-blaming tendencies in sexual assault cases (Gravelin et al., 2019). Their work reveals that societal biases often result in higher levels of blame being placed on victims, particularly when the perpetrator holds a position of authority and complements this by analysing victim-blaming culture in Indonesia, highlighting how societal expectations of women's behavior often reinforce such attitudes (Taccini & Mannarini, 2025). Similarly, study also explore the role of empathy in reducing victim-blaming, suggesting that fostering empathy among jurors and law enforcement could improve outcomes for survivors (Taccini & Mannarini, 2025). Chakraborty and Dube's 2024 study on sex trafficking in West Bengal provides insights into how criminal justice systems can be restructured to prioritize victims' perspectives. Their findings emphasize the importance of victim-centred approaches in legislative reforms (Chakraborty & Dube, 2024). In contrast, Noor and Ibrahim discuss Islamic legal perspectives on rape, advocating for a more compassionate interpretation of laws to protect survivors' dignity and rights (Noor & Ibrahim, 2008). While critiques the role of media in perpetuating victim-blaming narratives, arguing for a more responsible portrayal of survivors to shift public attitudes (Ruetenik, 2019). Similarly some studies also emphasize the need for media reforms, particularly in regions where sensationalist reporting exacerbates societal biases against victims (Avhad, 2024). While legislative advancements are essential, cultural reforms are equally critical in addressing victim-blaming. Witte and Flechsenhar identify factors influencing victim-blaming, including societal norms, legal language, and the behaviour of law enforcement officials (Witte & Flechsenhar, 2024). Their work highlights the importance of training legal professionals to approach cases with sensitivity and impartiality. Lowe proposes an Islamic legal framework for facilitating survivor testimony, offering a model for integrating cultural and religious contexts into judicial processes to enhance justice. Literature identifies societal culture, legal bias, and a lack of awareness about victims' rights as key challenges in implementing legislation while substantial progress has been made globally in addressing sexual violence through legislation, institutional mechanisms, and survivor-focused initiatives, there remain significant gaps in the literature and practice that hinder the delivery of justice for victims. Studies highlight the prevalence of victim-blaming attitudes, systemic biases, and the exclusion of diverse survivor experiences in many legal systems, which perpetuate inequities in the pursuit of justice. Despite advancements in laws and international frameworks like CEDAW and the Istanbul Convention 2011 (Council of Europe, 2011). Then, the implementation of such protections falls short because of entrenched cultural stigmas and institutional deficiencies, notably in the area of patriarchy, as well as in patriarchal

Most importantly, the study addresses the inefficacy of legal systems, such as in Palestine, which, while being established on a personal status law, still undermines women's rights and accessibility to justice, especially survivors of sexual violence. Other gaps in the literature include the lack of attention given to the intersectionality of race, class, and socio-economic status, which can lead to the further victimization of marginalized women when sexual violence does occur. It is also a great need for more comparative research around things like the impact of more recent forms of sexual violence (e.g., technology-facilitated abuse) and how different legal systems respond to these evolving threats. How to act, however, international organizations contributed to procedural change in law, but we do not see that the laws were carried out; this remains a major part of the failure to obtain total justice. The call for more nuanced procedural reforms, prioritizing survivor testimonies and trauma-informed approaches, is essential in ensuring that laws evolve to genuinely protect victims and foster a legal environment free from the constraints of victim-blaming narratives. Further research is urgently needed to address these gaps and ensure that international legal frameworks are not only implemented but enforced in a manner that delivers real, sustainable justice for all survivors of sexual violence. This research highlights how cultural and social factors can influence the enforcement of legal provisions, often leading to victim-blaming instead of ensuring justice. It also examines how these cultural influences can affect judicial procedures, undermining the prosecution of crimes against women.

Research Design & Methodology

A comparative analytical design is applied in order to explore the relationship between criminal law, culture, and justice in sexual assault cases. The research framework is designed to study the impact of the laws, cultural norms, and judicial practices on the way women's rights are protected or victim blaming is justified. Thus, this study adopts a comparative analytical approach to analyze the criminal legislation on sexual assault crimes as it relates to the female victim. You are familiarized with data analysis applicable to legal texts, practical judicial practices, and cultural contexts of different legal orders, including Islamic Sharia law, Western legal regimes, and transnational rules and norms such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Istanbul Convention. Primary data sources consist of statutory provisions, court case laws as well as legal commentaries, whereas secondary resources comprise academic articles, international organization reports, and opinion makers. Using content analysis, it seeks to identify tendencies to blame victims in legal provisions, judicial decisions, and societal attitudes. The comparative sections bring out similarities and divergences among the legal systems studied in relation to gender sensitivity, definitions of consent, evidentiary thresholds, and procedural fairness. Moreover, the research employs qualitative approaches, such as interviews with lawyers, scholars, and activists, to gain insights into how laws are enforced and how social and cultural variables shape and influence judicial procedures. So, this multi-method approach provides a much more holistic view of the relationship between law, culture, and justice for women reporting sexual assault.

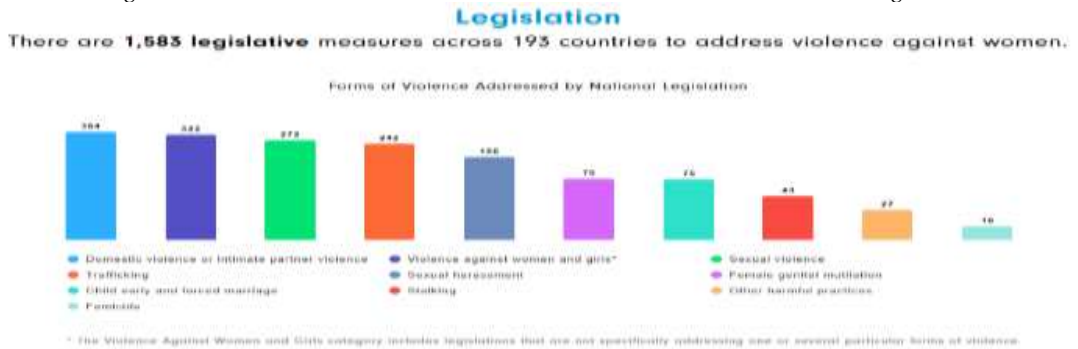
International Legislations

International legislation addressing sexual assault seeks to balance justice for survivors with the protection of due process for the accused (Jülich et al., 2024) . Instruments like CEDAW and the Istanbul Convention provide frameworks for addressing gender-based violence, outlining states' obligations to prevent sexual violence, protect victims, and bring offenders to justice. Such conventions promote approaches that centre around survivors, including access to justice,

supportive services, as well as safeguards against further victimization in legal processes. While important strides have been made, both on the legal and societal fronts, there remain significant hurdles to overcome internationally, given the cultural attitudes and judicial system practices that can perpetuate victim-blaming. In many legal systems, survivors face invasive cross-examination about their behaviour, clothing or sexual history, turning the spotlight away from the perpetrator's actions and instead questioning the victim's credibility (Lorenz et al., 2019). And even in jurisdictions with progressive laws, failures of implementation, lack of sensitivity training for law enforcement, and stigma in society keep survivors from reporting assaults or seeking justice. Therefore, the coexistence of progressive legal frameworks and entrenched societal biases has to lead to stronger enforcement of international standards, stronger inclusion of gender-sensitive training in legal systems, and transformation of societal norms, in order for women's access to justice in sexual assault cases not to be undermined by the same narratives that blame victims. It is only by overcoming these systemic and cultural barriers that international legislation can live up to its potential to deliver justice to survivors.

Case Studies

Across 193 countries, 1,583 legislative measures focus on violence against women, and more than 95 percent of institutional mechanisms responding to cases of domestic and intimate partner violence have been established in the last decades since the 1995 Beijing Platform for Action. Globally, one in three women experience physical or sexual violence, mostly at the hands of current or former intimate partners. Policies, laws, and budgets must be effective, but their effectiveness largely depends on their implementation and the extent to which they accord with international standards. The Global Database on Violence against Women — which tracks government action — shows increasing measures to address violence facilitated by technology. More than 90% of the measures have been implemented since the 2030 Agenda's adoption in 2015, and the Asia-Pacific region is leading. The database contains data on more than 7,000 measures in 193 countries (UN Women, 2025). The UNICEF report presents alarming figures on childhood sexual violence, revealing that over 370 million girls and women worldwide—about 1 in 8—have been victims of rape or sexual assault before the age of 18. When non-contact forms of sexual violence, such as online abuse, are included, the total rises to 650 million (or 1 in 5). Sub-Saharan Africa has the largest number of victims, with a total of 79 million (22%), and 75 million in Eastern and South-Eastern Asia (8%), as well as 73 million from Central and Southern Asia (9%) (UNICEF, 2024). In conflict-affected or fragile settings like refugee camps, the rate is even higher, exceeding 1 in 4. Boys and men are also affected, with estimates indicating 240 to 310 million (approximately 1 in 11) having experienced childhood rape or sexual assault, increasing to 410 to 530 million when non-contact violence is included. These statistics highlight the critical need for immediate global action to combat violence against children, such as increasing laws, shifting cultural beliefs, improving the accessibility of resources to help children, and enhancing data collection. As a result, laws and systems dealing with sexual assault can differ greatly between legal frameworks, often based in religious and cultural beliefs that dictate how a system should interpret and enforce them. This comparative analysis highlights the most significant differences between Islamic Sharia law and one or more of the relevant Western and international legal systems regarding sexual assault victim treatment and victim-blaming. This analysis shall highlight the legislative and cultural gaps and how they can potentially serve as hindrances in the attainment of justice for women in sexual assault cases.



Comparative Studies of Islamic Sharia Laws and Western Legal System

The issue of sexual assault transcends cultures and legal systems, with Islamic Sharia laws and Western laws propose contrasting approaches to eliminate/avenge the crime of sexual assault. Although both systems are intended to protect victims and hold offenders accountable, the underlying principles that shape how they function, the standards of evidence required, and societal interpretations often produce divergent outcomes. The teachings of Islamic Sharia law (based mainly on the Quran, Hadith (sayings of the Prophet Muhammad), and Ijma (consensus)) create a different legal mechanism for dealing with sexual assault. Take, for example, the treatment of sexual assault, which under Sharia law falls under unlawful sexual intercourse (zina), banditry, or violent crimes (hirabah), or, in general terms, sexual assault will incur severe punishment of the offender to death, flogging, or stoning depending on the severity of the crime



and evidence offered (Penal Reform International, 2015). However, Sharia law allows a high standard of proof for sexual assault, usually required the testimony of four male witnesses or a confession by the perpetrator. The Quran firmly hits the principle of safe guarding dignity, stating protection against harm, condemning any form of sexual violence. For example, Surah An-Nur (24:2) prescribes punishment for illicit sexual acts in society as a broader moral framework to prevent violations of chastity and honor. The Quran further emphasizes the need for evidence in establishing any claims, which can be observed in Surah An-Nur (24:4), where it has been mandated that four witnesses need to be presented to prove fornication or adultery (Quran, 2025). While this evidentiary requirement aims to prevent false accusations, it has been criticized for being stringent, especially in cases of sexual violence where obtaining corroborative testimony is challenging. Furthermore, Islamic teachings uphold the rights and dignity of women, affirming that justice in cases of sexual assault should protect the victim's honor and deter offenders. Surah An-Nisa (4:15-16) further highlights the seriousness of unlawful sexual acts, calling for measures that align with divine guidance and justice (Analyze Quran, 2025). This provision, known as qadhf, is aimed at preventing false accusations and protects both men and women from defamation (Islam, 2020). While it does not directly address

sexual assault, the emphasis on evidence and the need for corroborative testimony is significant in the context of prosecuting sexual offenses. The Hadith literature complements Quranic guidance by emphasizing justice and compassion in handling sexual offenses. The Prophet Muhammad's teachings, such as the principle of "no harm" (la darar wa la dirar), reinforce the prohibition of sexual violence. Instances from the Prophet's life demonstrate a commitment to fairness, as he ordered punishments for sexual offenders while considering the context and evidence of each case (Islamic Finder, 2024). Punishments for rape in Islamic law often involve corporal penalties, such as flogging or stoning, reflecting the gravity of the offense. However, the Prophet also advocated for rehabilitation and repentance, balancing justice with mercy. This dual approach underscores the importance of addressing the crime's impact on both the victim and society while offering the offender a chance for redemption. While western legal systems, particularly in countries like the United States and the United Kingdom, criminalize sexual assault under secular law (Queen Mary University of London, 2023). These systems prioritize the principle of consent as a defining element in determining sexual violence (Simons, 2022). Unlike Islamic law's reliance on witness testimony, Western frameworks often utilize forensic evidence, victim testimony, and corroborating accounts, providing a more adaptable evidentiary standard. Victim protection measures, such as rape shield laws, aim to prevent the victim's character or past behaviour from influencing the legal process (Graveline, Biernat, & Kerl, 2024). However, cultural stigmas, victim-blaming, and media portrayals of survivors remain significant barriers to justice. These challenges can discourage reporting and perpetuate societal attitudes that undermine victims' rights. The primary divergence between Islamic Sharia laws and Western legal systems lies in their evidentiary requirements and punishment methods. While Islamic law demands corroborative testimony, often requiring four witnesses, Western systems rely on physical evidence and broader investigative methods (Al-Laheidan, 1980). Punishments also differ, with Sharia emphasizing corporal penalties and Western systems focusing on incarceration and rehabilitation. Both systems, however, face criticism for societal attitudes that hinder justice (United Nations Office on Drugs and Crime, 2022). In Islamic societies, misinterpretations of religious teachings may perpetuate victim-blaming, while in Western societies, survivors often face scrutiny over their behaviour or credibility. Focusing on these challenges requires cultural shifts toward survivor-centred approaches and legal reforms that prioritize justice over societal biases. By bridging these gaps through dialogue, education, and alignment with international human rights standards, both Islamic and Western systems can evolve to provide more effective mechanisms for combating sexual assault and supporting survivors.

Theoretical Framework

So, the theoretical basis for the discussion relating to Criminal Law and Women in Sexual Assault cases is based on an interdisciplinary approach, wherein the law, social constructs, and judicial practices are analyzed for where exactly they stand to provide justice and where they provide support to the preconceived notions of victimization. The framework draws on feminist legal theory, victimology, critical legal studies, and social constructionism to provide an integrative lens through which to evaluate our different legal systems' effectiveness in dealing with sexual violence.

Feminist Legal Theory: At the heart of this theoretical framework, feminist legal theory critiques the patriarchal structures embedded in legal systems that often undermine women's autonomy and agency. This theory argues that the legal apparatus perpetuates gender inequality by casting undue suspicion on women's behaviour, while diverting focus from the perpetrator's

culpability. Feminists emphasize the importance of considering women's lived experiences, advocating for a victim-centred approach that reforms laws to challenge cultural stereotypes and dismantle systemic biases. The theory draws on the maxim *nemo iudex in causa sua* (no one should be a judge in their own case) (Butt, 2024d) urging reforms that prioritize justice for victims rather than questioning their credibility.

Victimology: This theory studies how the victim is addressed under law, and the phenomenon of secondary victimization. This term describes the re-traumatization survivors go through in the courtroom, usually by way of judgmental questioning or discrediting their testimony. Victimology promotes legal reforms aimed at addressing and reducing these harms, such as adopting trauma-informed practices and incorporating victim support services into the criminal justice process. The legal maxim "*actori incumbit probatio*" is relevant here: (whatever one is claiming, the burden of proof is on the claimant), underlines our fair judicial processes in general that we cannot rightfully blame and doubt the victims

Critical Legal Studies: The critical legal studies framework interrogates the belief that laws are neutral and objective, arguing that legal systems are a reflection of the power dynamics of society—that they often reinforce gendered and racial inequalities. Critical theorists argue that legal definitions of sexual assault may be produced within dominant cultural norms that trivialize one form of violence versus another (Kalra & Bhugra, 2013), leading to underreporting and reduced convictions. This perspective also scrutinizes intersectionality, highlighting how women from marginalized backgrounds experience systemic barriers in accessing justice. The maxim *ubi ius ibi remedium* (where there is a right, there is a remedy) underscores the demand for laws that provide effective redress for all women, regardless of their background (Burt, 2024d).

Social Constructionism: A social constructionist framework posits that definitions and understandings of sexual violence are socially, historically, politically, and narratively constructed and reflect cultural contexts. Cultural context dictates the depiction of women's sexuality, normalizes victim-blaming, and ultimately strengthens patriarchal attitudes, according to social constructionism. This theory calls for legal reforms that change the social story while becoming a story in its own right, deliberately prioritizing consent, agency, and perpetrator responsibility. The maxim *fiat justitia ruat caelum* (let justice be done though the heavens fall) captures the duty to deliver justice even when it upends powerful cultural narratives.

International Human Rights Framework: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Istanbul Convention national legislation on sexual violence against women: International Human Rights Framework.

This optic highlights and protects women's human rights to live without violence and calls for harmonization between the national legal frameworks and international standards. The fundamental legal principle, *pacta sunt servanda* (agreements have to be kept), underscores the demand on states to abide by their international obligations and put in place legal architectures that protect women against sexual violence and ensure accountability of perpetrators (Lukashuk, 1989)

This theoretical framework integrates key perspectives to critically examine the interplay between criminal legislation and women's access to justice in sexual assault cases. By utilizing feminist legal theory, victimology, critical legal studies, social constructionism, and international human rights, the framework sheds light on the systemic issues that perpetuate victim-blaming and advocates for comprehensive legal reforms. The goal is to ensure that the

legal system transitions from scrutinizing the victim to holding perpetrators accountable, thereby achieving justice for women in sexual assault cases.

Conceptual Framework

The conceptual framework for addressing sexual assault in criminal legislation, with a focus on women, seeks to ensure justice for survivors and prevent victim-blaming within legal and societal contexts. This framework is rooted in gender equality and the recognition of the intersectionality of social, cultural, and religious factors. At the heart of this framework lie key concepts: gender-based violence, survivor-centred justice, victim-blaming, and accountability under both international human rights law and Islamic law (Sharia), particularly in jurisdictions like Saudi Arabia.

Gender-Based Violence

Sexual assault is a form of gender-based violence that disproportionately affects women, perpetuated by societal norms that reinforce gender inequality (European Commission, 2025). These norms exist across cultures and legal systems, including under Islamic law, which categorizes crimes such as rape (Ightisab) as serious offenses, demanding justice for victims and punishment for perpetrators. The conceptual framework emphasizes the importance of recognizing this violence as not only a personal trauma but as a societal issue requiring structural changes in legal and cultural attitudes.

Survivor-Centred Approach

This approach prioritizes the needs, dignity, and agency of survivors throughout the legal process. A survivor-centred approach aligns with both international human rights standards and Islamic principles, which protect the dignity of individuals (Karama) and advocate for fair treatment, especially in cases of sexual assault. Under Sharia, a victim's testimony (Shahada) is considered crucial, yet the framework also acknowledges that the legal process should avoid re-traumatizing survivors (Bentley et al., 2021), supporting them with legal assistance, psychological care, and protection against societal stigma.

Victim Blaming

The continuum of blame for sexual assault often leads to victim-blaming, where society shifts the blame for the crime from the perpetrator onto the victim, often scrutinizing their behavior, clothing, or previous sexual history. The framework highlights how fighting against these harmful cultural narratives, or "modesty," that contribute to the stigma against survivors is critical. This poses some problems in some societies, including Saudi Arabia, where women have been perceived traditionally in certain roles and behaviors

Justice and Accountability

Justice for survivors includes not just legal accountability for perpetrators but, even more importantly, removing the systemic obstacles that keep women from achieving justice (Khan & Manzoor, 2020). Islamic jurisprudence (fiqh) calls for a due process of law in which all legal proceedings are fair and crimes, including sexual assault, are prosecuted under rigorous standards of evidence and fairness. Saudi Arabian Law is a mix of Sharia principles (Islamic Law) and modern criminal law, so as to provide guidance for the prosecution of sexual crimes, whilst at the same time ensuring victims' rights are respected.

Legal Framework

The legal framework for addressing sexual assault encompasses both international human rights law and national laws, including the blend of Sharia law in Islamic countries like Saudi Arabia.

International Instruments

1. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligates states to adopt measures for eliminating gender-based violence, including sexual assault, ensuring justice and support for survivors.
2. The Istanbul Convention: While not applicable directly in Saudi Arabia, this treaty influences the global conversation on protecting women from violence and criminalizing sexual assault.

Saudi Legal System and Sharia

1. Sharia and Criminal Law: In Saudi Arabia, sexual assault falls under Hudood, crimes that have fixed punishments in Islamic law, and Tazir, which allows for discretionary punishment for offenses not covered by Hudood. The legal treatment of sexual assault often combines Islamic principles with contemporary criminal legislation to ensure justice while adhering to Islamic justice.
2. Testimony and Evidence: Under Sharia, testimony from women is admissible, though traditionally under more scrutiny, and may require corroboration in some cases. However, the Islamic legal maxim "Innocence is preserved unless proven guilty" (al-Bara'ah al-Asliyah) ensures that victims of sexual assault are not presumed guilty due to cultural prejudices or victim-blaming.

Rights of Victims

Both international law and Sharia guarantee fundamental rights for victims, including:

- Legal protection and the right to justice: Survivors have the right to a fair trial, legal representation, and protection from re-victimization.
- Confidentiality: Both legal systems emphasize the importance of maintaining the privacy of the victim, especially in sensitive cases like sexual assault.

Implementation and Enforcement

- Institutional Mechanisms: Specialized legal mechanisms, such as courts (Mahkama) and police units, trained in gender sensitivity, are crucial to handling sexual assault cases effectively.
- Public Awareness and Education: Educational campaigns are essential in challenging victim-blaming attitudes, promoting understanding of consent (Al-Rida), and ensuring that Sharia-based education aligns with international human rights principles.

The link between theory and law emphasizes the importance of progressive changes in criminal laws regarding sexual assault, both under Islamic jurisprudence and Saudi law. It advocates for an outcome that prioritizes the rights and dignity of survivors and the need to see justice for victims, while guarding against any attempt to blame victims. These frameworks ultimately strive to build a world free of sexual violence and provide survivors access to justice in a non-discriminatory, non-stigmatized manner. Sharia is not an insurmountable obstacle to achieving

justice for women; on the contrary, carefully blending Sharia with the principles of international human rights law can create a sound legal framework to protect women, harness justice as a tool for social change, and build a just world for all

Key Findings

One of the most significant findings of this research is the widespread issue of victim blaming within legal systems. Despite the existence of laws intended to protect women from sexual assault, societal and cultural attitudes often influence how victims are treated (Kalra & Bhugra, 2013). Many victims are examined based on their conduct, clothing choice, or sexual background, thus discrediting them and placing less emphasis on the actions of the perpetrator. This victim-blaming attitude appears in both Western and Islamic laws; however, the extent of this view varies, typically through legal biases or cultural presumptions within legal institutions. The study also emphasizes how deeply cultural and societal standards shape the approach taken to sexual assault prosecution. There is a widespread belief ingrained in many legal systems and conservative societies that women are partially responsible not only for the crimes committed against them but also for the violations of any norms of modesty or behavior they may be accused of (Mohamed, 2013). This cultural bias deeply affects the judicial process, often leading to leniency for perpetrators or even the outright dismissal of cases. In the context of Islamic Sharia law, while there are protections in place for women, the requirement for specific types of evidence—such as witness testimony or physical evidence—can sometimes hinder justice. Cultural interpretations of these legal requirements, such as the Shahada (testimony) and Hadd punishments (Rahman, 1965), can further complicate the pursuit of justice in sexual assault cases. Another critical finding is the significant discrepancy between the letter of the law and judicial practice. While some legal systems have laws that explicitly outline comprehensive protections for sexual assault victims, these laws are often poorly implemented due to underlying societal and judicial biases. In particular, the lack of gender-sensitive training for law enforcement and judicial officers often leads to the ineffective prosecution of sexual assault cases. This issue is especially pronounced in societies where traditional values influence the treatment of women and their rights, creating systemic barriers to justice. A key comparative finding of this study is the distinct differences in how sexual assault is addressed under Islamic Sharia and Western legal systems. Sharia law, while providing strong protections for women, can sometimes impede justice due to its reliance on specific types of evidence and the limitations placed on the testimony of women (Shahada). On the other hand, Western legal systems, despite their more modern approaches to women's rights, continue to grapple with victim-blaming attitudes and a high burden of proof in sexual assault cases (Khaleel, Ungku Mohd Nordin, Ahmed, & Anjum, 2024). This study demonstrates that both systems are affected by cultural biases, though both have established mechanisms for legal reform aimed at improving the protection of women. Finally, the research found significant inconsistencies in the legal definitions and standards of evidence used to prosecute sexual assault cases. The legal definitions of what constitutes sexual assault vary widely between different legal frameworks, with some systems lacking clear and comprehensive definitions of sexual violence (Sachs, Ladd, & Chapman, 2024). Moreover, the evidentiary threshold needed to prosecute sexual assault cases is often substantially high, especially in systems that require physical evidence or corroborative testimony. This standard is a prohibiting factor to file cases primarily against victims in situations where there is no physical evidence that can lead to premises for prosecution or even in cases which do not constitute, legally, the basis of prosecution. These variances contribute to obstacles experienced by women in obtaining justice and reflect the importance of legal reforms

Results

The research reveals significant disparities in how criminal legislation addresses sexual assault across different legal systems. In many cases, legal frameworks fail to adequately define consent and assault in a victim-sensitive manner, leading to procedural challenges and the perpetuation of victim-blaming practices. Sharia-based legal systems, while emphasizing principles of justice, often reflect cultural and patriarchal influences that undermine women's rights. Similarly, certain Western legal systems, despite their progressive outlook, still exhibit systemic biases and victim-blaming tendencies, particularly in evidentiary standards and courtroom practices. Cultural norms and societal attitudes emerged as major factors influencing judicial neutrality and the treatment of victims. In societies with strong patriarchal values, victim-blaming was found to be prevalent, further discouraging women from seeking justice. Moreover, the analysis of international conventions highlighted gaps in their implementation, particularly in non-Western legal systems, where cultural and religious factors often impede alignment with human rights standards. The study also identifies judicial reforms, such as the establishment of specialized courts and survivor-centric procedures, as effective measures to reduce victim-blaming and enhance justice. However, such reforms are often hindered by cultural resistance and inadequate gender-sensitive training for legal professionals.

Discussion

The findings highlight the vital influence of both legal frameworks and societal culture on how the justice system treats victims of sexual assault. When justice concerns are embedded in laws, they are supposed to uphold them. This interplay of law and culture creates a justice gap, where women become victims by the very systems meant to protect them. The main point of Sharia law in Islam is justice, particularly regarding women and their dignity, but some patriarchal interpretations may at times be prioritized over the victims. A potential solution to this gap rests in bridging Sharia and international human rights standards, a method that would preserve cultural values without sacrificing rights. While the law may have progressed in the West, judicial practices, especially those surrounding implicit biases, need to be re-evaluated. Thus, several public education campaigns are required to break these damaging stereotypes towards women and sexual violence. Transformations in society are crucial in order to sustain judicial reforms and to guarantee that cultural endearments do not erode judicial independence ("ejusdem generis"). Incorporating sensitivity training for legal professionals and awareness programs for the judiciary, including the dynamics of the psychological and emotional impact of sexual violence, are important steps in the process to justice. Furthermore, the study emphasizes the importance of global cooperation in order to align legal protections for women within various socio-cultural and legal frameworks. This would allow new, dynamic modes of transnational Islamic jurisprudence that can expand culturally-appropriate formulations of gender issues without undermining universal notions of human rights that are often reflective of Eurocentric ideations. In conclusion, this study adds to the wider policy discussion around gender justice by delineating legislative and social structures that can be employed to address victim-blaming and enhance legal protection of women in sexual assault situations. However, future research should be on evaluating the effectiveness of these mechanisms, and how to combine cultural sensitivity with the universal human rights principles so as to have more inclusive and equitable justice systems

Conclusion

This research sheds light on the complex interplay between criminal legislation, societal culture, and the treatment of women in sexual assault cases. It reveals that, while legal systems in many parts of the world are designed to protect victims and uphold justice, cultural and societal factors often undermine these efforts, leading to the harmful phenomenon of victim blaming (Gravelin, Biernat, & Bucher, 2019). The researchers note that the existing laws do not seem to be working for women in terms of protection from sexual assault. The legal processes tend to reflect societal stereotypes which serve to undermine both the credibility and the morality of the victim, rather than bringing the perpetrator to justice. Based on the aforementioned comparative study, focused on Islamic Sharia law vs Western Legal Frameworks, provided constructive outputs with respect to decree gaps that exist within rules forming and implementation systems. Justice becomes an important component of Sharia law as a way to protect the victim actors in the cases, but also poses challenges based on interpretation and application of the law according to cultural practices that may influence the rulings (Robinson, 2021). On the other hand, Western legal systems, despite being based on principles of justice and equality, still struggle with societal attitudes that often place blame on the victim rather than the perpetrator, further victimizing women (Reeves, Fitz-Gibbon, Meyer, & Walklate, 2023).

Recommendations to Strengthen Criminal Legislation

The recommendations for addressing sexual assault, particularly against women, emphasize the need for a comprehensive legal approach that ensures justice while minimizing victim-blaming. Key recommendations include reforming the legal definitions of sexual assault to encompass non-consensual acts such as digital and psychological assault, ensuring that laws reflect modern forms of violence. Measures to eliminate victim-blaming during legal proceedings, such as barring the introduction of a survivor's sexual history, are also critical to protecting survivors from re-traumatization. A survivor-centred legal framework is advocated to prioritize the dignity and autonomy of survivors, with specialized courts and psychological support systems to make the legal process less stressful. Training for legal and law enforcement professionals on gender sensitivity and cultural awareness is recommended to handle cases with empathy and fairness. Revising evidentiary standards to reduce the burden of proof on victims and considering survivor testimony as critical evidence can improve case outcomes. Protecting survivors' privacy and safety through non-disclosure orders and secure reporting platforms is essential, as is legislating mandatory reporting for professionals and establishing robust victim support services, including legal counselling and mental health support. Stricter sentencing guidelines and mechanisms for financial restitution are proposed to hold perpetrators accountable and help victims recover from trauma. Access to justice for marginalized groups, such as ethnic minorities, LGBTQ+ individuals, and those with disabilities, must be ensured through inclusive legal reforms. Public awareness campaigns should challenge societal misconceptions about sexual assault, promote understanding of consent and gender equality, and combat victim-blaming narratives. Aligning national laws with international standards, like CEDAW and the Istanbul Convention, can enhance legal frameworks and foster global cooperation in combating sexual violence. Overall, these recommendations aim to create a legal environment that condemns sexual violence, protects survivors, and holds perpetrators accountable while promoting societal change to address the root causes of sexual assault.

Implication of research

This research examines the interplay between criminal legislation, societal norms, and women's rights in sexual assault cases, offering critical insights for legal reform, societal transformation, and judicial practices. It highlights the need for victim-sensitive legal definitions, flexible evidence standards, and the elimination of victim-blaming provisions. Recommendations include gender-sensitive training for legal professionals, aligning Sharia-based systems with international human rights, and adopting survivor-focused judicial procedures to ensure fairness and dignity for victims. The study emphasizes public education to challenge cultural victim-blaming attitudes, promote gender equality, and integrate Islamic principles with global human rights standards. It explores international frameworks like CEDAW and the Istanbul Convention as tools for enhancing women's protections. Advocacy and grassroots initiatives are recommended to dismantle stereotypes and strengthen victim support systems. Through a comparative analysis of Sharia, Western, and international legal systems, the research provides actionable strategies for bridging gaps in justice delivery. It calls for future studies to evaluate the impact of legal reforms and cultural shifts, contributing to the global discourse on women's rights and sexual violence.

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