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## COMBATING RAPE IN INDIA: ANALYSING CAUSES, LEGAL PROVISIONS, AND RECOMMENDATIONS

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### ABSTRACT

Rape continues to be a significant social concern in India, affecting women throughout all demographics. The terrible rape and murder of a young doctor in R.G. KAR Medical College, Kolkata, emphasizes the urgent need for decisive action. The paper analyses the increasing problem of rape in India by exploring the causes, the role of societal and cultural reasons, and the legal frameworks that are prevalent in India. Despite legislative amendments, the number of rape cases continues to rise, indicating that the legal system alone is not enough to address this problem. The paper highlights the patriarchal mindset, victim-blaming, and societal stigmatization as significant contributors to rape culture.

Furthermore, the role of pornography in perpetuating sexual violence and the psychological profile of rapists is explored. It also reviews the law enforcement and judicial system inefficiencies, emphasizing the need for fast-track trials and comprehensive legal reforms. Strategic interventions such as separate legislation for offences against women, educational programs, the regulation of media, and stronger law enforcement mechanisms are recommended to create a safer environment for women in India. The paper seeks to objectively investigate the causes of rape in India and provide strategic interventions to effectively address this issue.

**Keywords:** rape, patriarchy, gender disparity, pornography, justice

## INTRODUCTION

In the category of crimes against humans, rape is one of the most heinous forms, as it not only causes grave physical injuries but also inflicts deep psychological and mental trauma, which can have a long-lasting impact and it scars victims for a lifetime.<sup>1</sup> Such violent acts evidently compromise the victims' confidence, dignity, and sense of security. Rape is more than merely a physical assault; it often destroys the whole identity of the victim, trial demeaning the very soul of the helpless female.<sup>2</sup> Victims of rape in India come from all walks of life. However, Females belong to lower castes, minorities, and economically weaker sections, are in more danger. The Indian legal system is infamous for its delays, with rape cases often taking years to reach trial, causing victims to endure a prolonged period of fear and uncertainty.<sup>3</sup> It constitutes a serious breach of basic human rights and calls for prompt action and support for the victims.

Since 2012, numerous cases of rape in India have obtained significant attention, inspiring widespread protest across the nation and it led to several amendments in criminal law. On December 2012, a "23-year-old" student was gang raped on a public bus, inciting large protests across Delhi.<sup>4</sup> In August 2013, in the Shakti Mills gang rape case, five persons gang raped a "22-year-old" photojournalist in Mumbai, who was interning with an English-language magazine, one of them was juvenile.<sup>5</sup> On 14 March 2015, some intruders at the Convent of Jesus and Mary gang raped a "71-year-old" nun in Ranaghat, West Bengal.<sup>6</sup> On 29 March 2016, the corpse of Delta Meghwal, a "17-year-old" Dalit girl, was found in her hostel's water tank in Bikaner.<sup>7</sup> In Unnao, UP, a "17-year-old" girl was gang raped.<sup>8</sup> Moreover, Recently, the

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<sup>1</sup> Raghavan, V.R., "Changing Socio-Cultural Perspectives on Rape in India.", 2 JICSSR, 33-50 (2021).

<sup>2</sup> State of Punjab v. Gurmeet Singh, MANU/SC/0366/1996 (India).

<sup>3</sup> Dr. Dhiraj Kumar Mishra, "A Critical Review of Rape Laws and Its Application in India", 1 IJLJ, 194–206 (2024).

<sup>4</sup> *Protests grow over gang rape of Indian woman*, The Telegraph (Dec. 19, 2012), <http://www.telegraph.co.uk/news/worldnews/asia/india/9756318/Protests-grow-over-gang-rape-of-Indian-woman.html> (accessed Sept. 1, 2024).

<sup>5</sup> Rohit Samervel, *3 Shakti Mills Rapists to Hang for "Diabolical, Planned Attack"*, Times of India (Apr. 4, 2014), <https://timesofindia.indiatimes.com> (accessed Sept. 1, 2024).

<sup>6</sup> *Elderly Indian Nun Gang-Raped in Convent School Attack*, BBC News (Mar. 14, 2015), <https://www.bbc.com/news/world-asia-india-31887764> (accessed Sept. 6, 2024).

<sup>7</sup> *Dalit Girl Student Was Not Murdered, Says FSL Report*, Times of India (Apr. 7, 2016), <https://timesofindia.indiatimes.com> (accessed Sept. 1, 2024).

<sup>8</sup> Tribune Web Desk, *Chronology of Events in Unnao Rape Case*, Tribune (Dec. 20, 2019), <https://www.tribuneindia.com/news/chronology-of-events-in-unnao-rape-case-14641> (accessed Sept. 6, 2024).

incident of brutal rape and murder of a 31-year-old female trainee doctor at Kolkata's RG Kar Medical College and Hospital on the night of August 9 has shaken the entire nation.<sup>9</sup>

The shocking incidences of these rape cases in India reveal a deeply established issue in society. It is important to analyse the main causes of such horrific crimes to counteract them properly. Despite the numerous laws and amendments in the Indian legal system, the number of rape cases continues to rise, leaving the entire nation in a state of shock and distress, which makes it apparent that legal frameworks alone would not suffice to combat the issue of rape and create a safe place to live fearlessly for women in India.

## **RESEARCH METHODOLOGY**

This research utilizes a qualitative approach, relying on secondary data from academic journals, government reports, and legal texts. It reviews relevant case studies and analyses of rape laws and their impact in India, focusing on recent amendments and societal influences on sexual violence.

In the category of crimes against humans, rape is one of the most heinous forms, as it not only causes grave physical injuries but also inflicts deep psychological and mental trauma, which can have a long-lasting impact and it scars victims for a lifetime. Victims compromised confidence, dignity, and sense of security are evident consequences of such violent acts. Rape is more than merely a physical assault; it often destroys the whole identity of the victim, demeaning the very soul of the helpless female. Victims of rape in India come from all walks of life. However, Females from lower family background, lower castes, minorities, and economically weaker sections, are in more danger. The Indian legal system is infamous for its delays, with rape cases often taking years to reach trial, causing victims to endure a prolonged period of fear and uncertainty. It constitutes a serious breach of basic human rights and calls for prompt action and support for the victims.

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<sup>9</sup> Dipankar Dey, *Eclipsed by power*, millenniumpost (Aug. 24, 2024), <https://www.millenniumpost.in/sundaypost/in-retrospect/eclipsed-by-power-576955?infinitescroll=1> (accessed Oct. 5, 2024)

across Delhi. In August 2013, in the Shakti Mills gang rape case, five people gang raped a “22-year-old” photojournalist in Mumbai who was interning with an English-language magazine, one of them was juvenile. On 14 March 2015, some intruders at the Convent of Jesus and Mary gang raped a “71-year-old” nun in Ranaghat, West Bengal. On 29 March 2016, the corpse of Delta Meghwal, a “17-year-old” Dalit girl, was found in her hostel’s water tank in Bikaner. In Unnao, UP, a “17-year-old” girl was gang raped. Moreover, the incident of brutal rape and murder of a 31-year-old female trainee doctor at Kolkata’s RG Kar Medical College and Hospital on the night of August 9 has shaken the entire nation.

The shocking incidences of these rape cases in India reveal a deeply established issue in society. It is important to analyse the main causes of such horrific crimes to properly counteract them. Despite the numerous laws and amendments in the Indian legal system, the number of rape cases continues to rise, leaving the entire nation in a state of shock and distress, which makes it apparent that legal frameworks alone would not suffice to combat the issue of rape and create a safe place to live fearlessly for women in India.

## **RESEARCH OBJECTIVE**

The primary objective is to understand the root causes of rape in India and evaluate the effectiveness of current legal frameworks while recommending strategies for long-term societal change.

## **RESEARCH QUESTIONS**

1. How can societal perceptions and cultural factors that perpetuate rape culture in India be changed?
2. What legal and law enforcement reforms are necessary to provide timely justice for rape survivors?

## **STATISTICAL DATA ON SEXUAL VIOLENCE IN INDIA**

According to the National Crime Records Bureau (NCRB), around 2012, police were recording up to 25,000 rape cases a year across India. Since 2012, the yearly figures have generally stayed above 30,000, except for the pandemic year of 2020, when there was a decline. Attacks peaked at nearly 39,000 in 2016. In 2018, on average one woman reported a rap every 15 minutes

across the country,<sup>10</sup> According to the latest government report. There were above 31,000 reported rape cases in 2022.<sup>11</sup>

**TOTAL NUMBER OF RAPE CASES REPORTED IN INDIA FROM 2005 - 2022<sup>12</sup>**

YEAR	NUMBERS
2005	18,259
2010	22,172
2012	24,923
2014	36,735
2016	38,947
2018	33,536
2020	28,046
2022	31,516

Moreover, studies show that the majority of rapes in India are committed by someone known to the victim, such as a family member, friend, or intimate partner.<sup>13</sup>

1. In 2021, the NCRB reported that 96.8% of the 65,025 rape cases were committed by someone known to the victim.<sup>14</sup>
2. In 2015, the NCRB reported that 86% of rape victims knew their attacker, who could be

<sup>10</sup> K. Liffey, ed., *One Woman Reports a Rape Every 15 Minutes in India*, Reuters (Jan. 9, 2020), <https://www.reuters.com/article/world/one-woman-reports-a-rape-every-15-minutes-in-india-idUSKBN1Z821T/> (accessed Sept. 1, 2024).

<sup>11</sup> Shivam Patel, *India Struggles with High Rape Cases, Low Conviction Rates*, Reuters (Aug. 16, 2024), <https://www.reuters.com/world/india/indias-struggles-with-high-rape-cases-low-conviction-rates-2024-08-15/> (accessed Sept. 1, 2024).

<sup>12</sup> *Number of Reported Rape Cases in India 2005-2022*, Statista (Feb. 14, 2024), <https://www.statista.com/statistics/632493/reported-rape-cases-india/>.

<sup>13</sup> Christin Mathew Philip, *86% of Rapes Were Committed by People Known to Victims: NCRB*, Times of India (Aug. 19, 2015), <https://timesofindia.indiatimes.com/india/86-of-rapes-were-committed-by-people-known-to-victims-ncrb/articleshow/48544137.cms>.

<sup>14</sup> Snigdha Chaudhary, ed., *Over 96% Rapes in India Committed by Persons Known to the Victims: NCRB Report*, India.com (Sept. 5, 2022), <https://www.india.com/news/over-96-rapes-in-india-committed-by-persons-known-to-the-victims-ncrb-report-2022-4881047/> (accessed Sept. 1, 2024).

a family member, close relative, neighbour, friend, co-worker, or employer.<sup>15</sup>

3. In 2018, the NCRB reported that 94% of the cases involved offenders known to the victim, including family members, friends, live-in partners, and employers.<sup>16</sup> In 2021, the NCRB also reported that 10% of victims were minors or below the age of 18, the legal age of consent.<sup>17</sup>

In 2023, the Georgetown Institute for Women, Peace, and Security positioned India 128th out of 177 countries in women's inclusion, justice, and security. According to the World Bank, 35% of women in India aged 15-49 have faced physical or sexual violence from their partners, higher than the global average of 27%.<sup>18</sup> India has been placed as one of the countries with the lowest per capita rates of rape cases.<sup>19</sup>

## INDIAN LEGISLATION ON RAPE: A COMPLETE OVERVIEW

The anti-rape laws in India trace their origin to the English common law. The offence of rape was first introduced in the Indian Penal Code, 1860.<sup>20</sup> With the changing time, there was a shift in cultural beliefs and standards which led to a significant shift in the definition of rape as an offence. However, the seventeenth-century jurist Sir Matthew Hale's statement on rape as "*an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, though never so innocent*"<sup>21</sup> clears the biased attitude of colonial courts towards the rape victims.

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<sup>15</sup> Christin Mathew Philip, *86% of Rapes Were Committed by People Known to Victims: NCRB*, Times of India (Aug. 19, 2015), <https://timesofindia.indiatimes.com/india/86-of-rapes-were-committed-by-people-known-to-victims-ncrb/articleshow/48544137.cms>.

<sup>16</sup> *Rapes in India: 94% Offenders Known to Victim, Every 4th Victim a Minor*, India Today (Jan. 10, 2020), <https://www.indiatoday.in/india/story/rapes-in-india-offenders-victim-minor-data-ncrb-1635691-2020-01-10> (accessed Aug. 31, 2024).

<sup>17</sup> The Wire Staff, *Nearly 20% Increase in Rapes Across India in 2021, Rajasthan Had Highest Cases: NCRB*, The Wire (Aug. 30, 2022), <https://thewire.in/government/crimes-against-women-rape-cases-india-2021-ncrb-data> (accessed Sept. 1, 2024).

<sup>18</sup> Anupreeta Das & Sameer Yasir, *Is India a Safe Place for Women? Another Brutal Killing Raises the Question*, The New York Times (Aug. 22, 2024), <https://www.nytimes.com/2024/08/22/world/asia/india-women-safety-rape.html> (accessed Sept. 1, 2024).

<sup>19</sup> *Rape in India*, Wikipedia (Aug. 17, 2024), [https://en.wikipedia.org/wiki/Rape\\_in\\_India#cite\\_note-8](https://en.wikipedia.org/wiki/Rape_in_India#cite_note-8) (accessed Sept. 1, 2024).

<sup>20</sup> Siddhartha Makhija, *Inadequacy in Current Rape Laws in India*, Legal Service India (n.d.), <https://legalserviceindia.com/legal/article-17496-inadequacy-in-current-rape-laws-in-india.html> (accessed Sept. 1, 2024).

<sup>21</sup> Elizabeth Kolsky, "*The Body Evidencing the Crime: Rape on Trial in Colonial India*", 1860-1947, 22 Gender & Hist. 111 (2010).

“Rape is an unlawful sexual activity and usually sexual intercourse carried out forcibly or under threat of injury against a person's will or with a person who is beneath a certain age or incapable of valid consent because of mental illness, mental deficiency, intoxication, unconsciousness, or deception”.<sup>22</sup> Eventually, the anti-rape laws strengthened over time due to some brutal rape cases that led to several major amendments in criminal laws. The demand for change in laws to protect women garnered momentum with the growth of the Women's Movement which brought about awareness, and a shift in attitude, and perception of the society. The famous rape cases namely the Mathura rape case, the Nirbhaya rape case, the Unnao and Kathua rape case, and the recommendations made by the Justice Verma Committee, which was constituted after the Nirbhaya rape case to suggest reforms in the anti-rape laws and led to the criminal law amendments of 1983, 2013, 2018 respectively.<sup>23</sup>

### Recent Amendments

The criminal law Amendment Act, 1983 brought about significant changes, particularly regarding custodial rape, and the provision for greater punishments for offences under section 376(2) IPC.<sup>24</sup> Furthermore, section 114A was inserted in the Indian Evidence Act that if a woman in her testimony before the court contends that she did not consent, the court shall presume the same, the onus to prove that she consented lies on the accused. The amendment also added section 228A in the IPC which dealt with the prohibition of disclosure of the victim's identity to safeguard the women's dignity.<sup>25</sup> This amendment tries to overcome the gender inequalities that can exist at workplaces, police stations, jails, and other such situations, in which the victim is subjugated and a forceful sexual act could be committed. In such situations, it is very difficult to prove that it was a nonconsensual act through the testimonies of other witnesses.<sup>26</sup>

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<sup>22</sup> *Rape*, Merriam-Webster Dictionary (n.d.), <https://www.merriam-webster.com/dictionary/rape>.

<sup>23</sup> Tejaswani Mallick, *An Extensive Study of Rape Laws in India*, Manupatra (Dec. 27, 2021), <https://articles.manupatra.com/article-details/An-Extensive-study-of-Rape-Laws-in-India> (accessed Sept. 1, 2024).

<sup>24</sup> TukaRam & Anr. v. State of Maharashtra, 1979 AIR 185 (India).

<sup>25</sup> Tejaswani Mallick, *An Extensive Study of Rape Laws in India*, Manupatra (Dec. 27, 2021), <https://articles.manupatra.com/article-details/An-Extensive-study-of-Rape-Laws-in-India> (accessed Sept. 1, 2024).

<sup>26</sup> Jagadeesh, *Legal Changes Towards Justice for Sexual Assault Victims*, Indian J. Med. Ethics (Apr. 1, 2010), <https://ijme.in/articles/legal-changes-towards-justice-for-sexual-assault-victims/?galley=html> (accessed Sept. 1, 2024).

The Criminal Law Amendment Act, 2013 came after the recommendations of Justice Verma Committee which introduced comprehensive changes in criminal law. Under the said act, a significant change was made in the definition of rape. Earlier, only penile-vaginal intercourse was meant as rape. But this amendment act substituted section 375 of IPC and it broadened its ambit by including any bodily, and object penetration in the vagina, urethra, mouth, and anus of a woman as rape. Further, an explanation was added which explained consent as "*an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates a willingness to participate in the specific sexual act*"<sup>27</sup>. Also, the age of consent had been raised from 16 to 18 years. Moreover, Section 376A (Punishment for causing death or resulting in a persistent vegetative state of the victim), 376B (Sexual intercourse by husband upon his wife during separation), 376C (Sexual intercourse by a person in authority), 376D (Gang rape), 376E (Punishment for repeat offenders) were inserted. The amendment was a great step taken by the government to curb violence against women.<sup>28</sup>

The Criminal Law Amendment Act, 2018 brought about some changes in the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973, and the Protection of Children from Sexual Offences Act, 2012. Under IPC, sections 166A, 228A, and 376 were amended, and three new sections 376AB (Punishment for rape on woman under twelve years of age), 376DA (Punishment for gang rape on woman under sixteen years of age), 376DB (Punishment for gang rape on woman under twelve years of age) were inserted. Section 376 (1) has increased the term for the punishment of rape not less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine. Furthermore, sub-section 3 has been inserted which prescribes punishment for rape of a woman under sixteen years of age stating rigorous imprisonment for a term which shall not be less than twenty years, but which may increase to imprisonment for life, and shall also be liable to fine.<sup>29</sup>

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<sup>27</sup> The Criminal Law (Amendment) Act, 2013, § 375, No. 13 of 2013, (India).

<sup>28</sup> Tejaswani Mallick, *An Extensive Study of Rape Laws in India*, Manupatra (Dec. 27, 2021), <https://articles.manupatra.com/article-details/An-Extensive-study-of-Rape-Laws-in-India> (accessed Sept. 1, 2024).

<sup>29</sup> Tejaswani Mallick, *An Extensive Study of Rape Laws in India*, Manupatra (Dec. 27, 2021), <https://articles.manupatra.com/article-details/An-Extensive-study-of-Rape-Laws-in-India> (accessed Sept. 1, 2024).



## **Provision of Rape in BNS (Current Position of Law)**

The Bhartiya Nyaya Sanhita (BNS), 2023, replaces the Indian Penal Code and came into effect on July 1, 2024, after receiving presidential assent on December 25, 2023. It lays down new provisions for the crime of rape.

**Section 63** defines “rape” as an act where a man penetrates the vagina, mouth, urethra, or anus of a woman with his penis or makes her do so with him or another person.

Inserts any object or body part, not being the penis, into the woman’s vagina, mouth, urethra, or anus.

Manipulates any body part of the woman to cause penetration.

Applies his mouth to her vagina, urethra, or anus.

These acts are considered rape if committed against her will, without consent, by fraud, or when the woman is intoxicated, unsound of mind, minor, or unable to communicate consent.

**Section 64** prescribes punishments for rape. Generally, it mandates a minimum sentence of 10 years, which may extend to life imprisonment. Special circumstances, such as if the offender is a police officer, public servant, or a person in a position of authority, increase the severity of the punishment, with the possibility of life imprisonment or even death in extreme cases.

**Section 65** increases the punishment if the victim is under the age of 16 years, with a minimum sentence of 20 years to life. If the victim is under 12, the sentence may include the death penalty.

**Section 66** punishes rape that leads to the victim’s death or leaves her in a vegetative state with a minimum sentence of 20 years, life imprisonment, or death.

**Section 67** criminalizes marital rape during separation with imprisonment of 2 to 7 years.

**Section 68** punishes persons in authority or a position of trust who abuse their power to engage in sexual intercourse with a woman without her consent. The sentence ranges from 5 to 10 years of imprisonment.

**Section 69** deals with sexual intercourse under false promises of marriage, with punishments of up to 10 years in prison.

**Section 70** focuses on gang rape, with a minimum punishment of 20 years, and in the case of gang rape of a minor, life imprisonment or death.

**Section 71** punishes repeat offenders of rape with life imprisonment or death.

Finally, **Sections 72 and 73** penalize those who disclose the identity of rape victims or publish court proceedings without permission.

## **UNPACKING MALE AGGRESSION: THE ROOT CAUSES OF RAPE IN INDIA**

The occurrence of rape and sexual violence against women in India has been a main concern for many years. While the legal framework for punishing offenders has been in place, the implementation and enforcement of such laws have been inefficient. This has led to a culture of exemption due to which perpetrators feel emboldened to commit such heinous crimes. Additionally, social and cultural factors also play a major role in the perpetuation of rape. One of the main contributing reasons is the patriarchal mindset that objectifies and diminishes women, resulting in a lack of respect, value, and equal treatment towards women.

Furthermore, the innate gender inequality and discrimination against women in all spheres of life also contribute to the prevalence of sexual violence against women. The lack of sex education, inadequate awareness, and societal stigmatization of sexual violence also add to the rape problem and frighten survivors from speaking out.

Moreover, Porn and the media have also played a role in perpetuating rape culture and consider women as a tool for fulfilling the desire. These causes led to the normalization of rape culture in India that supports the idea of male dominance and female subjugation. To combat rape in India, it is vital to understand the primary root causes. The paper delves into these causes, analyses the gap in legal frameworks and suggests strategies to solve this issue.

### **1. Societal and Cultural Influences**

One of the primary hurdles that rape victims face is social and cultural attitudes, which often propagate a culture of victim blaming, shaming, and silencing. Rape survivors often receive

insensitive, cruel, and even misogynistic responses from law enforcement officials, medical professionals, and society at large.<sup>30</sup> The victim-blaming mentality is displeasure and it is true that shifting certain attitudes – such as the tendency to doubt a woman's clothing and behaviour, implying that she had "invited" or did not "fight" abuse – would take time.<sup>31</sup>

The Indian education system has still not been able to include sex education in the school curriculum because of various political reasons and the conservative nature of Indian society. The World Health Organization (WHO) has stated that “Early sex education delays the start of sexual urge, reduces sexual activity among young people, and inspires those already sexually active to have safer sex. Lack of knowledge and curiosity to indulge in sexual acts is a possible cause for the increase in crimes like rape.”<sup>32</sup>

It is a paradox that in the most populated country, which developed Kama-Sutra (literature on sex) for the world, sex is considered taboo. In this contradiction, the context of history had a major role. In ancient times, sex was not considered a stigma but Western culture and values stigmatized sexual liberalism in India. Conservatism has since become a part of India and sex became a forbidden discussion topic. The fundamental shifts in the Indian mindset subsequently also indirectly led to a significant increase in the number of rape cases.<sup>33</sup>

The Indian mindset is mainly defined by patriarchal values and this is probably a major contributing factor to the high frequency of crime against women which reveals in the form of female feticide, sexual harassment, dowry deaths, and even rape.<sup>34</sup>

## 2. Gender Disparity

Unfortunately, India is still facing trouble accepting even the most fundamental principles of gender equality in our world. The idea that women are less valuable and respectful remains

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<sup>30</sup> Dr. Dhiraj Kumar Mishra, *A Critical Review of Rape Laws and Its Application in India*, 15 Indian J. Law & Justice 194 (2023).

<sup>31</sup> Aditya Tomer & Santosh Kumar, *A Data Based Perspective with Reference to Crime Relating to Rape with Related Issues and Trends in India*, 72 J. Oriental Inst. M.S. Univ. Baroda 62 (July 2023).

<sup>32</sup> Kulbhaskar Upadhyay, *Rape Against Women: How to Stop It?* (n.d.), <https://kulbhashkarupadhyay.wordpress.com/2020/10/25/rape-against-women-how-to-stop-it/> (accessed Sept. 1, 2024).

<sup>33</sup> Kulbhaskar Upadhyay, *Rape Against Women: How to Stop It?* (n.d.), <https://kulbhashkarupadhyay.wordpress.com/2020/10/25/rape-against-women-how-to-stop-it/> (accessed Sept. 1, 2024).

<sup>34</sup> Kulbhaskar Upadhyay, *Rape Against Women: How to Stop It?* (n.d.), <https://kulbhashkarupadhyay.wordpress.com/2020/10/25/rape-against-women-how-to-stop-it/> (accessed Sept. 1, 2024).

profoundly ingrained in the minds of the general public. This is prevalent since it promotes patriarchal dominance by implying that women exist only to please him. When the mentality is like this, it's no surprise that abuse against women occurs – the job of the wife is to please her husband. She gives him her love and service even though he beats and rapes her every night. Girls are expected to remain at home; if they go out, they may be placing themselves in trouble.<sup>35</sup>

According to the Feminist theory of Rape, it explains that Rape is more likely to be committed by males who consider women as sex objects and essentially inferior to males. They believe that they are "entitled to control women's sexuality and to decide what a woman desires." These males also believe that they have the right to "control women's sexual and nonsexual conduct, and to decide what is acceptable and unacceptable." As a result, women should fulfil their demands, males are entitled to impose their wishes on women, and males have the right to rape women.<sup>36</sup>

### 3. The Influence of Pornography and Porn Videos

Pornography plays a significant role in fostering rape culture in India by normalizing sexual aggression and distorting societal perceptions of sexuality and consent of women. The easy and extensive availability and consumption of violent and deviant forms of pornography contribute to the desensitization of individuals, particularly youth, towards sexual violence. As these materials often show women as submissive objects to be dominated, these reinforce toxic gender stereotypes and promote the belief that coercive and non-consensual sexual acts are acceptable and usual. This normalization of aggressive and violent sexual behaviour can influence individuals' actions, leading them to believe that rape and other forms of sexual violence are reasonable and justifiable. Moreover, the easy accessibility of pornographic content through the internet and mobile devices has made it more likely for vulnerable youth to be exposed to these harmful messages at a young and influential age, further embedding these dangerous ideas in their minds.<sup>37</sup>

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<sup>35</sup> Aditya Tomer & Santosh Kumar, *A Data Based Perspective with Reference to Crime Relating to Rape with Related Issues and Trends in India*, 72 J. Oriental Inst. M.S. Univ. Baroda 62 (July 2023).

<sup>36</sup> Aditya Tomer & Santosh Kumar, *A Data Based Perspective with Reference to Crime Relating to Rape with Related Issues and Trends in India*, 72 J. Oriental Inst. M.S. Univ. Baroda 62 (July 2023).

<sup>37</sup> Fiona M. Marques, Chloe R. Grabanski & Raina V. Lamade, *Rape and Coercion: Pornographic Consumption*, in *Encyclopedia of Sexual Psychology and Behavior* (T.K. Shackelford ed., 2023).

In India, where societal taboos around sex education and open discussions about consent are prevalent, the impact of pornography is particularly damaging. The lack of comprehensive sex education means that for many, pornography becomes a primary source of information about sex, relationships, and gender roles. However, instead of promoting healthy and consensual sexual relationships, pornography often emphasizes power dynamics, dominance, violence, and the objectification of women, which can contribute to a rise in misogynistic attitudes and rape-supportive ideas. Studies have shown that individuals who frequently consume pornography, especially violent or deviant types, are more likely to accept rape myths and engage in sexually coercive activities. In the Indian context, where concerns about gender inequality and sexual violence are already critical, the influence of pornography worsens these problems, promoting the perpetuation of rape culture and making it more challenging to address and stop sexual violence.<sup>38</sup>

#### 4. The Psychology of the Rapist

The psychological profile of rapists, as revealed in the study, highlights a complex interplay of factors that contribute to their criminal behaviour. Central to this is the rapists' perceived inability to resist sexual desire, which they often do not recognize as a form of violence but rather as a natural and uncontrollable urge. This distorted perception is exacerbated by exposure to pornography, which frequently depicts women as mere objects for male pleasure, thereby reinforcing harmful gender stereotypes and normalizing aggressive sexual behaviour. Moreover, the study revealed that they frequently attributed their actions to external stimuli, such as the seductive nature of women or their attire, which reflects a deeply ingrained patriarchal mindset that shifts the blame onto the victims rather than acknowledging the wrongdoing of their actions. This conflicting belief, where the rapists justify their behaviour as being provoked by the victim rather than motivated by an intrinsic desire and urge to dominate, control, and exert power, reveals the great impact of societal norms and media influence on their mental structure. These findings highlight the necessity for a broader societal reevaluation of how rape is understood and addressed, by focusing on dismantling the cultural narratives that prolong these harmful attitudes.<sup>39</sup>

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<sup>38</sup> Morgann G. Hagar, *The Problem of Pornography*, 7 *Idea of an Essay* 1 (2020), Cedarville Univ.

<sup>39</sup> Nur Adiba Ab Mubin & Haslina Muhamad, *Why Do Men Rape? Male Prisoners' Viewpoints through a Feminist's Review*, 28 *Pertanika J. Soc. Sci. & Humanities* 3187 (2020), <https://doi.org/10.47836/pjssh.28.4.38>.

The psychology of the rapist, as explored in *"Why Men Rape,"* exposes a disturbing combination of entitlement, ignorance, and power dynamics. Many perpetrators, as detailed in the book, show a profound lack of understanding of consent, viewing sexual meetings through a lens of dominance and immediate gratification rather than mutual respect. This ignorance is often rooted in societal and familial attitudes that perpetuate gender inequality and male dominance. The normalization of misogyny and the dehumanization of women promote a sense of entitlement over their bodies. Furthermore, the consumption of pornography and generational misogyny play roles in shaping prejudiced perceptions of sexuality, reinforcing the belief that women exist primarily for male pleasure and control. This psychological profile of rapists is formed by cultural influences, familial favouritism towards male children, and a broader societal disregard for women's autonomy and dignity.<sup>40</sup>

### 5. Role of Law Enforcement and Judicial Shortcomings

The incompetence of the Indian police in investigating rape cases can be attributed to a combination of factors. Victims often report feeling humiliated, disregarded, and dehumanized during the reporting time. Even some victims reveal that the treatment by police was more hurtful than the actual rape itself. This is exacerbated by the patriarchal mindset within the police force, leading to victim-blaming and a lack of sympathy towards victims. Additionally, there are inefficiencies in police procedures, such as spending more time on settlement between the victim and perpetrator rather than focusing on the investigation.<sup>41</sup>

Additionally, Judicial shortcomings play a significant role in the rise of rape. The judicial system in India is known for long delays in the prosecution of rape cases. This slow judicial process often results in a lack of timely punishment for perpetrators, which weakens the deterrent effect of the law on perpetrators. Even in high-profile cases, which generate public uproar, can take years to reach a final verdict, as seen in the examples of the Pune BPO employee gang rape case and the Priyadarshani Mattoo case.<sup>42</sup> That's why it is rightly said that "Justice delayed is justice denied" means if justice is not served within time, it has no effect.

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<sup>40</sup> Tara Kaushal, *"Why Men Rape: An Investigation into Sexual Violence in India"*, (HarperCollins 2020).

<sup>41</sup> M. Kaithwas & N. Pandey, *Incompetency and Challenges of Police in Rape Cases*, 7 *Social Work Chronicle* 51 (2018), <http://publishingindia.com/swc/>.

<sup>42</sup> Shobha. Gupta, *Rape & Murder - Speedy Justice: Challenges Before Judiciary & Society*, *LiveLaw* (Dec. 6, 2019), <https://www.livelaw.in/columns/rape-murder--speedy-justice-challenges-before-judiciary-society-150542> (accessed Sept. 2, 2024).

Furthermore, there is a lack of time-bound provisions for appeals and revisions in rape cases, which extends the judicial process. The absence of designated benches in higher courts to expedite these cases further exacerbates the issue. The paper discusses that both the Parliament and the Judiciary need to focus on creating a more efficient legal framework to handle such cases promptly. Additionally, there is often a failure to comply with mandatory provisions of law, such as the requirement for day-to-day trials under Section 309 of the Code of Criminal Procedure (CrPC) now replaced with Section 346 of *Bhartiya Nagrik Suraksha Sanhita* (BNSS). This non-compliance leads to unnecessary delays in the judicial process, which should ideally be avoided.<sup>43</sup>

Moreover, there is a need for sensitization among all stakeholders in the criminal justice delivery system. The current system often fails to provide a supportive environment for victims, which can discourage them from coming forward to report incidents. The prolonged judicial process not only affects the accused but also has a negative impact on the victims. Many victims do not report rape incidents due to the fear of a lengthy and stressful judicial process, which can lead to further psychological harm and a lack of faith in the criminal justice system. These issues contribute significantly to the ongoing problem of rape in society. These issues create an environment where perpetrators may feel encouraged, knowing that justice may not be served speedily or effectively and they can move freely and live their lives after committing such offences.<sup>44</sup>

## RECOMMENDATIONS FOR STRATEGIC INTERVENTIONS

There is an urgent need for reform in the legal framework surrounding rape cases in India. To combat this issue, several strategic interventions can be implemented. Firstly, there is a need for the enactment of separate legislation that specifically addresses the crimes against women. Additionally, there is a need for enhancing the law enforcement mechanism to ensure rapid investigation and prosecution of rape cases. Furthermore, there is a need to strengthen the judicial proceedings and victim support services, and Educational programs should be conducted to change the societal perception towards women in society and to normalise the

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<sup>43</sup> Shobha. Gupta, *Rape & Murder - Speedy Justice: Challenges Before Judiciary & Society*, *LiveLaw* (Dec. 6, 2019), <https://www.livelaw.in/columns/rape-murder--speedy-justice-challenges-before-judiciary-society-150542> (accessed Sept. 2, 2024).

<sup>44</sup> Shobha. Gupta, *Rape & Murder - Speedy Justice: Challenges Before Judiciary & Society*, *LiveLaw* (Dec. 6, 2019), <https://www.livelaw.in/columns/rape-murder--speedy-justice-challenges-before-judiciary-society-150542> (accessed Sept. 2, 2024).

conversations about sex education to break the stereotype, consent, and gender respect. Moreover, there is a need to shift the mindset of people towards victim blaming and shaming and to end the patriarchal mindset of the people that women are not subject to them and not made to fulfil their desire and urge for control and power. The paper addressed all the relevant issues above which contribute to the offence of rape in society and also provides some strategic interventions and recommendations to combat this issue and to create a safe and just environment for women.

### **1. Enactment of Comprehensive, substantial, and separate legislation for crime against women**

It is high time that a separate comprehensive legislation (special act) should be enacted concerning crime against women to be tried by specially designated courts for which special public prosecutors are appointed and the whole process is completed in a time-bound manner as a mandate, for example, POCSO act, SC/ST act, etc. This would certainly help in solving the problem of long trials and appeals. This would also give a strong message to all. Directions given by the Supreme Court or High Courts for the constitution of Fast-track courts for some individual cases like in Kathua, Unnao, and Hyderabad cases, were helpful only in those individual cases whereas such should be done for all cases invariably.<sup>45</sup>

### **2. Enhancing Law Enforcement Mechanisms**

To improve the handling of rape cases, several recommendations have been proposed. Firstly, providing primary education on trauma-informed practices to all new police recruits, regardless of their prior experience with such cases, can be crucial. Secondly, carefully screening and training officers assigned to rape cases to ensure their effectiveness and sensitivity towards victims is essential. Additionally, establishing an online system for victims to track the progress of their cases and access police reports can enhance transparency and accountability. Recognizing and rewarding officers with expertise in handling sexual assault cases, improving case classification procedures, incorporating feedback from prosecutors, and creating specialized units staffed by female officers dedicated to investigating sexual assault cases are

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<sup>45</sup> Shobha. Gupta, *Rape & Murder - Speedy Justice: Challenges Before Judiciary & Society*, LiveLaw (Dec. 6, 2019), <https://www.livelaw.in/columns/rape-murder--speedy-justice-challenges-before-judiciary-society-150542> (accessed Sept. 2, 2024).



also suggested interventions. By implementing these recommendations, the police force can better support survivors and enhance the effectiveness of their response to rape cases.<sup>46</sup>

Additionally, technological interventions like the development of safety apps and emergency response systems can also play a crucial role in preventing rape by providing victims with quick access to help. Furthermore, there should be an option of anonymous reporting of such cases which could encourage more victims to come forward without fear of social stigma.

### 3. Strengthening Judicial Proceedings and Victim Support Services

There are several reforms suggested that could help to solve the issue of long judicial proceedings and delays in rape cases. Key ideas include making trials happen daily and concluding within two months. Appeals and revisions also need time limits to ensure quick decisions. Special fast-track courts just for rape cases would help things move faster. Clear investigation guidelines would minimize the time from report to charges. All involved state actors police, lawyers, and judges require training on timely justice and legal issues. Public awareness campaigns can encourage more reports by helping victims feel supported. A monitoring system should track each case's progress to hold the system accountable for delays. Further changes may still be needed to fix any legal issues and better support victims. These reforms aim to reduce delays and make the process more efficient to strengthen the law's deterrent effect.<sup>47</sup>

There are the following recommendations for victim support services for victims of rape: Provide legal and therapy assistance through well-trained officers. Ensure the victim and family are not disgraced and humiliated. Establish support centers and groups where victims can find comfort. Give medical staff training on rape cases with regular updates. Address both short and long-term medical needs of victims and their families. Make exams as sensitive as possible to the victim's mental and physical state.<sup>48</sup>

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<sup>46</sup> M. Kaithwas & N. Pandey, *Incompetency and Challenges of Police in Rape Cases*, 7 *Social Work Chronicle* 51 (2018), <http://publishingindia.com/swc/>.

<sup>47</sup> Shobha. Gupta, *Rape & Murder - Speedy Justice: Challenges Before Judiciary & Society*, *LiveLaw* (Dec. 6, 2019), <https://www.livelaw.in/columns/rape-murder--speedy-justice-challenges-before-judiciary-society-150542> (accessed Sept. 2, 2024).

<sup>48</sup> Kulbhaskar Upadhyay, *Rape Against Women: How to Stop It?* (n.d.), <https://kulbhashkarupadhyay.wordpress.com/2020/10/25/rape-against-women-how-to-stop-it/> (accessed Sept. 1, 2024).

#### **4. Educational Programs to Shift Societal Perceptions**

Moreover, it is crucial to solve the root causes of rape in India. This can be achieved through educational programs that focus on shifting societal perceptions and attitudes toward gender roles and sexual violence. By promoting gender equality and challenging harmful stereotypes, these programs should be conducted in schools, colleges, jails, and other places.

These educational initiatives should also be supported by community engagement programs that involve parents, leaders, and influencers to foster a supportive environment for change. Additionally, integrating these topics into mainstream media and entertainment could further normalize conversations about consent and gender respect. Such comprehensive strategies not only educate but actively reshape societal norms and behaviour over time. Collaborative efforts between non-governmental organizations, government bodies, and international human rights groups can intensify the impact of these educational campaigns, ensuring they reach even the most remote areas. It can lead to a change in the perception of society towards women and also can change the mentality of conservative people. It is only possible with collective efforts, the initiative should be started by the families, parents should educate their children about sexuality and hormonal changes and parents should teach how to respect women.

#### **5. Complete Ban on Pornography material**

Government should ban these porn websites in India because pornography material is one of the causes mentioned above contributing to the offence of rape. Strict rules and regulations should be framed to regulate OTT platforms like Netflix, Amazon Prime, ZEE 5, Ullu, etc. Most of the content on these platforms is full of abusive language, degrading remarks, and disrespect towards women and it is not wrong that what we see, we get influenced. So, these movies or web series influence people, especially youth. That's why it is necessary to regulate these platforms.

### **CONCLUSION**

Rape remains a pervasive issue in India. Effective and sustainable solutions are required to address this multifaceted problem. By analysing the root causes like cultural and societal influences, the influence of pornography, the psychology of the rapists, patriarchal ideology, victim blaming, women subjugation, weak law enforcement mechanisms, judicial

shortcomings, and implementing comprehensive recommendations provided above such as the enactment of separate legislation crime against women, by training of Investigating agencies in case of rape, by avoiding the judicial shortcomings through conduction of daily day to day proceedings in the court in the proper manner, fast track courts, ending the case as fast as possible, educational programs should be conducted in schools and colleges and everyone should take part in these programs to eradicate the stigma of sex education in the society and lastly, a total ban on pornography websites and regulation of OTT platforms can help in solving this issue and making society safe, just and equal for women. Ultimately, it requires the collective effort of all stakeholders, Police, Community, Judiciary, and Government to bring about lasting change to combat rape in India. Making a safer place for women can lead to the involvement of women in all the fields that are crucial for the development of any community. Dr. Bhim Rao Ambedkar stated, *“I measure the progress of a community by the degree of progress which women have achieved”*.<sup>49</sup>

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<sup>49</sup> R. Pal Gautam, *B R Ambedkar was Instrumental in Shaping Legal Rights of Women in India*, *Indian Express* (Dec. 6, 2019), <https://indianexpress.com/article/opinion/columns/a-time-to-remember-ambedkar-women-legal-rights-indian-constitution-6152797/> (accessed Sept. 5, 2024).