

*Title- A Comprehensive Examination of Rape Laws Across Dimensions:
"Unveiling the Legal Tapestry"*

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Abstract

Rape is one of those topics on which people do not want to open up; talking freely or putting up statements is rarely seen when things are related to this topic. It is one of the essential things that everyone needs to have a word and knowledge of for the well-being of the whole human population. The definition of rape, according to the dictionary, is to use threatening or violent actions to coerce someone into having intercourse with you when you don't want to. Even though rape is one of the most horrifying and heinous crimes in history, it took a lengthy battle for it to be acknowledged as a crime against the bodily integrity and sexual liberty of women. Many of the victims of rape have mental trauma from which they cannot cope for the rest of their life. Rape is that inhuman activity prohibited according to law, but the minds and acts of a few cannot be stopped and are beyond the shackles of law. Some of the laws related to rape have been discussed in the research paper in detail, with a multi-dimensional analysis of laws relating to it. The research paper concludes by proving that rape is a heinous crime and affects the victim physically and mentally. Our language is the reflection of ourselves. A language precisely reflects the character and growth of its speakers. A society is safe when it is free of crimes such as rape. In India, the fourth most frequent crime in India being rape. This is the reason why the country is having high crime rates. A daily average of 88 incidents of rape are reported in India, making it one of the most terrible crimes. As a result, the lives of rape victims are affected in a very inhuman manner.

CHAPTER 1: GLANCE

1.1 INTRODUCTION

Rape is commonly defined as forced sexual contact. However, legal definitions vary from state to state. Force need not always take the form of an overpowering physical assault. It can also take the form of psychological coercion, threats to harm the victim or a loved one if they refuse to participate in the unwanted sexual activity, or other situations where the victim feels as though she has no choice but to consent to the unwanted sexual activity. In addition, rape can occur when the victim cannot permit due to intoxication, drugs, sleepiness, or any other condition.

The physical and psychological damage that rape victims experience is proof of the violence involved. Inappropriate reactions to rape victims from others around them brought on by rape myths can add to the pain suffered by the victims. Those that appear right after the rape and linger for a very long time after the attack are two phases of these trauma symptoms that may be comprehended.

Rape is defined under § 63 of the Bharatiya Nyaya Sanhita¹, 2023, hereinafter referred to as BNS. The POCSO Act of 2012 addresses crimes involving sexual contact with minors. There are six rights for rape victims: the right to file no police report; the right to free medical care in any private hospital; the right to avoid two-finger testing during medical examinations; the right to a police inquiry that is free from harassment and limited in time; the right to a protective and timely trial; and the right to claim compensation.

A girl was raped while riding in a bus at midnight with her companion in the horrifying "Nirbhaya Delhi Gang Rape Case" on December 16, 2012, shocking the whole country and igniting uncountable discussions among the legal community also the leftists. Six men were accused of rape and were judged to be guilty; one of them was a minor. Nirbhaya, the victim, was raped before being struck on the head with an iron rod, resulting in her passing away from many wounds. While the "2019 Hyderabad Rape Case," a 26-year-old veterinary doctor was viciously raped, killed, and discarded on the roadside. The victim had stopped at a toll plaza on her scooter in Shamshabad, close to Hyderabad, according to the Telangana Police. She was intentionally hit by two truck drivers and their assistants, who then dragged her to the side of the road and shoved her into some bushes while acting like they were there to

¹ Bharatiya Nyaya Sanhita, 2023 § 63, No. 45, Acts of Parliament, 2023 (India).

assist her. She was later killed after being viciously gang-raped by psychopaths. As to the Telangana Police, the rapist was murdered in a confrontation.

The research paper is written to educate the victims about their legal rights and aims to establish a society where our female citizens are safer and such horrible crimes against them come to an end.

Keywords: Rape, sexual assault, victim, psychological damage, gang-raped.

1.2 RESEARCH OBJECTIVE

The research paper has been made to make people more aware of the crimes particularly related to rape that is taking place in today's world and so that some changes are established in the mindset of the people. The research paper successfully includes a multi-dimensional analysis of laws related to rape. The aim is also to study the legislative framework concerning sexual violence in the form of rape against women.

1.3 RESEARCH METHODOLOGY

The research paper uses different sites and books to preserve the information provided. The laws provided are researched and read thoroughly before writing them in the paper. The study is inclusive and detailed, while the less important information or facts have been included crisply. There has been a thorough analysis conducted on the laws relating to rape. Both qualitative and quantitative data have been used, while quantitative data is used more than qualitative data. The study has been done to ensure the findings are trustworthy, valid, and pertinent to their goals. The current research is analytic, descriptive, and doctrinal but not empirical.

1.4 LITERATURE REVIEW

1. When I Hit You: Or, A Portrait of the Writer as a Young Wife by Meena Kandasamy²

Even though many women often endure marital rape, India does not regard it as a crime against women. In the book *When I Hit You: Or, A Portrait of the Writer as a Young Wife*, the anonymous narrator falls in love with a university professor and commits to be his wife, anticipating a devoted, equal marriage. Her spouse, however, wants to "own" her existence and intimidates her out of her academic and literary careers via a string of violent incidents, including rape. This book is essential for anybody interested in learning more about marital

² Meena Kandasamy, *When I Hit You: A Portrait of the Writer as a Young Wife* (Juggernaut 2017).

abuse and how to end it. Therefore, the reference has been taken from the book in the research paper in the chapter dealing with Marital Rape.

2. What We Talk About When We Talk About Rape by Sohaila Abdulali³

Since everyone has realized that something must be done, the issue of India's rape culture has gained attention in recent years. Sohaila Abdulali, who was gang-raped as a teenager, made history by becoming the first rape victim in India to open up about her ordeal some 30 years ago. She hopes this book will alter how people talk about rape, consent, desire, retaliation, and post-rape existence. To produce this important book on rape culture, Abdulali draws on her personal experience and the experiences of the hundreds of survivors she has worked with. This book has been beneficial in giving insights throughout the research paper.

3. Against Our Will: Men, Women, and Rape by Susan Brownmiller⁴

In her book, Brownmiller exposed several persistent misconceptions about rape, including those that unrestrained male passion rather than violence is the cause of rape, that rape is naturally encouraged by female sexuality, and that women "cry rape with ease and glee." The book was beneficial in giving various fruitful insights through the case laws and the detailed analysis of them as well.

4. Marital Rape in India: Current Legal Framework and the Need for Criminalising It⁵

The study report claims that marital rape is the most common and disgusting kind of masochism in Indian society and that it is masterfully hidden under the façade of a perfect marriage. Regardless of the legal meaning of the term, any unwanted sexual intercourse or penetration brought on by the use of force, the threat of force, or when the wife is unable to consent may be seen as marital rape. To better understand Indian legislation regarding marital rape, the researcher set out to write this article. After doing so, she concluded that maintaining the marital rape exemption under Section 375 of the IPC violates fundamental rights. According to the Verma Committee's findings, it is accordingly ruled illegal. This paper has been beneficial in the study of the chapter regarding marital rape.

5. Rape in the Workplace: Dealing With the Problem

The research paper covers the following topics. The most horrific acts committed against a person are said to include rape. In October 2017, the uproar brought on by the "MeToo"

³ Sohaila Abdulali, *What We Talk About When We Talk About Rape* (Myriad Editions 25 October 2018).

⁴ Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (Ballantine Books 1993).

⁵ Neha Navaneeth, *Marital Rape in India: Current Legal Framework and the Need for Criminalising It*, 4(3) *IJLMH* Page 394 – 404 (2021).

movement upended the status quo of rape victims remaining silent. It leaked the number of suffering victims who had previously been kept secret. Because women do not want to jeopardize their careers or risk being stigmatized by society for "provoking" the rapist, many incidences of rape and molestation at work go unreported. The study report was highly beneficial in providing several specific details on sexual harassment in the form of rape in the workplace.

6. Critical Analysis of Provision Relating to Rape in India⁶

The Indian Penal Code of 1860, which Lord Macaulay wrote, first established the idea of "rape" as a clearly defined offense. Since then, the idea has seen several iterations via different Criminal Law Amendment Acts, which have altered it to suit societal changes better. The study aims to answer these questions by comparing the original section 375 with significant criminal law amendments that changed it and the circumstances that led to those amendments. It also aims to identify the gaps and ambiguities in the current rape laws and determine the steps to address them. The study of this research paper has helped a lot in shaping the views on rape and also has helped a lot in finding the legal provisions related to rape.

CHAPTER 2: DEFINITION OF ‘RAPE’ AND A WORD ON ITS IMPACT

2.1 DEFINITION OF RAPE

When one or more persons have intercourse with another person without their consent, it is referred to as rape. Rape generally involves sexual activity. A person who cannot give legal

⁶ Critical Analysis of Provision Relating to Rape in India | International Journal of Legal Science and Innovation, <https://ijlsi.com/2-critical-analysis-of-provision-relating-to-rape-in-india/> (last visited Jun 19, 2025).

consent may be used in the act, as well as physical force, coercion, abuse of power, and other methods. Rapist is a term used to describe someone who rapes someone else.

In several regions of the world and throughout history, rape has been defined differently. According to the definition given by several legal systems, having intercourse with someone else without the victim's consent is considered an act, including other types of sexual penetration. According to the World Health Organisation, it is "physically forced or otherwise coerced penetration - even if slight - of the vulva or anus, using a penis, other body parts, or an object." The United Nations defines it as "sexual intercourse without valid consent." Some legal systems still classify all other forms of extramarital sex as sexual assault, while others define rape as solely crimes involving penile penetration of the vagina.

2.2 THE IMPACT OF RAPE

There are several immediate and long-term physical and psychological impacts of rape. When the short and long-term effects of rape start to show, victims must receive thorough treatment. Some rape victims and those abused frequently or at an early age may require treatment for the remainder of their lives.

CHAPTER 3: JUDICIAL APPROACH REGARDING RAPE

3.1 AN OVERVIEW

This chapter evaluates the benefits of the higher judiciary recognizing women's rights. The chapter discusses the judicial decisions in various rape cases and examines how strict interpretation has affected the judicial decisions of the courts. In the chapter, it is discussed

how the Indian judicial system might effectively tackle the problem of rape and how it would deal with victims of rape through the use of rehabilitative measures.

3.2 ESSENTIALS OF RAPE EXPLAINED THROUGH CASE LAWS

The essentials of Rape include, initially—against her will, secondly, without her approval, to be continued. Thirdly: With her permission, after gaining her permission by making her or anybody else, she is interested in endangering their lives or being injured. Fourthly, with her agreement, even if she knows he is not her husband, she only gives it because she mistakenly thinks he is the other guy she is legally married to or believes herself to be. Fifthly, with her permission, if, at the time of providing such authorization, she is incapable of understanding the nature and effects of what she is allowing due to mental incompetence, intoxication, or the administration of any sedative or unhealthy drug by him directly or via another. Sixth: With or without permission, if she is under the age of eighteen. This gets us to number seven when she is unable to express consent. § 64(2) of the BNS⁷ specifies a penalty for rape, previously given under § 376 of the Indian Penal Code⁸, hereinafter referred to as IPC. The heinous crime of rape has a ten-year mandatory minimum sentence that can be increased to a life sentence, along with a fine. It is a crime that may be prosecuted in the Sessions Court, is cognizable, not subject to bail, and cannot be compounded.

Consent of the victim

The accused raped the woman in the case of *Tulsidas Kanolkar v. State of Goa*⁹, though she was mentally ill. In light of this, the Court decided that the accused profited from her mental instability. The Indian Penal Code clearly states in § 375 of IPC¹⁰ or § 63 of the BNS¹¹ that permission received while a person is mentally ill or incapable of giving informed consent is invalid; therefore, it can be concluded that it was a case of rape.

Age of the victim

It is crucial to identify the victim's age since rape by a husband against a wife under the age of 15 is considered rape. If the wife is under fifteen, the husband cannot engage in sexual activity with her. If the victim is a lady under the age of 18, it is also considered a rape,

⁷ Bharatiya Nyaya Sanhita, 2023 § 64(2), No. 45, Acts of Parliament, 2023 (India).

⁸ Indian Penal Code, 1860 § 376, No. 45, Acts of Parliament, 1860 (India).

⁹ Tulsidas Kanolkar Vs State of Goa, (2003) 8 SCC 590.

¹⁰ Indian Penal Code, 1860 § 375, No. 45, Acts of Parliament, 1860 (India).

¹¹ *Supra* note 1.

whether consent is given or not. Asifa Bano, a little girl from Kathua who was eight years old, was gang raped by several offenders in the *Kathua Rape Case*. It is irrelevant whether the girl consented since sexual activity with a woman under the age of 18 years constitutes rape, according to the court in this case.

Sexual intercourse occurred without the consent of the raped victim

In the case of *Pratap Misra v. State of Orissa*¹², the apex court did not accept the account of the prosecutrix. The prosecutrix's body and the accused's private areas were both unharmed, and the court noted that a woman would unavoidably defend herself against such an attack on her. The Court concluded that there were no injuries and that the sex was consenting. This case served as an excellent example of the numerous issues with rape adjudication. In response to the prosecutrix's involvement with a married man, the court took a moralistic stance, even going so far as to refer to her as a concubine.

Custodial Rape

A young lady was raped at a police station, in the case of *Tukaram v. State of Maharashtra*¹³. The case is undoubtedly famous by the name of the Mathura Case. An FIR for kidnapping had been filed against the man with whom Mathura was in a relationship. Therefore, Mathura, the prosecutrix, had been summoned to a police station. Two officers from police assigned to the station were accused of raping Mathura in the restroom adjacent to the station after sending her companions outside. Due to the lack of intimidation or coercion, the Supreme Court determined that the situation did not include "passive submission." There were no wounds on Mathura's body, which had an impact. The Court referred to the claim that she had yelled but had not been heard as a "tissue of lies." As a result, the men were acquitted by the court of the charges of rape. The court did not consider the police officers' superior strength while deciding. However, Mathura's sexual activity, the absence of any physical injuries, and her lack of screams were all given weight by the court in the present case.

Acts done against the will of the victim

¹² Pratap Misra v. State of Orissa, (1977) 3 SCC 41.

¹³ Tukaram v. State of Maharashtra, (1979) 2 SCC 143.

The rape has been determined to violate Art. 14, 19, and 21 of the Indian constitution. In the case of *State of Maharashtra v. Madhukar N. Mardikar*¹⁴, the Supreme Court ruled that a woman's unchastity does not render her vulnerable to being violated by anybody at any time. In front of the law, she has an equal right to defend her honour. India has a cognizable crime of rape. An important factor contributing to India's rising rape crime rates is the country's poor conviction rate.

The Appellant was found guilty of rape, murder, and theft under § 376, 302, and 380 of the IPC by the Supreme Court, which also condemned him to death. The case was *Dhananjay Chatterjee v. State of West Bengal*. It is thought that this case is historical. He was executed for a murder conviction for the first time in the twenty-first century. In Kolkata's Alipore Central Prison, a hanging was performed on August 14, 2004.

The fundamental Right to Life with Dignity is violated by rape

In the case of *Bodhisattwa Gautam v. Subhra Chakraborty*¹⁵, the Respondent was a student at the Baptist College in Kohima, filed a complaint on her behalf. The Petitioner, Bodhisattwa Gautam, was named in the complaint, which was filed against him under § Sec 312, 420, 493, 496, and 498-A of the IPC. He lectured at the Court of the Judicial Magistrate in Kohima, Nagaland. In order to commit sexual intercourse with the Respondent, the Petitioner is accused of misleading her by pretending he was in love with her and providing fake marriage promises. The Petitioner coerced the Respondent into living with him, but continued putting off the wedding since his parents would disapprove, inducing the Respondent to become pregnant twice. Both times, against her choice, he forced her to have an abortion. After accepting a position as a lecturer at a government college in Silchar, the Petitioner left the Respondent behind and refused to recognize the woman as his legally married wife. The complainant pursued a criminal complaint because the cruelty displayed by the Petitioner put her bodily and mental health at grave risk and caused significant injury. As a result of the charges being untrue, the petitioner filed a case with the Guwahati HC according to § 482¹⁶ of the Criminal Procedure Code, asking for the complaint to be dismissed.

The Court rejected Gautam's request for a special leave of absence and ordered him to pay Rs. 1,000 in monthly maintenance costs from the filing of the complaint until the criminal case was concluded. The right to life, sometimes known as the right to a dignified existence,

¹⁴ *Maharashtra v. Madhukar N. Mardikar*, (1991) 1 SCC 57.

¹⁵ *Bodhisattwa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490.

¹⁶ Code of Criminal Procedure, 1973 § 482, No. 2, Acts of Parliament, 1973 (India).

is guaranteed by Article 21 of the Constitution¹⁷, is violated by rape, the Court claims. Due to social limitations and constraints, women in India are at a disadvantage and are unable to lead lives of the utmost honour, according to the court. Rape is a crime that infringes on both the victim's rights and fundamental human rights in everyday life.

Injuries to the body

In the case of ***Mukesh & Anr. Vs. State for the NCT of Delhi and Others (popularly known as the Nirbhaya Case)***¹⁸, five people, including teenagers, viciously assaulted a young female physiotherapist on a moving bus in Delhi on December 16, 2012. The assailants used an iron rod to rip out the victim's intestines. She died at a hospital despite all attempts to rescue her. A jailhouse suicide by one of the defendants was purportedly reported. A youngster was given a sentence of three years in a juvenile institution, while four adults received death sentences. The public was profoundly shocked by this tragedy, leading to a discussion on dealing with such heinous crimes.

CHAPTER 4: WAY FORWARD

4.1 SUGGESTIONS

Much contemporary jurisprudence is expressly concerned with the protection of women, and Indian law currently grants husbands and wives individual and independent legal identities. In light of this, it is time for the legislature to recognize this flaw in the law and repeal § 375¹⁹

¹⁷ INDIA CONST. art. 21.

¹⁸ Mukesh & Anr Vs. State for NCT of Delhi & Ors, CRIMINAL APPEAL NOS. 607-608 OF 2017.

¹⁹ *Supra* note 10.

(Exception 2) of the IPC to include marital rape within the rape statutes. Along with unpleasant social realities concerning their limited application in practice, laws must set clear boundaries in our interactions and respect the constitutional principles of equality, dignity, and physical autonomy.

4.2 CONCLUSION

When rape is unheard of, society is safe. The fourth most frequent crime in India is rape, a country with high crime rates. A daily average of 88 incidents of rape are reported in India, making it one of the most terrible crimes. When a male has intercourse with a woman against her will, or if she is a minor, it is considered rape, according to § 375 of the IPC²⁰ or § 63 of the BNS²¹. And according to this provision, only the slightest penetration qualifies as a rape infraction. Numerous rape instances are unreported to the police. The outcome is that there are now more instances. Many victims of sexual assault choose not to come forward and report their crimes because they are unaware of their rights. Society must recognize that victims are not to blame and should show some concern regarding the same.

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²⁰ Id.

²¹ *Supra* note 1.