

Socio-Legal Examination of Judicial Approaches and Support Systems for Victims of Sexual Offences in India

Rameshwar Dayal

Rerearch Scholar, Dept of Sociology, PK Universiy, Shivpuri (India)

and

Dr. Jitendra Kumar Nayak

Associate Professor, Dept of Sociology, PK Universiy, Shivpuri (India)

Abstract

Sexual violence against women remains one of the most pervasive systemic crises in contemporary India. Despite successive legislative amendments aimed at strengthening substantive and procedural criminal laws, a profound socio-legal disconnect persists between statutory frameworks, judicial adjudication, and the support systems designed to protect and rehabilitate survivors. This paper evaluates the progression of judicial attitudes toward victims of sexual offenses, tracing the shift from historical moral paternalism and the reliance on patriarchal myths to a contemporary, rights-based jurisprudence centered on bodily autonomy and human dignity.

Concurrently, it examines the operational realities of victim support systems, including the registration of First Information Reports, trauma-informed medical examinations, state compensation schemes, and institutional support networks such as One Stop Centres. By identifying key socio-legal bottlenecks such as secondary victimization within courtroom spaces, procedural delays, and inadequate institutional infrastructure this study argues that statutory reforms alone cannot deliver justice. Rather, meaningful progress requires a holistic socio-legal transformation that sensitizes the judicial apparatus, guarantees victim-witness protection, and establishes robust, trauma-informed institutional support networks.

Keywords: *Sexual Offences, Judicial Approaches, Support Systems, Patriarchal Myths, Secondary Victimization, Dignity, Bodily Autonomy.*

1. Introduction

Sexual violence is not merely a series of isolated criminal acts; it is a structural manifestation of patriarchal power dynamics, gender inequality, and social control. In the Indian context, the experience of a sexual offense survivor is deeply shaped by the intersection of law, culture, and state institutions. Historically, Indian society and its legal institutions viewed sexual violence through the lens of family honor, chastity, and moral virtue, rather than as a violation of a woman's fundamental right to bodily integrity, personal liberty, and physical privacy¹.

Consequently, the legal journey for a survivor has frequently been as traumatizing as the offense itself, characterized by a skeptical state machinery, invasive investigations, and hostile courtrooms.

Over the past four decades, intense public pressure and progressive advocacy have driven substantial legislative changes. However, while the written law has become increasingly progressive, its practical application remains highly inconsistent. The path from reporting a sexual offense to achieving judicial resolution is filled with systemic obstacles. This paper offers a socio-legal examination of the relationship between legislative intent, judicial approaches, and the support systems available to survivors of sexual offenses in India.

¹ Upendra Baxi, 'The Mathura Rape Case: An Open Letter to the Chief Justice of India' (1979) 1 *Supreme Court Cases (Journal)* pages 17 to 21

Specifically, it analyzes how courts interpret consent, dignity, and credibility; evaluates the efficiency of essential support mechanisms; and examines the structural barriers that continue to deny survivors access to meaningful justice.

2. Legislative Evolution: From Moral Paternalism to Autonomy

The statutory framework governing sexual offenses in India has undergone a major transition, moving away from protecting "public decency" or "husbandly possession" toward recognizing a woman's absolute right to bodily autonomy.

1. **Historical Paradigm:** Focus on "chastity" and "honor"; presumption of victim consent; invasive character scrutiny.
2. **Contemporary Paradigm:** Focus on "bodily autonomy"; affirmative consent standard; right to dignity and privacy.

The historical framework, established under the colonial Indian Penal Code, 1860, viewed rape primarily as an offense against a woman's "modesty" or "chastity." The legal burden of proof fell heavily on the survivor, who was often required to demonstrate active physical resistance to prove the absence of consent. This statutory design routinely allowed defense counsels to use the victim's sexual history to undermine her character and imply consent.

The first major legislative shift occurred following the landmark case of *Tuka Ram and another versus State of Maharashtra* (1979)², commonly known as the Mathura rape case. The Supreme Court of India's acquittal of two police officers, based on the assumption that a lack of visible physical injuries indicated consent, sparked nationwide protests. In response, the Parliament enacted the Criminal Law (Amendment) Act, 1983. This amendment introduced crucial statutory changes, including:

- The shift of the burden of proof under certain circumstances, such as custodial rape, where the court would presume a lack of consent if the victim asserted so;
- The criminalization of sexual intercourse by men in positions of authority;
- The protection of the victim's identity during trial proceedings.

Thirty years later, the brutal gang rape of a young woman in New Delhi in December 2012 served as another turning point. The Justice Verma Committee was appointed to recommend comprehensive reforms to criminal law. Its recommendations led to the enactment of the Criminal Law (Amendment) Act, 2013, which fundamentally modernized the legal definition of sexual offenses in India³.

The 2013 Amendment:

- Replaced the narrow definition of rape with a much broader definition of sexual assault, encompassing non-penetrative and other invasive acts;
- Introduced an explicit, affirmative definition of "consent" under Section 375 of the Indian Penal Code, 1860, defining it as an unequivocal voluntary agreement, while clarifying that a lack of physical resistance does not constitute consent;
- Criminalized specific acts such as stalking, voyeurism, and acid attacks;
- Explicitly prohibited the use of a victim's character or past sexual history to establish consent or credibility during trial.

This legal progression has been carried forward into the contemporary codification of criminal laws. Under the newly enacted Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code, 1860, offenses against women have been prioritized and placed in Chapter Five of the code, signaling a statutory commitment to addressing sexual and gender-based violence. Similarly, procedural reforms under the Bharatiya Nagarik Suraksha Sanhita,

² (1979) 2 Supreme Court Cases 143.

³ Government of India, *Report of the Committee on Amendments to Criminal Law* (Ministry of Home Affairs, New Delhi 2013) pages 112 to 145.

2023, and evidentiary protections under the Bharatiya Sakshya Adhiniyam, 2023, aim to formalize trauma-informed and victim-centric legal processes.

3. Judicial Approaches to Sexual Offences: Challenging Stereotypes

While legislative reform provides the necessary statutory framework, the actual realization of justice depends on how judges interpret and apply these laws. Historically, judicial approaches have reflected broader social biases, with judges frequently relying on patriarchal myths to assess the credibility of survivors.

3.1 Dismantling the Myth of the "Innocent Victim"

For decades, judicial analysis was often influenced by stereotypes regarding how an "innocent" or "genuine" rape victim should behave before, during, and after an assault. Courts frequently questioned the credibility of survivors who did not exhibit physical injuries, failed to scream, or did not immediately report the offense to the police.

In the landmark case of *State of Punjab versus Gurmit Singh* (1996)⁴, the Supreme Court of India took a major step toward dismantling these assumptions. The Court held that a survivor's testimony should be treated with high respect, stating that:

"The court must appreciate that a girl or a woman in our tradition-bound society would be extremely reluctant to admit of having been raped, which is held to be a worst tragedy that can befall a woman... The court must look at the entire matter in a realistic manner and not be swayed by minor contradictions or hyper-technicalities."

The Supreme Court clarified that the testimony of a sexual assault survivor does not require corroboration from independent witnesses, as sexual offenses are typically committed in privacy. This ruling established that a victim's sole testimony, if found credible and trustworthy by the court, is sufficient to sustain a conviction.

3.2 The Absolute Prohibition of the "Two-Finger Test"

One of the most persistent violations of a survivor's dignity during investigations was the "two-finger test"—an unscientific, invasive medical procedure used by doctors to assess the "elasticity of the vagina" and draw conclusions about a victim's "habituation to sexual intercourse." This test was routinely used by defense lawyers to argue that the victim was of "easy virtue" and therefore likely consented to the act.

The Supreme Court of India addressed this practice in *Lilu versus State of Haryana* (2013)⁵, ruling that the two-finger test violates a woman's right to privacy, physical integrity, and dignity under Article 21 of the Constitution of India. The Court held that:

"The two-finger test and its interpretation violate the right of rape survivors to privacy, physical and mental integrity and dignity... Active sexual history of the victim is totally irrelevant to determine whether the accused committed the rape or not."

Despite this ruling, the practice continued in various jurisdictions. To enforce compliance, the Supreme Court issued a stronger directive in *State of Jharkhand versus Shailendra Kumar Rai* (2022)⁶. The Court held that anyone conducting the two-finger test would be held guilty of misconduct, and directed the Central Government and State Governments to ensure that guidelines prohibiting the test are distributed to all public and private hospitals.

- *State of Punjab v. Gurmit Singh* (1996): Survivor's testimony is sufficient for conviction without external corroboration if found credible.
- *Lilu v. State of Haryana* (2013): Declared the "two-finger test" a violation of constitutional rights to privacy and dignity.

⁴ (1996) 2 Supreme Court Cases 384

⁵ (2013) 14 Supreme Court Cases 643

⁶ 2022 Supreme Court Cases OnLine Supreme Court 1494

- *State of Jharkhand v. Shailendra Kumar Rai* (2022): Reiterated the ban on the "two-finger test" as professional misconduct.
- *Aparna Bhat v. State of Madhya Pradesh* (2021): Prohibited stereotypical bail conditions, emphasizing judicial neutrality.

3.3 Eliminating Stereotypes from Judicial Orders

Judicial paternalism also appears when judges try to broker peace or suggest compromises between the victim and the accused. In several instances, lower courts granted bail to sexual offense accused on the condition that they marry the victim, tie a *rakhi* (a sacred thread representing sibling protection) on the victim, or provide financial compensation to resolve the matter.

The Supreme Court addressed this issue in *Aparna Bhat versus State of Madhya Pradesh* (2021)⁷, setting clear limits on bail conditions in gender-based violence cases. The Court held that judicial orders must not reflect gender stereotypes or encourage compromise, stating:

"The use of patronizing, paternalistic or stereotypical terms, or conditioning bail on compromises like tying a rakhi, or marrying the victim, is impermissible. The court must remain neutral and objective, and ensure that the judicial process is not used to trivialize the trauma of the survivor."

This ruling emphasized that judicial empathy must lie with the constitutional rights of the survivor, rather than with preserving patriarchal social structures.

4. Support Systems for Survivors: The Operational Reality

The legal system cannot function effectively in a vacuum. For a survivor, the availability of immediate and sensitive support systems including law enforcement, medical facilities, psychological support, and legal representation is critical to her safety and recovery.

4.1 Police Response and the Challenge of Registration

The First Information Report is the essential gateway to the formal criminal justice system. However, survivors often encounter a hostile, dismissive, or skeptical reception when attempting to register a complaint at local police stations.

To address this barrier, the Criminal Law (Amendment) Act, 2013, introduced Section 166A of the Indian Penal Code, 1860 (now Section 199 of the Bharatiya Nyaya Sanhita, 2023). This provision makes it a punishable offense for a public servant or police officer to fail to record information regarding specified sexual offenses. Furthermore, the procedural law introduced the concept of the "Zero First Information Report," which requires any police station to register a complaint of a sexual offense, regardless of territorial jurisdiction, and later transfer it to the appropriate station.

Despite these legislative protections, field research shows that police officers often try to discourage survivors from registering formal complaints. Officers frequently suggest informal family settlements or question the victim's character, particularly when the accused is an influential member of the community or a relative⁸.

4.2 Trauma-Informed Medical Care and Forensic Evidence

Medical examinations in sexual offense cases serve a dual purpose: they provide vital healthcare and forensic evidence for the prosecution. Historically, medical examinations were often conducted in cold, public, and insensitive environments, focusing primarily on searching for physical injuries or assessing sexual history.

The Ministry of Health and Family Welfare of the Government of India issued a comprehensive "Medico-Legal Care for Survivors/Victims of Sexual Violence" guidelines in 2014. These guidelines emphasize that:

⁷ 2021 Supreme Court Cases OnLine Supreme Court 230

⁸ Lotika Sarkar, 'Rape: Of Law and Society' (1994) 29(1) *Economic and Political Weekly* pages 450 to 455

- The consent of the survivor is mandatory before any medical examination;
- The examination must be conducted in a private space that respects the survivor's dignity;
- Medical practitioners must focus on providing trauma-informed psychological first aid alongside forensic collection.

However, the implementation of these guidelines remains inconsistent across India, particularly in rural and semi-urban public health facilities. Many hospitals lack specialized forensic kits, trained female medical staff, or dedicated private examination rooms, resulting in inadequate care and poorly collected forensic evidence⁹.

4.3 One Stop Centres: The Concept of Integrated Care

Recognizing that survivors often have to navigate multiple, disconnected state agencies, the Government of India launched the "One Stop Centre" scheme (popularly known as the *Sakhi* scheme) in 2015. Funded by the Nirbhaya Fund, these centers are designed to provide integrated, under-one-roof support services, including:

- Emergency medical assistance;
- Police facilitation;
- Legal counseling and representation;
- Psychological counseling;
- Temporary shelter for up to five days.
- **Medical Care:** Providing first aid and professional forensic collection.
- **Legal Counsel:** Access to legal aid lawyers and assistance with filing reports.
- **Crisis Counseling:** Support from trauma specialists and long-term recovery networks.

While the One Stop Centre model is highly progressive in its design, its performance is often limited by administrative challenges. Many centers suffer from low funding, understaffed counseling departments, a lack of secure security personnel, and poor coordination with local police stations and hospitals. Consequently, many survivors remain unaware of their existence, and the centers often function as administrative clearinghouses rather than safe spaces for recovery¹⁰.

4.4 Victim Compensation Schemes and Rehabilitation

Section 357A of the Code of Criminal Procedure, 1973 (re-enacted as Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023), mandates that every State Government, in coordination with the Central Government, must prepare a scheme for providing funds to compensate victims or their dependents who have suffered loss or injury as a result of crime.

In *Nipun Saxena versus Union of India* (2018)¹¹, the Supreme Court of India approved the "Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes," prepared by the National Legal Services Authority. This scheme established uniform, minimum compensation standards across all states to prevent regional disparities.

However, the process of obtaining compensation remains slow and bureaucratic. Survivors are often required to produce extensive documentation, navigate multiple legal hearings, and endure long administrative delays before receiving financial relief. This slow process undermines the purpose of the scheme, which is to provide urgent financial assistance for medical care, legal costs, and immediate rehabilitation.

5. Socio-Legal Barriers and Critical Gaps

⁹ Human Rights Watch, *Everyone Blames Me: Barriers to Justice and Support Services for Sexual Assault Survivors in India* (Human Rights Watch, New York 2017) pages 54 to 78.

¹⁰ Ministry of Women and Child Development, *Evaluation Study on One Stop Centre Scheme* (Government of India, New Delhi 2021) pages 89 to 104.

¹¹ (2019) 2 Supreme Court Cases 703

An analysis of India's judicial and administrative response to sexual offenses reveals three major socio-legal disconnects that limit the efficacy of progressive laws.

5.1 Secondary Victimization in the Courtroom

For many survivors, the courtroom trial is a deeply distressing experience. Despite statutory prohibitions against questioning a victim's character, defense counsels frequently use aggressive, highly personal, and insensitive cross-examination techniques to undermine her credibility.

The physical design of Indian courtrooms also contributes to this distress. Survivors are often forced to stand in close physical proximity to the accused and his family, facing intense public observation in crowded courtrooms. This lack of protective separation, combined with a lack of gender sensitivity among courtroom staff, often leads to secondary victimization, causing many survivors to withdraw their complaints or agree to out-of-court settlements¹².

5.2 The High Pendency and Low Conviction Paradox

India's criminal justice system is characterized by a stark gap between high rates of pending cases and low conviction rates for sexual offenses. According to data published by the National Crime Records Bureau, the conviction rate for rape cases consistently hovers around thirty percent, while the percentage of cases pending trial remains above ninety percent¹³.

This delay is driven by several systemic factors, including:

- A shortage of judges and prosecutors in trial courts;
 - Delays in obtaining forensic test results from overburdened laboratories;
 - Frequent requests for adjournments by defense counsels.
1. **Constitutional Assurance:** Right to speedy trial; protection from intimidation; gender-sensitive adjudication.
 2. **Practical Reality:** Average trial duration of 3–5 years; high rate of witness turncoat; invasive cross-examinations.

For a survivor, a trial that drags on for several years extends her trauma, leaves her vulnerable to threats and harassment from the accused, and increases the likelihood that key witnesses will change their testimonies or lose track of details.

5.3 The Urban-Rural and Class Divide

The accessibility and quality of support systems are highly unequal, reflecting deep regional and socioeconomic divides. While survivors in metropolitan centers may have access to specialized legal clinics, private healthcare, and non-governmental advocacy groups, survivors in rural and semi-urban areas are often completely dependent on underfunded, insensitive, and poorly staffed local state institutions.

For socially marginalized women, such as Dalit or Adivasi survivors, these challenges are compounded. These women often face systemic discrimination from local police officers, higher barriers to registering complaints, and increased pressure from dominant-caste groups to withdraw their cases, leaving them highly vulnerable to institutional neglect¹⁴.

6. Strategic Recommendations

To bridge the gap between progressive laws and the lived realities of survivors, India must transition from a purely reactive, punishment-focused legal model to a comprehensive, victim-centric framework.

6.1 Institutionalization of Mandatory Gender Sensitization

Gender sensitization training must be integrated as a regular, mandatory component of the professional development programs for all actors within the criminal justice system:

¹² Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press 2014) pages 123 to 156

¹³ National Crime Records Bureau, *Crime in India 2024: Statistics Volume I* (Ministry of Home Affairs, Government of India, New Delhi 2025) pages 310 to 345

¹⁴ Kalpana Kannabiran, *Tools of Justice: Non-discrimination and the Indian Constitution* (Routledge 2012) pages 210 to 234

- **Law Enforcement:** Police officers must receive training on trauma-informed interviewing techniques, victim psychology, and the mandatory nature of registering sexual offense cases.
- **Judiciary:** Trial court judges, magistrates, and public prosecutors should participate in regular workshops led by legal scholars, sociologists, and mental health professionals. These programs should focus on identifying and eliminating patriarchal stereotypes from judicial analysis.
- **Courtroom Staff:** Administrative staff, stenographers, and security personnel must be sensitized to respect the privacy and dignity of survivors during trial proceedings.

6.2 Structural Reforms within the Courtroom Space

To minimize secondary victimization during trial, courts must adopt protective practices that prioritize the physical and emotional safety of the survivor:

- **In-Camera Proceedings:** The statutory requirement for in-camera trials (conducted in private, closed courtrooms) must be strictly enforced in all sexual assault cases.
- **Physical Screens and Video Conferencing:** Trial courts should utilize physical screens, one-way mirrors, or secure video-conferencing technology to prevent direct visual contact between the survivor and the accused during her testimony.
- **Victim-Witness Support Units:** Dedicated support units should be established within district court complexes to guide survivors through the trial process, provide safe waiting rooms, and coordinate transportation to and from the court.

6.3 Strengthening and Funding Support Infrastructure

The network of support services must be expanded, adequately funded, and closely monitored to ensure quality care:

- **Upgrading One Stop Centres:** The government must ensure that all One Stop Centres have dedicated, permanent budgets, professional medical staff, trained trauma counselors, and secure housing facilities. Regular independent audits should be conducted to evaluate their performance.
- **Decentralizing Forensic Laboratories:** To accelerate investigations, regional forensic science laboratories must be established in tier-two and tier-three towns, equipped with modern testing technology and staffed with qualified forensic analysts to eliminate backlogs.
- **Expediting Victim Compensation:** The administrative procedure for disbursing interim compensation must be simplified, allowing survivors to access funds within thirty days of filing a First Information Report to cover immediate medical, psychological, and legal costs.

6.4 Community-Led Legal Literacy and Advocacy

To empower women to access formal justice, state agencies must collaborate with civil society to raise awareness of legal rights and support systems:

- **Mobilizing Community Workers:** Local community health and child-care workers, including Anganwadi and Accredited Social Health Ashas, should be trained to provide basic information about One Stop Centres, legal aid services, and protection mechanisms.
- **Customized Public Campaigns:** Legal literacy campaigns should be designed in regional languages, using accessible media formats like community radio, street theater, and mobile applications, to explain consent, reporting procedures, and the availability of free legal aid.

7. Conclusion

The legislative evolution of laws governing sexual offenses in India represents a significant journey from protective paternalism to a constitutional commitment to women's bodily

autonomy, personal liberty, and human dignity. However, as this socio-legal study demonstrates, statutory amendments alone cannot guarantee justice. The effectiveness of these progressive laws is often limited by deep-seated patriarchal biases within the judiciary, law enforcement, and medical systems, alongside underfunded and poorly managed victim support networks.

To ensure that the promise of the law matches the reality of survivors, India must invest in comprehensive institutional reform. By prioritizing mandatory gender sensitization, upgrading support services, securing safe courtroom environments, and accelerating trial processes, the state can transform its justice system from an intimidating obstacle into a supportive space for recovery and justice. Only when a survivor can report an offense, access comprehensive care, and navigate a trial with her dignity fully respected will the constitutional guarantee of equal protection under the law become a reality for every woman in India.

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