

## “ONE RAPE EVERY 16 MINUTES–BUT HOW LONG UNTIL JUSTICE?”

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**BEST CITATION** – DOLA GOKUL SAI, “ONE RAPE EVERY 16 MINUTES–BUT HOW LONG UNTIL JUSTICE?”, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (3) OF 2026, PG. 01-05, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT

“In India, a woman is raped every 16 minutes. But justice? That can take years–or never come at all.” India bursts in collective anger after every horrific and highly publicized rape case; candlelight marches fill city streets, hashtags trend on social media, and urgent pleas for tougher laws resonates in Parliament. Yet beyond the public protests and sensational headlines lies a grimmer, more complex reality: a justice system that, despite legal reform, continues to fail thousands of survivors every year. This paper begins by unpacking this dissonance – between the symbolic severity of India’s rape laws and the procedural and structure failures that allow low conviction rates, prolonged trials, and institutional indifferences to persist. From pre-2013 penal framework to the post-Nirbhaya amendments and 2018 death penalty provisions, the study traces the legislative trajectory of rape sentencing in India. However, these reforms which are sometimes reactionary in character, have mostly concentrated on tightening penalties rather than tackling systematic issues including hostile investigations, delayed FIRs, judicial backlogs and inadequate victim protection. In order to comprehend sentencing trends and judicial reasoning, the study uses a qualitative methodology to analyse statutes and case law studies. It also looks at Supreme Court and High Court rulings. In order to determine whether India may benefit from international best practices in rape sentencing, a comparative legal analysis is also conducted, looking at models from nations like the USA, Sweden, and the UK. Central to this inquiry is a critical question: Do harsher sentences equate to justice, or merely perform justice in public eye? In seeking answers, this paper aims not only to assess existing sentencing laws, but to propose a victim-centred, constitutionally aligned and evidence based roadmap for reform–where justice is consistent, not contingent on headlines.

**Keywords:** Rape sentencing, Criminal justice reform, Judicial decisions, Victim-centred justice, Gender-based violence.

### INTRODUCTION

The stark reality is not just a statistic from the National Crime Records Bureau (NCRB); it is a chilling reflection of a justice system that often stumbles at every stage – from investigation to trial, from sentencing to survivor rehabilitation<sup>1</sup>. India, a country where gender-based violence frequently dominates national headlines, has responded to public outrage with legislative reforms and stricter punishments<sup>2</sup>. Yet, for thousands of survivors, justice remains elusive, tangled in delay, discretion and indifference<sup>3</sup>. India’s rape laws have undergone an

unparalleled legislative change in the past ten years. Following the landmark 2012 Nirbhaya gang - rape case, the criminal law (amendment) Act, 2013 was passed, introducing mandatory punishments and broadening the definition of rape<sup>4</sup>. Critics contend that these improvements accomplish little to increase conviction rates or enhance the experience of survivors, instead serving a symbolic purpose of showing severity<sup>5</sup>. This paper begins by unpacking this disconnection between legislative severity and Judicial reality. Despite stronger laws, conviction rates for rape hover

around 30%<sup>6</sup>, and trial durations often span years. Survivors are frequently re-traumatized through hostile, cross-examination and delayed FIRs and judicial inconsistencies in sentencing. In some cases, the outcome of justice is dictated more by geography, media attention, and public sentiment than by merits of the case<sup>7</sup>. The central research question explored in this study is: Do harsher sentences equate to real justice, or do they merely perform justice in public eyes? To answer this question the authors will be using two methodologies that are qualitative and quantitative analysis and ultimately, this paper seeks to go beyond the surface of tough laws and asks to deepen ethical questions. What does justice look like for a rape survivor? Is it only about the quantum of punishments, or does it also require dignity, protection, and timely resolution? By assessing both the legal structure and its lived impact, this research advocates for reforms rooted not in emotional responses, but in evidence-based, victim-centered justice.

### **EVOLUTION OF RAPE LAWS IN INDIA**

India's rape laws show a slow transition from patriarchal ideas prevalent during the colonial era to a more complex, victim-centered legal system. The original definition of rape under Indian Penal Code, 1860, was limited to unconsented Peno-vaginal sex and did not include marital rape or types of sexual assault. The victim bore a disproportionate amount of the burden of proof, which frequently involved resistance, verification, and having to deal with invasive questions about her past sexual activity ideas<sup>8</sup>. After the 1972 Mathura rape case sparked public debate, feminist groups and judicial censure resulted in gradual reforms. This led to the Criminal Law (Amendment) Act of 1983, which restricted the use of character evidence in court and included provisions for jail rape<sup>9</sup>. Until 2013, India's rape law under section 375<sup>10</sup> and 376<sup>11</sup> of Indian Penal Code (IPC) defined rape narrowly, excluding various forms of acts of sexual violence and offering minimal protection to the victims. The law was

criticized for its outdated approach, presuming consent in marital relationships and excluding male victims. The 2012 Nirbhaya gang rape<sup>12</sup> served a major role for leading to the criminal law amendment act 2013<sup>13</sup>, which expanded the definition of rape, criminalized stalking and voyeurism, and introduced stricter sentencing, including life imprisonment. Further in the year of 2018<sup>14</sup> there were changes brought under the Criminal Law (Amendment) Ordinance, 2018 following the public outrage just after the famous Kathua case<sup>15</sup>. In addition, despite national and worldwide condemnation, marital rape is still permitted in India under Section 375 IPC's Exception 2. This indicates a continuing disconnect between constitutional morality and legislative reform, and it contrasts with changing international norms. In conclusion, even though India's rape laws have moved away from patriarchal structures from the colonial era and toward a more victim-sensitive framework, more work still needs to be done. Systemic changes in policing, judicial training, survivor rehabilitation, and gender sensitization must go hand in hand with legal reform. The spirit of these reforms would only be partially realized if institutional attitudes and socio-legal knowledge do not change, as rape adjudication in India still reflects structural disparities.

### **JUDICIAL REASONING AND SENTENCING PATTERNS**

In India, statutory requirements, social norms, and judicial discretion frequently interact in intricate ways when it comes to rape sentencing. Although severe penalties for rape, including the death penalty in some cases, were introduced by the Criminal Law (Amendment) Acts of 2013 and 2018, courts still have a great deal of discretion in how these laws are applied, particularly in light of the "rarest of rare" doctrine established in *Macchi Singh v. State of Punjab* (1983)<sup>16</sup> and upheld in *Bachan Singh v. State of Punjab* (1980)<sup>17</sup>. Citing the savagery of the incident and its effect on the nation's conscience, the Supreme Court maintained the

death penalty for the Nirbhaya gang rape convicts in *Mukesh v. State* (2017)<sup>18</sup>. In a similar vein, the Court rejected a mercy plea in *Vinay Sharma v. Union of India* (2020)<sup>19</sup>, highlighting that the penalty was proportionate and deterrent.<sup>2</sup> But in *State of J&K v. Shubam Sangra* (2022)<sup>20</sup>, the Court accepted the ossification test to establish that the accused was an adult at the time of the offense, overturning the High Court's decision that applied the POCSO Act. These cases demonstrate the subjectivity of judges in enforcing sentencing guidelines, particularly when choosing between the death penalty and life in prison. Even in situations with comparable facts, there is inconsistency because there is no set sentencing guideline. Political pressure, victim identity (gender, age, and class), and media representation frequently seem to affect sentencing decisions, which raises questions about consistency and fairness. Public trust and the constitutional guarantee of equality before the law are threatened by the fragmented jurisprudence that results from the lack of defined sentencing guidelines.

### **COMPARATIVE LEGAL ANALYSIS: INTERNATIONAL SENTENCING FRAMEWORK**

Sentencing frameworks for rape vary significantly across jurisdictions, reflecting differing legal philosophies and societal values. In the United States, sentencing is governed largely by state-level statutes, with many jurisdictions imposing mandatory minimum sentences, often ranging from 5 years to life imprisonment<sup>21</sup>. Aggravated rape or repeat offences may trigger three-strike laws, resulting in life without parole. However, this rigidity has raised concerns about over-penalization and racial disparities. In contrast, Sweden follows a consent-based model introduced in 2018, which defines rape broadly to include any non-consensual sexual act, even without physical violence<sup>22</sup>. Sentencing is less punitive than in the U.S., typically ranging from 2 to 6 years, with emphasis on victim dignity, offender rehabilitation, and societal

reintegration. The United Kingdom employs a more structured system via the Sentencing Council, which provides detailed guidelines based on harm and culpability. Sentences for rape typically range from 4 years to life imprisonment, with aggravating and mitigating factors explicitly outlined. This promotes consistency and transparency in judicial decision-making. These models offer key insights for India: the UK's guideline-based approach ensures uniformity, Sweden's victim-centric reforms prioritize consent, and the U.S. framework demonstrates the risks of overly punitive, rigid sentencing<sup>23</sup>.

### **POLICY AND LEGAL RECOMMENDATIONS**

The lack of uniformity in rape case sentencing, in spite of significant legislation revisions, continues to erode public confidence in the criminal justice system. India must establish a Sentencing Commission in order to address this. Such a body, modelled after the UK Sentencing Council, would develop and periodically revise judicial guidelines, ensuring proportionality and consistency in punishments across courts. India currently lacks structured sentencing guidelines, which leads to wide disparities in punishments for similar offences<sup>24</sup>. The Law Commission of India has previously recommended standardized sentencing frameworks to address this issue. Codified judicial sentencing guidelines, particularly in sexual offence cases, would reduce arbitrariness and strengthen the principles of fairness and equity under Article 14 of the Constitution. Furthermore, the CrPC and POCSO Rules must be formally amended to make victim protection measures, such as witness anonymity, psychiatric support, and compensation, enforceable<sup>25</sup>. Enforceable protections are required to protect survivors' dignity because they are frequently the targets of secondary victimization during legal proceedings. Fast-track courts were established after Nirbhaya, but because of a lack of funding, expertise, and focus, they operate unevenly. To make sure these courts

fulfil their intended function, independent audits and performance evaluations must to be required. It is also crucial that judges, prosecutors, and police officers receive required gender-sensitization training. Several rulings have highlighted cases of patriarchal stereotype and judicial bias, which can undermine a survivor's right to a fair trial. Last but not least, the legal system ought to progressively incorporate restorative justice practices, such as community rehabilitation, non-carceral alternatives for young offenders, and survivor-offender communication (where applicable). These methods provide avenues for systemic change and survivor healing, even though they are not appropriate for every rape instance<sup>26</sup>.

### **CONCLUSION**

The evolution of rape sentencing laws in India reveals a troubling paradox: while statutes have become harsher and more expansive, the actual delivery of justice remains riddled with procedural failures, judicial inconsistencies, and systemic apathy. This paper examined whether harsher sentences equate to meaningful justice, or whether they function primarily as symbolic responses to public pressure. By analysing legislative reforms, judicial interpretations, and international best practices, the study finds that India's rape sentencing framework suffers not from the absence of laws, but from a lack of coherence, consistency, and survivor sensitivity in its enforcement. While judgments such as *Mukesh v. State*<sup>27</sup> and *Vinay Sharma v. Union of India*<sup>28</sup> reflect the judiciary's resolve in delivering severe penalties in egregious cases, decisions like *Shubam Sangra* highlight inconsistencies in how sentencing frameworks are applied. The absence of standardized judicial guidelines leads to disparities in sentencing, undermining the constitutional promise of equality before the law. Comparative models from the UK, Sweden, and the USA demonstrate that justice systems can be both firm and fair when supported by

structured sentencing principles, victim-centric procedures, and a balance between deterrence and rehabilitation.

The paper concludes that India must move beyond reactionary legalism and pursue evidence-based, survivor-centered reform. Establishing a Sentencing Commission, codifying sentencing guidelines, ensuring victim protection, improving the functionality of fast-track courts, and integrating restorative justice options are essential for a more humane and effective justice system. Legal reform must be paired with changes in institutional culture and public perception. Only then can justice for rape survivors become not just an aspiration, but a lived reality—delivered consistently, compassionately, and constitutionally.

### **END NOTES**

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10 Indian Penal Code, No. 45 of 1860, § 375

11 Id. §376

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14 Criminal Law (Amendment) Ordinance, No. 2 of 2018, Gazette of India, Apr. 21, 2018

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27 Supra note. 18

28 Supra note. 19