

Rape—An Atrocity Deprived of Fair Justice

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Abstract

It wasn't her dress. It was your demon. India is the second most populous country in the world and has a higher crime rate than any other country. Rape is the fourth most common crime in India. It is one of the worst crimes that can ruin a victim's life, and many cases of rape go unreported because society curses women to wear short dresses. The question arises as to why rape cases occur every year. The answer is that there are no strict laws governing demonic spirits. Rapists are nothing but monsters with human faces. Rape victims suffer from depression and post-traumatic stress disorder or commit suicide. This kind of crime is against humanity, not against individuals. This article aims to highlight the rape laws in a highly populated country like India, which is a diverse nation with its citizens belonging to different religions, castes, cultures, and norms. Rape which is used as a tool since the British colonization period in the country has been aggressively increasing and this article sheds light on the reason behind this problem by explaining the provisions guarding the rights of women in the country.

Keywords: Rape, gruesome, criminal laws, India

INTRODUCTION

India is a country of high women's social status, but there are still no strict measures in place to protect women. There are various laws to protect lives strictly, but there seem to be many loopholes. Rape is considered one of the most heinous crimes committed against women, and statistics show that it is highly prevalent in India [1]. There are various laws regulating such heinous crimes, but when it comes to the enforcement part, something is missing or needs to be addressed. This suddenly leads to different interpretations of crimes and sometimes even miscarriages of justice [2]. India is the epicenter of the most diverse culture and spirituality. Here, women hold a high societal position and are considered "Lakshmi." Especially in India, human law has always been at odds with other codified laws, and it is a human law that prevails, but with westernization and intuition among the people, that has changed. There is a need, and many liberal laws have evolved their forms for this purpose.

Rape is the most heinous crime against women. Worse than murder. Although describing rape as a crime against the wider community is reprehensible, in some parts of the world it is believed that even women can commit rape, depending on the local definition of rape. Limited to offenses against the matrilineal social environment only. Rape at this stage is a violation of women's rights and freedoms. For many feminists, rape is the ultimate expression of patriarchy, embodying women's oppressed status by proclaiming the loudest and most demeaning truths about women a hostile world can offer [3].

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WHAT IS RAPE

Sexual violence is a worldwide offense. Be it sexual offending, rape, sexual assault, sexual abuse, extreme pornography, or revenge pornography; any sexual act which is unlawful and immoral in nature is treated as an offense against mankind. It is said- a safe society is when it is rape free [4]. Rape is a sexual offense; in simple legal terms it would be defined as an act performed without the mutual

consent of the victim forcefully or with the threat of force. The legal understanding of rape in India is understood by the provisions laid down in the Indian Penal Code of 1860, which were included after several women and feminist movements. The basis of rape is that it is committed by penetration or assault on a woman's vagina. Rape is the most hideous act committed against a woman. It is equal to butchering her rights and liberties. Rape leaves women with a feeling of self-loathing. It is the ultimate expression of the patriarchal order, a crime that executes the oppressed status of women in society. This power is based on many social systems such as caste, class, governmental authority, employer, army, and so on, while also crossing with patriarchal views of society. A rape victim is often left with a feeling of being caged by society and by having the sense that the crime is repeatedly occurring with her and no proper justice is being provided. To use another person's body and ignore the soul residing within is the most egregious crime that one person can commit against another.

Rape in India is among the most committed yet unreported crimes against women. It is carried out in various ways and is classified into various social classes such as "caste rape," "class rape," "police rape," and so forth. There are rapes that are still not included in the list of offenses in the Indian Judiciary such as "Marital rape," "prostitutes rape," and so on. Rape was identified as an offense in the year 1979. It was the crime committed at the time of British Rule in India as an act of oppression of feminism by foreign colonizers. Rape by Police officers, Landlords, and Military officers was a common instance back then with no proper punishments for the offenders. It was in the year 1979 when rape laws were included in the Indian Constitution after the *Razeema Bee Rape Case* [5] and the *Mathura Rape Case* [6]. Feminist movements were conducted during these cases and the Razeema Bee rape case was one such case where oppression by society won. The Razeema Bee rape case occurred in 1978 in Hyderabad where several police officers raped Razeema Bee. When her husband, a rickshaw driver, opposed the gang rape, he was killed. In response, 22,000 people marched to the police station, where they placed the husband's body on the porch, stopped roads, destroyed telephone wires, stoned the buildings, and set fire to some bicycles on the premises. With time the agitation slowed down and the issue of the gang rape of Razeema Bee by the police officers got sidelined.

The Mathura Rape Case is a watershed moment in Indian Rape laws. It was this case that created an uproar in the entire nation when Mathura, a tribal girl was abducted and raped by two police officers on duty [7]. Mathura was a teenage Adivasi girl who in March 1972 was called by police officers after an FIR was launched by her brother. After recording the statements regarding the case, the police officers then in a drunken state forced and raped her in the police station after asking everyone to leave the premises. This case attracted feminist movements from all directions and parts of the nation after the verdicts were passed by the Sessions Court, High Court, and Supreme Court. The High Court quoted, *"Mere passive or helpless surrender of the body and its resignation to the other's lust induced by threats or fear cannot be equated with the desire or will, nor can furnish an answer by the mere fact that the sexual act was not in opposition to such desire or volition"* [6]

Wherein the High Court took a holistic approach, it was the judgment passed by the Supreme Court which was questioned and created havoc across the nation. Pre-marital sex and society's patriarchy were questioned. But despite the opposition to the verdict, amends were made to the rape laws in the country in 1983 which was custodial rape.

ANTI-RAPE LAWS IN INDIA

Being one of the most barbarous crimes, defining Rape laws has been a long hauling task. Cases like the Mathura Rape case, the Razeema Bee Rape case, Shiela Devi Rape case have acted as stepping stones toward the elaboration of laws with time. The very first anti-rape provision was laid down in The Indian Penal Code of 1860 in sections 375 and 376. Section 375 quotes rape as an act of a man who has sexual intercourse with a woman under circumstances falling under any of the following categories:

- Against her will

- Without her consent
- With consent under fear of death or hurt to the woman or her closed ones
- By the fraud of misrepresenting himself as the man to whom the woman would give her consent
- With the consent given with unsound mind or under intoxication
- With or without consent with a minor below 16 years of age [8]

The punishments for rape, however, were lenient compared with the heinousness of the offense. Where the provision lays down imprisonment of at least 7 years to life imprisonment as the punishment for the offense, it also gives the court the right to reduce punishment below 7 years. In cases of police rape, rape by the government authority, by jail or hospital management, rape of a pregnant woman, and gang rape, the punishment is 10 years but again the Hon'ble court has the right to reduce the punishment. The major setback is the punishment of 2 years in cases of sexual intercourse with the wife without consent during the course of separation [9].

It was after the Mathura rape case that the first and most important amendment was made to the provisions of the Act. The *Criminal Law Amendment of 1983* [10] added the provisions of custodial rape as an offense in the Indian Penal Code, 1860. When Mathura was detained and raped by the drunk police officers, she filed a case against the offenders. The lower court passed the judgment and called her a girl with loose morals. Where the High Court reversed the Lower Court's decision. But at last, the Hon'ble Supreme Court carried forward its judgment. It held that Mathura did not raise an alert, and she had no obvious injuries on her body, indicating that she did not resist the approaches [11]. The court also determined that because she was used to having sex, she may have incited them to have sex with her. This sparked widespread outrage throughout the country. Lawyers claimed that, rather than relying on hard facts, the court allowed the cultural taboo of premarital sex to affect its ruling. The "submission" during rape was misunderstood as "consent" because of this taboo. Protests were then held across the whole nation to amend laws and therefore a change was made to section 114(a) [12] of *The Indian Evidence Act*. A new category of rape, dubbed "custodial rape" was created to include rapes committed by public servants while in their custody. This modification made consent an essential component of rape, and the court should assume that the woman is telling the truth when she claims there was no consent. This amendment also outlawed the publication of the victim's identity and the "character assassination" of the victim in court under section 228(a) [13] of the *Criminal Procedure Code*. Another major amendment made under the Criminal Law Amendment Act was that the rape trials could be held on camera under section 327 [14] of CrPC and the degree of punishment was enhanced under section 376(2) [15].

Rape is a crime that must be punished every time, but an offender can only be held liable for his offense when his offense is highlighted in front of society. Rape is one of the most unreported crimes and one of the major reasons behind it is the thinking of the defense. The victim never reports the crime because she always remains in the fear of being degraded and questioned on her sexual integrity instead of empathy by the defense. This formed yet another basis for rape laws in India. The Law Commission added and evolved section 155(4) [16] of the Indian Evidence Act which provisioned cross-examination of the victim. After the Supreme Court's order section 155(4) was edited and cross-examination of victims was banned. There had been an upsurge in child rape cases over the years, and there was an urgent need to implement a new legal system to deal with child rape cases. Child rape cases were previously classified as statutory rape, which criminalized sexual contact with a girl younger than the age of 16 years, with or without consent. The POCSO Act recognized the unusual circumstances in which a child might be tried, such as making the police accountable for the kid's protection throughout the trial and providing emergency medical treatment. The Act also required that the case be expedited within a year. The Act is gender-neutral, and it makes child pornography, aiding and abetting child sexual abuse, non-penetrative assault, and sexual harassment an offense.

JUDICIAL PRECEDENTS: EVOLUTION OF LAWS

Despite the relatively large number of rapes in India, several rape instances that occurred during the last decades have garnered substantially more public attention than others, owing to the victim's acute helplessness and the perpetrators' extraordinary savagery, because of the social standing of the individuals involved, or because the verdict enraged the public. Some of these cases drew so much public attention that the government was forced to modify the rape laws [17]. Rape being an extremely brutal crime affects the lives of victims and sometimes the society as a whole on large scale. In recent years, India has foreseen some brutal and heinous rapes committed against the daughters of the nation which attracted views and critics from the whole world. These cases brought amendments to the rape laws after several years, the last amendment being made during the Mathura Rape case.

Nirbhaya Rape Case

The long struggle for legal reform of the rape law took a new form [18] after this case, which shook the entire nation and world. The Nirbhaya Rape Case [19] took place on the night of December 16 in 2012. A physiotherapist student who was traveling back home along with her friend on a chartered bus was brutally assaulted within 15 minutes after they boarded the bus. The six men present inside the chartered bus physically attacked Jyoti's friend, injuring him, and then brutally, in the most gruesome manner, gang raped Jyoti inserting an iron rod inside her vagina and dismantling her intestines [20]. The victims have then stripped off their clothes and thrown out of the moving bus on the side of a highway in Delhi. A passer-by found them on the road and called the police. In the hospital, the victim's condition shocked the doctors who had to remove large portions of the badly damaged intestines in a 4-hour surgery the next day. After 10 days the woman was transported to the Mount Elizabeth Hospital in Singapore but died in the early morning of 29 December [21]. The Times of India gave her the name Nirbhaya, which is Hindi for "Braveheart" or "Fearless," while Outlook gave her the name Jagruti, which means "the Awakening" [22]. The defendants were convicted of rape, kidnapping, murder, and evidence destruction in September 2013 and sentenced to death, which the Supreme Court maintained in 2017 by declaring that the case clearly fell under the category of "rarest of rare cases." According to the Juvenile Justice Act, one of the defendants, Ram Singh, allegedly committed suicide in Tihar Jail, and the juvenile culprit was sentenced to 3 years in a reform home.

Justice Verma Committee

The government acted promptly in response to a nationwide demonstration and widespread public indignation following the Nirbhaya case [23]. Major amendments were made in anti-rape laws and Justice Verma Committee was set up by the government to implement them. The Committee proposed that the exception for marital rape should be deleted and noted, *"the connection between the accused and the complainant is not relevant to the inquiry into whether the complainant agreed to the sexual conduct"* [24]. It issued suggestions to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Bill, 2012, claiming that the present process of Internal Complaints Committees contradicted Bill's objective and recommended recommendations for the establishment of an employment tribunal [25].

In terms of rape punishment, the committee believes that such offenses should be graded. According to the committee, *"In some cases, the victim/survivor is still in a position where she can overcome the trauma and lead a normal life with some help from society. In other words, we do not suggest that such a circumstance is less morally corrupt, but the degree of injury to the individual may be substantially less and does not merit death penalty retribution"* [26]. It took into account the Working Group on Human Rights conclusion that *"the murder rate has consistently dropped in India over the previous 20 years, despite a halt in the execution of death sentences."*

As a result, the committee concluded that instituting the death sentence for rape would have no deterrent impact. The committee also considered the majority of academicians, heads of women's organizations, and other stakeholders who firmly argued that *"seeking the death sentence would be a*

regressive step in the sphere of sentencing and reformation” [27]. They did, however, increase the punishment to include the rest of one’s life. The Committee also suggested that certain offenses, such as voyeurism, stalking, and intentional touching, be added to the penal code. It also examined the practice of the “two-finger test” during the medical examination of the victim and suggested the scrapping of the test by stating that “the size of the vaginal introitus has no bearing on a case of sexual assault, and therefore a test to ascertain the laxity of the vaginal muscles, which is commonly referred to as the two-finger test must not be conducted. This test should not be used to make observations or draw inferences such as ‘habituated to sexual intercourse,’ as this is illegal.” The committee stressed the significance of gender equality and created a distinct Bill of Rights for Women “*Every woman has the right to life, as well as the integrity and security of her person. Violence, exploitation, harsh, inhuman, or degrading punishment and women's treatment are forbidden*” [28].

The Criminal Law Amendment Act 2013

In accordance with the Justice Verma Committee’s report, the Criminal Law Amendment Act 2013 went into effect on February 3, 2013, bringing extensive amendments to the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872. The most significant revisions were made in the definition of rape laws due to the act. Previously, the legislation only applied to penile-vaginal intercourse, but the new amendment replaced section 375 of the IPC and broadened its scope to include any bodily penetration as rape.

The amended section 375 of IPC thus stated that a man is said to commit rape if “there is the penetration of his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or making her do so with him or any other person; or insertion, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or making her do so with him or any other person; or manipulating any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of the body of such a woman or making her do so with him or any other person; or applying his mouth to the vagina, anus, urethra of a woman or making her do so with him or any other person” [29].

In addition, an explanation was added in the section that described consent as “an unequivocal voluntary agreement when the woman conveys a willingness to participate in the specific sexual act through words, gestures, or any form of verbal or nonverbal communication” [30]. In addition, the consent age was raised from 16 to 18 years. Section 376(2) [31] was amended to include rape perpetrated by a member of an armed force deployed in an area by the Central or State Government. If rape causes death or a prolonged vegetative condition in the victim, he shall be punished with hard punishment for not less than 20 years, which may extend to imprisonment for life, implying the balance of that person’s natural life, or with death. Section 376 B was added, making sexual intercourse by a husband with his wife during separation punishable by a sentence of 2 years, which can be extended to 7 years, as well as a fine. Section 376 C dealt with sexual intercourse by a person in power, such as a fiduciary connection or a public worker or manager of a jail or hospital, and made it punishable by a term of ten years in prison, which could be extended to life imprisonment, as well as a fine. A new section 376 D was added that dealt with gang rape and made it punishable by rigorous imprisonment for a duration of 20 years, which might be extended to life imprisonment, as well as a fine. Repeat offenders were punished under Section 376 E, which sentenced repeat criminals to life in prison or death.

The measure marked a significant step forward in the government’s efforts to reduce violence against women. Despite the benefits of the amendment, the act was criticized for failing to include specific provisions recommended by the Justice Verma Committee, such as gender-neutralizing rape and sexual assault laws, barring politicians facing sexual offense charges from running for office, and making marital rape an offense. The government enacted the measure while ignoring these critical reforms.

Kathua and Unnao Rape Case

With the evolution of Anti-Rape laws after the Delhi Gang Rape case, it was believed that the ground reality of rape cases would change, but it remained the same. After the Nirbhaya Case, laws were gain amended due to the heinous rape cases of Unnao and Kathua in the years 2017 and 2018 respectively.

In 2017, former BJP MLA Kuldeep Singh Sengar along with his brother Jaideep and alias Atul Singh and others kidnapped and raped a 17-year-old minor girl. The girl's father died in police custody after getting allegedly beaten up. Later, the victim was seriously injured in a vehicle accident, and two of her aunts were killed. Because of the gravity of the situation, the Supreme Court shifted all cases related to the Unnao rape event from the Lucknow court to the Delhi court. The Delhi High Court convicted Kuldeep Singh and awarded him life imprisonment and a fine of Rs. 25 lakhs [32].

In 2018, The Unnao rape occurred at the same time as the historic Kathua rape. An 8-year-old girl in Kathua, J&K, was raped for a week by six men before being slain. Because the deceased was a Muslim girl and the accused were Hindus, the case became a matter of sectarian politics, and the accused gained support in the name of religion. In order to ensure a fair trial, the Supreme Court had to relocate the case from J&K to Punjab, and six of the seven accused were convicted [33].

These atrocities sparked massive protests, putting pressure on the government to enact stronger legislation against such horrible crimes. As a result, the Government passed the Criminal Amendment Act of 2018.

Criminal Law Amendment Act 2018

The Criminal Law Amendment Act 2018 brought changes to the Indian Penal Code, the Indian Evidence Act 1872, the Criminal Procedure Code 1973 and the Protection of Children from Sex Offenses Act 2012.

The IPC changed sections 166A, 228A, and 376 and added three new sections 376AB, 376DA, and 376DB. Subsection 1 of Section 376 was amended to extend the penalty for rape to 10 years or more, potentially extending to life imprisonment, and also imposing a fine. A third paragraph was also added, stating that the penalty for rape of a woman under the age of 16 years is a harsh imprisonment of at least 20 years, but can lead to life imprisonment and may be punishable.

Section 376AB was inserted after Section 376A. This carries a harsh penalty of at least 20 years in prison but can be extended to life imprisonment and a fine or death if the raped woman is younger than 12 years of age. Section 376DA is inserted after Section 376D, which deals with the punishment of gang rape, and provides that if a woman under the age of 16 years is raped by one or more persons forming a group, or each such person is sentenced to life imprisonment and imprisonment. It shows that they have a common intention of punishment fines. Section 376 DB provides for the punishment of gang rape for women under the age of 12 years, stating that such persons are punishable by life imprisonment and fines or the death penalty.

Hyderabad Gang Rape Case

The brutal rape case of Dr. Priyanka Reddy, named Disha as per the provisions laid in IPC to hide the victim's identity, was deemed similar to the horrific Nirbhaya case of 2012. On the night of 27th November 2019, Disha was gang raped and murdered with her body set ablaze in Hyderabad. Four accused were then arrested by the city police after her body was recovered the next day. The commission was set up by the National Women's Commission for investigation alongside the City Police and similar to the Nirbhaya case, this case attracted attention from the whole nation. The four accused were sent to judicial custody and on 6th December 2019, they were killed by police officers in an act of self-defense on the scene of the crime [34]. police officers were then arrested and a case was filed against them for an encounter with one of the four accused [35].

Andhra Pradesh Criminal Amendment Law 2019

On December 13, 2019, the Andhra Pradesh Legislative Assembly collectively passed the Disha Act 2019 (Andhra Pradesh Penal Code Amendment Act 2019) in honor of the veterinarian who was raped and brutally murdered in Hyderabad [36]. The law provides for the death penalty for crimes such as rape, and gang rape, and speedy trial for such crimes within 21 days. The law stipulates that from the date of the indictment, he must conduct an investigation within seven working days and hold a trial within 14 days so that he has gathered sufficient evidence to render a judgment within 21 days.

The Andhra Pradesh Disha Act of 2019 also provides for punishment for other crimes such as sexual assault and sexual abuse against women and children, and the Penal Code of India, 1860, Sections 354E, 354F, 354G, Sexual Abuse of Women, Child Sexual Abuse, and Serious Sexual Abuse. Prohibits assault on children and amends certain provisions of the 1973 Code of Criminal Procedure [37]. The law allows state governments to create special police teams headed by a deputy superintendent of police officers to investigate crimes. This law enables one or more special courts to expedite the prosecution of certain crimes against women and children. The Disha Act, 2019 requires that an appeal against the judgment be settled within 6 months. Section 376 (rape), Section 376D (sexual intercourse with women in hospital by a hospital personnel), and Section 376DA (gang rape of women under 16 years) into sections dealing with physical harm, and sexual abuse Adds the death penalty for the listed crimes. Sexual abuse and rape in contracts 354F, 354G, 376, 376A, 376AB, 376D, 376DA, 376DB, or 376E of the Penal Code of India, 1860.

PRESENT SCENARIO

In 2018, Thomson Reuters Foundation voted India as the most dangerous country for women in its report in a survey conducted by the foundation [38]. The reason behind this ranking was said to be the high risk of sexual violence and forced slave labor prowling in the nation. Sexual violence especially rape is a re-occurring offense in our country. No matter how many provisions are passed by the government, or how many committees or commissions are set up, the ground reality never changes, the society's nature of oppressing women remains tantamount. Rape which was earlier used as a tool for violation of another man's property has now surpassed its cruelty. With the evolving time, the cultures and norms surrounding rape as a crime have also evolved. A seventeenth-century jurist Sir Matthew Hale once quoted, "*rape is an accusation easily made but is equally hard to be proved by the victim and even harder to be defended by the accused, though never so innocent*" [39]. It was the right comment by him. With time the number of rape cases has increased and with it, has increased the prejudiced attitude of the society and judicial system in the country.

Every year the number of reported and unreported cases of rape is increasing. In the year 2021, India registered 31,667 cases of rape with an average of 86 cases on daily basis. The National Crime Records Bureau further reported that the number has increased compared with 28,046 cases in 2020 and 32,033 cases in 2019 [40]. Rape is one of the worst crimes that can ruin a victim's entire life, and there are many cases of rape that go unreported. Because society curses women to wear short dresses. The question arises as to why rape cases occur every year. The answer is that there are no strict laws governing demonic minds. India has witnessed gruesome and extremely brutal rape cases in its history. Be it the Delhi Gang Rape Case or the Hyderabad Rape Case, with each case, the cruelty has increased with no effect on the offenders. The Government of India has implemented Anti-rape laws and numerous amendments have also been made, but there is no decrease in crime. For better results, that is, less crime it is necessary that justice is provided and laws are followed, but unfortunately, the judicial body of our country is not efficient in providing timely justice to rape victims.

Even after the women's movement's long and painful struggles that led to the passage of progressive legislation, there have been many cases in which verdicts have revealed the patriarchal and misogynistic ideas that dominate the courts. The Nirbhaya Case of 2012 gained attention from all nations because of its brutality and heinousness. Feminist movements and protests as the result of public outrage were a huge part of this case. Candle marches, social outrage, shouting slogans on the streets, wearing black at

work, or signing petitions to create awareness [41] all sorts of activities were undertaken by the society to show their outrage and displeasure against the crime that took place against the daughter of the nation. A year after this case, amendments were made and new rape laws were introduced by the government, but plenty of laws do not work on the ground. With time, the brutality and aggressiveness of rape have increased instead. Prominent Indian Lawyer Indira Jaisingh commented that what happened in 2012 was an atrocity as well. The numbers have increased with an increase in aggressive gang rapes in the country. Where the judicial body should award punishments in such cases, the lack of efficiency in the body has granted men who act like monsters and brutally kill and violate women in the form of rape. It took the Indian Judicial body 7 years to hang the rapists. The Hon'ble Supreme court named this case as the rarest of the rare cases, still timely justice wasn't granted by the Court. The Indian government set up the Nirbhaya Fund to improve women's safety following the 2012 bus gang rape incident, but activists say its promises of gender justice have not been met.

According to the NCRB, reports of rape against Dalit women and girls increased by 45% in India between 2015 and 2020. Data show that an average of 10 rapes of Dalit women and girls are reported every day in India. The actual number is likely much higher, as many such crimes go unreported for fear of retaliation or intimidation by police.

Last year, two judgments were passed by the Supreme Court which shook the entire nation and sowed doubt in the minds of its citizens—a question of whether the victims of rape would ever be awarded proper justice or not. Where the provisions laid down the statutes state proper aggressive punishments for the offenders, the same has not been followed by the judicial bodies. The Gujarat Riots of 2002 were one of the biggest riots the country ever witnessed after Independence. Many were killed, properties were destroyed, cities were set ablaze in the name of religion and one of the worst crimes committed by the offenders in the name of religion was the gang rape of Muslim women (Bilkis Bano) by Hindu men. The 11 men were convicted by the Supreme Court and were serving life sentences but were prematurely released by the government on 15th August 2022, causing global outrage [42]. These rapists not only violated the rights of a woman but also killed her entire family including her 3-year-old daughter. Days after her attacker was released, Bilkis Bano released a statement saying the decision to release the man was “unjustified” and “shaken” her belief in justice. The battle for justice got wrapped in a minute in this case. The biased nature of the government despite pleadings from the society inclusive of the hon'ble Supreme Court is the best example to explain the backward small thinking of our government, the old norms and patriarchy again overpowered the freedom and right to fair justice in the country with this judgment. Following this, another judgment broke people's trust in the government. Twelve years ago, it was described as a “rare case” when a 19-year-old woman from Delhi was found gang-raped and murdered in a field in neighboring Haryana. Indians have followed news reports detailing the atrocities suffered by a teenage girl named Anamika by the court, three men arrested for this crime were convicted and sentenced to death by a lower court in 2014, and a few months later the Delhi High Court upheld the sentence. But again, injustice was upheld when the Supreme court set the men free. It said there was no “conclusive, convincing, inconclusive evidence” that they had committed the crime. Three judges asked serious questions about the police investigation, criticized “blatant errors” in the hearing process, and said the judges had acted like “reluctant arbitrators” [43].

In the *Mahmood Farooqui v. State* case [44], the Delhi High Court overturned the first instance court's conviction and acquitted the defendant. The court controversially ruled that the concept of consent is seriously flawed, noting that a weak “no” could mean “yes.” This illustrates the shortcomings of the court's “no means no” approach. In other words, intercourse can be terminated after a “no” decision from the other party. The problem arises when courts don't value the message of “no” or recognize that a weak “no” can mean “yes.” Therefore, there is a need to change the way courts approach and introduce the new concept of “yes means yes” when determining consent in rape cases. There have been cases of rape survivors being counseled and coerced by police, courts, and family members. A high court in Madhya Pradesh has ordered a man accused of molesting a woman to be granted bail on the condition that he ties a Rakhi on her Bandhan day [45].

The Karnataka High Court, which granted bail in *Rakesh B v. Karnataka* [46], said: That is not how our wives react when they are happy. The patriarchal mindset of the courts that leads to insensitive remarks like this also contributes to victim trauma as the number of brutal cases grows. It shows the unfortunate reality of our society. The victim is the one whose morals are questioned and who endures the guilt of rape and the assassination of a character. Instead of educating women about how to dress “appropriately” to stay safe and protect themselves.

CONCLUSION

Rape is one of the most heinous and barbaric crimes of all time, but defining it as a crime against women’s physical integrity and sexual autonomy has been a long struggle. For most of history, women had no rights and were treated as mere property, so rape was considered a crime only in terms of damaging other men’s property [47].

Over the years, the criminal offense of rape has been dealt with by governments solely for public outrage as new, more barbaric cases emerge. fails to provide a protective environment. Although the law has been gradually amended, there are some controversial issues that need to be addressed immediately, such as marital rape and gender neutrality in rape laws, as reported by the Justice Verma Commission. The effects of the colonial mindset can still be seen in today’s judgments and the status of women in society remains the same. There are a number of cases that are not reported because of the fear of being humiliated by society. From the inadequate healthcare system to the law enforcement system, every step during the struggle of seeking justice adds up to the trauma of the victims. Thus, the impact of the laws can never be fully realized until and unless the change comes from within the society along with the legislative reforms.

The haste with which the 2013 amendment was passed led to questionable results. All variants of rape are treated equally and at least Penalties are disproportionately severe. Section 354A IPC penalizes sexual harassment of women by men. Penetration for this crime was certainly necessary, but at most he was sentenced to 3 years in prison. The likelihood of imprisonment and additional fines seems disproportionately high. All these acts and practices have emboldened criminal activities further and the nature of crimes has only become more aggressive and harsh after the implementation of various laws by the government.

The judgments passed by the Court in rape cases, the act of Government or releasing barbarous rape convicts, the inefficiency of the judicial bodies in awarding timely justice to the victims, the behavior of society with the victims, the public outrage and the oppression of women by patriarchy, the traditional approach of oppressing women by destroying their virtue, the act of raping someone to punish them for following a specific religion; all these activities which are prevailing in the country at present has made India completely unsafe for women. The righteous justice which can be awarded to the victims of brutal rape is life imprisonment of the offenders. Monsters who commit rape as an act to oppress women and brutally crush their souls leaving them with pain and nightmare for a lifetime should either be hanged or rusticated from society. Maybe this is the only way to generate awareness among such people that punishment for a crime like rape means evacuation from society for life. This will not only purify society of such ministers but will also act as a lesson to all those people who treat victims like trash and blame them for the crime to gather some social values and feelings of empathy.

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