

GENDER BASED VIOLENCE IN INDIA

Tanuka Endow

Working Paper 02



INSTITUTE FOR HUMAN DEVELOPMENT
www.ihdindia.org

WP 02

Centre for Gender Studies Working Paper Series

Gender Based Violence in India

TANUKA ENDOW



**INSTITUTE FOR
HUMAN DEVELOPMENT**

2021

Published by:

INSTITUTE FOR HUMAN DEVELOPMENT

84, Functional Industrial Estate (FIE)

Patparganj, Delhi-110092

Tel: +91 11 22159148, 22159149

E-mail: mail@ihdindia.org

Website: www.ihdindia.org

ISBN: 978-81-88315-72-2

CONTENTS

1. Introduction.....	1
2. Tracing the Struggles for Gender Equality for Women in India.....	4
3. Statistics for Rape in India.....	10
4. Other selected forms of Gender based violence	16
5. Gender-based Violence and Laws.....	22
6. Concluding Remarks.....	26

ACKNOWLEDGEMENTS

I would like to thank Dr Govind Kelkar for her valuable comments provided for the first draft of the paper.

I am also indebted to Prof. Alakh N. Sharma and Dr Aasha Kapur Mehta for their encouragement towards writing this paper.

ABSTRACT

Gender-based violence occurs worldwide and is significantly persistent over time. This paper examines the issue of gender-based violence in India in depth. In this context, it looks at the women activists' struggles around important issues to bring about gender equality, and finds that the issue of gender-based violence came into prominence only after the mid-nineteen seventies. A few watershed incidents of rape that served as a catalyst for the women's movement in India are discussed. The paper also explores the trend related to specific forms of gender-based violence. The rate of reported rape cases for women aged 18 years and above more than doubled between 1995 and 2019 and shows mostly a steadily rising trend till 2016. The issue of domestic violence, which affects a large proportion of women, is also discussed in-depth, along with the issue of dowry death, another rallying point for women's movements. Several legal reforms have taken place in related areas, but these have not been adequate in tackling the menace of gender-based violence. Attitudinal changes in the society which would reject the traditional 'son-preference' and value women as well as economic empowerment of women are crucial.

Gender Based Violence in India

Tanuka Endow*

I went, therefore, to the shelf where the histories stand and took down... Professor Trevelyan's History of England. 'Wife-beating', I read, 'was a recognized right of man, and was practised without shame by high as well as low...the daughter who refused to marry the gentleman of her parents' choice was liable to be locked up, beaten and flung about the room...' That was about 1470, soon after Chaucer's time.

—A Room of One's Own, Virginia Woolf, 1929

1. Introduction

Gender-based violence is ubiquitous and its incidence has shown little signs of abatement over time. Across their lifetime, one in three women, or around 736 million globally, are subjected to physical or sexual violence by an intimate partner or sexual violence from a non-partner – a number that has remained largely unchanged over the past decade¹. Some 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence and globally, 38% of murders of women are committed by an intimate partner².

This paper examines the issue of gender-based violence (GBV) in India in depth. It takes a look at the trajectory of how this issue permeated the social and political discourse in India and, till today, has dominated the discourse among women's movements. As mentioned at the outset, this is an issue which straddles the world and which has persisted at high levels. The paper explores what constitutes gender based violence, how the issue has been addressed in the context of overall women's movements in the country, what is the trend related to specific forms of GBV and what are the legal reforms related to the main forms of GBV, along with their adequacy in tackling this menace.

1. <https://www.who.int/news/item/09-03-2021-devastatingly-pervasive-1-in-3-women-globally-experience-violence>

2. <https://www.worldbank.org/en/topic/socialsustainability/brief/violence-against-women-and-girls>

1.1 What is Gender based violence?

Gender-based violence is defined by the United Nations as any act of violence that results in physical, sexual, or psychological harm or suffering to women, girls, men, and boys, as well as threats of such acts, coercion, or the arbitrary deprivation of liberty³. Alternatively, GBV can be thought of as violence directed against a person because of that person's gender or violence that affects persons of a particular gender disproportionately⁴. It can include violence against women, domestic violence against women, men or children living in the same domestic unit. But given that it affects women and girls disproportionately, here, by GBV we refer to violence against women and girls.

Violence against women and girls is understood to be rooted in unequal power relations between men and women and stems from gendered roles which are social constructs rather than their biological sex (ICRW 2004). A violent act would involve aggression, usually in interpersonal relations or interaction (Karlekar in John ed 2008). As noted, often it involves the dynamics of power and powerlessness and also exploitative gender relations. Violence has long and short-term effects on the physical and mental health of women which includes physical injury and also increased risk of depression, post-traumatic stress disorder, sleep difficulties, eating disorders and emotional distress (research studies cited in Banerjee 2014⁵).

The three main sites of violence can be flagged as the family, the community and the public spaces, but *'these structures of power are often in interplay, and often deploy common instruments of brute force'* (Sen and Dhawan in Banerjee et al ed 2011). Rape is such an instrument, and so are sexual molestation, acid attacks, wife-beating and torture, dowry related deaths or torture, etc. But the definition of gender based violence at present also includes stalking, voyeurism, mental and psychological violence, and so on.

Public spaces not only include roads, parks, means of commute, but also the workplace. The incidence of violence has been researched in the Indian urban

3. NFHS 4 (2015-16)

4. https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en

5. 'Dowry in 21st-Century India: The Sociocultural Face of Exploitation' by Priya R. Banerjee, *Trauma, Violence & Abuse* Vol. 15, No. 1 (January 2014), pp. 34-40 (7 pages), Sage Publications, accessed at https://www.jstor.org/stable/26638331?seq=1#metadata_info_tab_contents

context (IHD 2016⁶) and gender-based violence has been reported in many sectors (Tripathi et al 2016). The workplace-related harassment of women workers belonging to the corporate world or the more formalized sectors may be more hidden but has been brought to the fore by the recent #Me Too movement. The Vishaka guidelines were brought in by the Supreme Court in 1997 to lay down the guidelines for dealing with complaints of sexual harassment against women at the workplace, and subsequently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to ensure safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity.

As a testimony to the all-pervasive gender based violence, we see that in India, a total of 4,05,861 cases of crime against women were registered in 2019, showing an increase of 7.3% over 2018 (3,78,236 cases). The crime rate per lakh population is 62.4 in 2019 for crime against women⁷. The National Crime Records Bureau lists the following under 'Crime Against Women': rape, attempt to commit rape, murder with rape/gang rape, dowry deaths, abetment to suicide of women, rape, acid attack, attempt to acid attack, cruelty by husband or his relatives, kidnapping and abduction of women, selling and buying of girls, assault on women to outrage her modesty, among others.

It may be mentioned here that due to the widely prevailing son-preference in India, a girl child may face violence even within the womb in the form of female foeticide. She may face infanticide, rape, sexual abuse and other forms of violence as a child, often from people well-known to her. However, in this paper the issues of female foeticide, infanticide, or that of child sexual abuse and rape are not discussed⁸, as that is a huge area of discussion in itself.

The rest of the paper is organized as follows. Section 2 contains look at some milestones in the overall context of struggles for gender equality in India and examines when and how the issue of gender based violence was brought to the forefront by the women's movement around a few watershed rape cases. This is followed by a discussion in Section 3 on the incidence and trend of rape cases in

6. IHD (2016): Poverty, Inequality and Violence in Indian Cities: A study in Delhi and Patna - a Report of the Safe and Inclusive Cities project submitted to the sponsors - IDRC Canada and DFID, UK

7. NCRB 2019 statistics accessed at <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>

8. Except for some discussion in the context of official statistics on rape.

India based on official statistics by National Crime Records Bureau. Next some more important forms of GBV other than rape are discussed in brief in Section 4. In Section 5 legal reforms in the context of GBV and associated rights of women are discussed and, finally, Section 6 concludes.

2. Tracing the Struggles for Gender Equality for Women in India

2.1 Early Years

The recognition of gender as an issue forms the basis for women's movement in India (Sen 2000). Women's movement in India can be said to have gained pace since the 1920s and 1930s although gender had been a central issue since the 19th century (Sen 2000 and Sen and Dhawan in Banerjee ed 2011). The women's movement was also shaped by the freedom movement in the country and the early years of the nationalist freedom movement saw the genesis of several organisations focused on women-centric issues--the Women's Indian Association was formed in 1917, the National Council of Indian Women in 1925 and the All-India Women's Conference in 1927. The first two associations were relatively elitist in nature, comprising members from privileged background and without connection to the large majority of women in the country of varied caste and class. AIWC was more representational in nature and was engaged in addressing wide-ranging issues. *'Within 10 years the conference included subcommittees on labor, rural reconstruction, industry, textbooks, opium, and child marriage legislation'* (Sen 2000).

The constitution of newly independent India had granted women fundamental rights. Positive discrimination in favour of women was brought in for neutralizing the socio economic, educational and political disadvantages faced by them and some legal rights were also granted for women. However, the nationalist women largely *'...accepted the social and cultural idiom of "Indianness"— values of segregation and male guardianship— in which their participation was sought'* (Sen 2000). Thus the structure of patriarchy and gender relations within the household, were not questioned.

2.1.1 Women's Role in Planned Economy

A watershed report with enormous potential for improving gender equality in the country came in the 1930s (Banerjee 1998 and Chaudhuri in John (ed) 2008). This was a document entitled, 'Women's Role in Planned Economy' (henceforth WRPE) and it had been prepared in late 1930s for the Congress Party by a Sub-Committee appointed in 1939 by the National Planning Committee (NPC) to work

out the role of women in planned economy. It looked at the status of women and also at their expected role in a planned economy.

This report established, based on empirical evidence, that the women workers who worked in factories, fields or mines and constituted around one-third of adult women in India, faced discrimination not only from their employers and the trade unions, but most importantly, from their households *'which staked a pre-emptive claim on their labour'* (Banerjee 1998). It also delved into the root cause of such discrimination and identified the *'patriarchal attitudes and the male-oriented power structures within the households and communities'* as factors behind the discrimination. Thus gender related issues hitherto skirted by the nationalist leaders were addressed squarely in the WRPE report.

Yet the findings and radical recommendations of the report were largely ignored by the National Planning Committee to which the report was submitted. What is more, this watershed report and its wealth of data were not used in the subsequent planning process of the country and the focus on women's role as 'workers' faded away.

2.2 Later Years

The two world wars and their aftermath served to internationalise struggles for equality by women and other oppressed people and thus gave a push for gender justice (Agnihotri and Mazumdar 1995). Till the mid-nineties, the major parameters within which the women's movement has developed have been: (a) the decadal thrust provided by the preparations for the World Conference on Women held by the UN in Mexico, and the initiatives coming forth from the Non-Aligned Movement in this context; (b) the history of and relationship between earlier movements for freedom, equality and democracy, subsequently enshrined as basic political tenets in the Constitution of India, and the constraints felt towards achievement of these in independent India, and (c) the influence of ideas coming across through the various streams of the women's liberation movements of the west (Agnihotri and Mazumdar 1995).

The international women's decade, starting from 1975, proved to be a formative period for a 'new' women's movement with a self-conscious gender politics (Sen and Dhawan in Banerjee et al ed 2011, Jagori 2009). The underlying political outlook varied from class critique of radical left, to caste-based movements and movements around land, food, work, etc. Some examples are Shahada movement of Bhil landless

labourers and Shramik Sangathana in Maharashtra. At this time the Self-Employed Women's Association (SEWA) was formed as a branch of the Textile Labour Association. Gender-based violence was also a prominent issue during the nineties.

The issue of GBV did not receive its fair share of importance till after the mid-nineteen seventies. In 1971, the Committee on the Status of Women in India (CSWI) was set up to review the changes in Indian women's status that were expected to result from constitutional equality, governmental policies and social reforms since independence. The CSWI brought out a pioneering report 'Towards Equality' in 1974, which presented a fairly comprehensive picture of the status of women in India, touching diverse topics such as their constitutional rights, demographic changes, economic participation, access to healthcare and education, marriage practices, among others, taking note of the social diversity and inequality that exist in India. It showed that, with the exception of middle class women's entry into education, the conditions of the majority of women had been deteriorating since the 1950s (John (ed) 2008). But although various laws relating to women were discussed in the report, the issue of gender based violence was missing⁹.

The issues around GBV were taken up following the years of emergency (1975). During the 1970s, the Progressive Organization of Women took up issues of anti-dowry, banning of obscene literature, anti-price rise, etc. The anti-dowry movement, protests against increasing gender violence and demand for a uniform civil code were all part of the women's movement. The protests against gender-based violence, however, coalesced around certain gruesome incidents of rape and violence and these helped to catalyse the nation-wide women's movement and infuse it with energy.

2.3 Watershed Incidents of Gender Based Violence that Impacted Women's Movement in India

All incidents of rape are a violation of the woman—her body, mind and soul. All incidents of rape are horrific. Yet there are some incidents which stand out in public memory for various reasons and which have proved to be a rallying point for women's movement in the country. Two such watershed incidents which took

9. This absence (including absence of the issue of dowry related violence) has been alluded to by Ms Vina Mazumdar, a member of the CSWI, in 1994 (John (ed) 2008). In 2015, a High Level Committee (HLC) on the status of women brought out a detailed report under the aegis of Ministry of Women and Child Development, which reassessed the 1974 Towards Equality report. This report described the issue of violence against women and girls as '*A silent epidemic*', and have cautioned against the naturalization and normalization of such violence.

place in the nineteen seventies are considered to have galvanized the movement around gender based violence. These are the Mathura rape case in Maharashtra and the case of the gang-rape of Rameeza Bee in Hyderabad. The third such incident took place in Delhi—this is the ‘Nirbhaya’ case in December 2012¹⁰.

The Mathura Rape Case¹¹

The ‘Tukaram vs. State of Maharashtra’ commonly known as Mathura Rape Case created an uproar on a national scale and also brought together various feminist groups across the country, eventually leading to an amendment to the related criminal law in 1983. The case involved the alleged rape and molestation of Mathura, a young tribal girl aged between 14 and 16 years, by two policemen in the compound of Desai Ganj Police Station, Maharashtra, in 1972. Called to the police station following a complaint by her brother, Mathura was asked to stay back inside the police station while her family waited outside. She alleged later that one police constable, Ganpat, had raped her and the other, Tukaram, had molested her and attempted but could not rape her as he was too drunk. When the relatives outside protested that they could not see Mathura, that the Police Station was in darkness, and demanded to know her whereabouts, the events came to light and the accused policemen reluctantly agreed to file a complaint.

The Mathura rape case came up for hearing in the Sessions court in 1974 and the policemen were found not guilty. On appeal, the High Court changed the verdict and passed sentences for imprisonment for the accused policemen. However, the Supreme Court of India reversed this verdict and acquitted the two policemen in 1979. The Supreme Court focused on the third component of IPC Section 375. The Section 375 states that a man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman, under specified six situations. The third situation refers to sexual intercourse with the woman’s consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt. The Supreme Court held that Mathura had raised no alarm; and also that there were no visible marks of injury on her body,

10. There are other important instances of rape which had a huge impact on the women’s movement in India, such as the Bhanwari Devi case in Rajasthan and the Soni Sori case. But all those cases will not be discussed here due to limitation of space.

11. The sources used for discussion on the Mathura rape case and Rameeza Bee case are: Open letter by Baxi et al (1979) in John ed (2008), ‘Rape and the Construction of Communal identity’ by Kalpana Kannabiran in John ed (2008), ‘Rape and the Law’ by Sebastian in EPW March 15, 1980, PUDR report on Custodial rape.

thereby suggesting absence of struggle and therefore no rape. The fact that Mathura did not shout or protest during the rape was interpreted as passive submission, indicating that she had not been forced or coerced and that the consent was not vitiated by fear of death or hurt.

There was no condemnation of the fact that calling Mathura, and detaining her at the police station was a gross violation of the law of the land, nor was there any condemnation of the rape or submission to sexual intercourse where the police station was used for this act.

It was this travesty of justice, as well as reports of many other rape cases coming in from other states in India that led to a sustained campaign for reforms in the Rape Law in the country. In a landmark open letter to the Chief Justice of India signed by four eminent law professors in 1979, the anguished cry and protest is heard ‘...a case like this with its cold-blooded legalism snuffs out all aspirations for the protection of millions of Mathuras in the Indian countryside. Why so?’

The Rameeza Bee Case¹²

Eighteen year old Rameeza Bee was gang-raped in 1978 in Hyderabad by four policemen, and her husband Ahmed Hussain, was beaten to death. Following the public outcry and protest, the police opened fire on the crowd which resulted in further loss of life. Next followed the institution of a one-man Commission of enquiry, with a sitting judge of the Andhra Pradesh High Court. The policemen were found to be guilty of rape, assault and murder, and the judge recommended that they be prosecuted. However, the accused appealed against the judgment and the case was transferred to the district judge of Raichur, Karnataka, who acquitted the policemen. Vimochana, a women’s group from Bangalore, filed a review petition and forced the state government to proffer an appeal, but this was dismissed.

The unfair and heart-rending course that the trial took, trying to highlight that the victim of the gang-rape was a prostitute, that she was an immoral woman with no knowledge of the religion of Islam, etc. and effectively shrouding the real issue of gang-rape in legalese, is put succinctly by Kannabiran (cited in John ed 2008):

‘First she had to prove that she was not a prostitute; second that she was not a woman of loose character who had married several men before cohabiting with Ahmed Hussain; third, that

12. The discussion has accessed material from ‘Rape and the Construction of Communal Identity’ by Kalpana Kannabiran in John (ed) 2008.

she was in fact legally married to Ahmed Hussain; fourth, that she was a good Muslim and knew and respected the tenets of Islam.....The fact of rape in her case is lost in a maze of considerations that in no way disprove the rape: on the contrary, they effectively justify it.'

The 'Nirbhaya' Rape Case¹³

In December 2012, a young girl, a physiotherapy student, who later came to be known by the name 'Nirbhaya' due to her courage, was standing at a bus-stop in Delhi with her male friend. It was around 9 pm, and a few auto-rickshaws had refused to carry them to their destination. When a private chartered bus stopped next to them, indicating that they would take passengers, they got on, even though there appeared to be very few passengers. Later it turned out that the other four men were not passengers and were the friends and accomplices of the bus driver and the conductor. In a heinous crime, Nirbhaya was gang-raped and brutally assaulted by the six men inside the bus. Then she and her friend were thrown out on the road from the moving vehicle and left to die. They were subsequently admitted to the Safdarjang hospital.

The following day the capital witnessed widespread and intense protests in support of the victims and demands that the accused be arrested and brought to justice. '*...in Delhi the protests became so intense that the government imposed curfew orders in parts of the city and the police resorted to beating the protesters*' (Dutta and Sircar 2013).

Later Nirbhaya had to be shifted to Singapore for medical reasons, where she died on 29th December. But she had left behind her dying declaration, which was used to fight the case. The police added the charge of murder to the other horrific crimes of gang-rape and sexual assault.

All of the accused, including one minor had been traced and arrested within the month of December. During March, 2013, one of them committed suicide in the jail. The juvenile was convicted for gang rape and murder and awarded three-year term at a probation home. The remaining four accused were charged with 13 offences including gang rape, unnatural offence and murder of the girl, and attempt to murder her male friend. Finally the four accused were hanged to death in March 2020.

13. The sources include: Dutta and Sircar (2013), <https://www.thehindu.com/news/national/chronology-of-events-in-nirbhaya-case/article30566298.ece>, Rana (2020), Chaudhuri (2019), <https://www.bbc.com/news/world-asia-india-21950197>

The incidence of rape in this country is widespread and all are to be condemned. In this section we have discussed, among others, three cases that shook India, and spurred on the women's movement in a significant way. Next we look at the statistics for rape, nation-wide, as obtained from NCRB.

3. Statistics for Rape in India

Data on different types of crime in India, put together from police records by the NCRB, are being published on an annual basis since 1953 (Mukherjee et al 2001). Information on rape and culpable homicide not amounting to murder is being provided since 1971. But more detailed data for crime against women such as dowry deaths, sexual harassment, cruelty by husband or relatives and other crime heads were added since 1995. This has come about partly as a consequence of pressure from activists, women's organisations and the national parliament.

The total reported rape cases in India stands at 32 thousand as of 2019. These crime statistics, however, are often taken to be under-estimates due to under-reporting (Mukherjee et al 2001, Himabindu et al 2014).

Crimes against women tend to go unreported for understandable reasons: attached social stigma, distrust in legal mechanisms, the fear of retaliation and so on. Institutional indifference makes matters worse, posing difficulties for women to lodge complaints, and even to undergo trials. For instance, during rape trials, victims can have a harrowing experience since the victim's past sexual history can be used as a defence for the accused, allowing scope for the defence lawyers to harass the victim.

'In every rape trial the woman goes through a verbal rape in the name of judicial verification and the judicial discourse objectifies and sexualizes the body by humiliating the victim in a packed courtroom through offensive cross-examination.' (Bhadra cited in Shahidullah (ed) 2017).

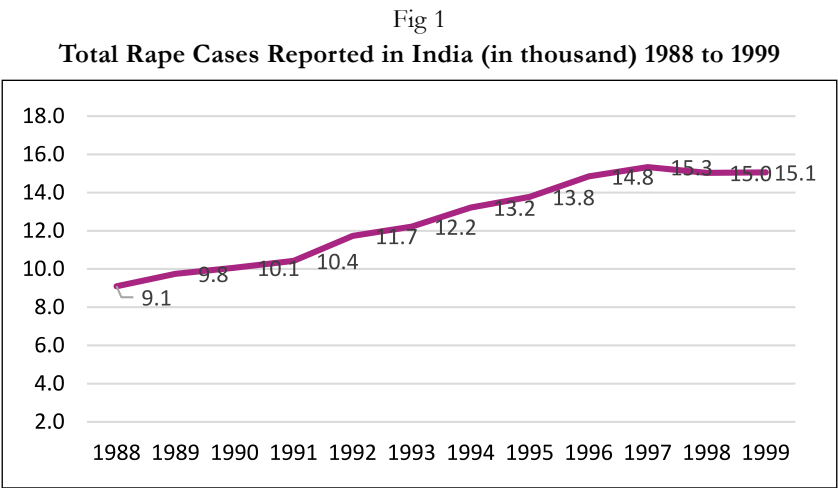
In addition, since crimes such as gang rapes, stalking and acid attacks on women were not included in official statistics of crime against women until the law was amended on 3 February 2013, the earlier data for overall crime against women statistics would necessarily be under-reported (Himabindu et al 2014).

Depending on data availability, the trend of total rape cases reported in the country are presented below for two time-periods: (i) 1988 to 1999 and (ii) 2000 to 2019. In the former period the data are available for rape of girls below 16 years, women between 16 and 30 years and women above 30 years. In the latter period, the data for women below 18 years and those above are available.

3.1 Time Period: 1988 to 1999

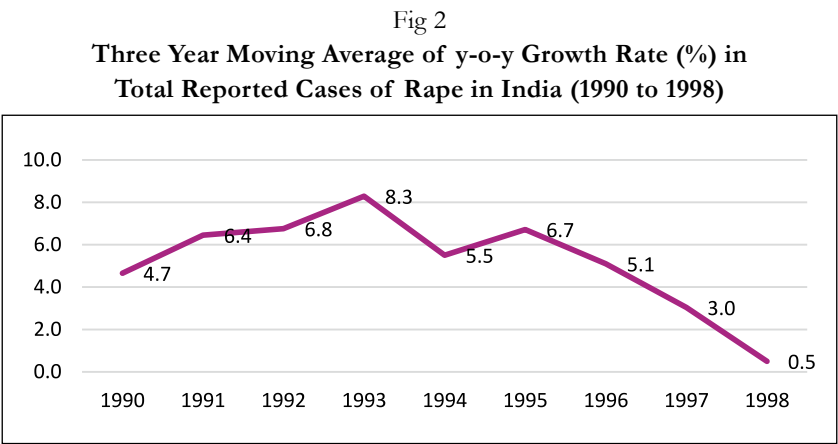
3.1.1 Incidence of Rape

There was a more or less steady rise in rape cases reported across India between 1988 and 1999, from 9.1 thousand in 1988 to 15 thousand in 1999 (Fig 1).



3.1.2 Growth in Reported Rape Cases

The three-year moving averages of the year-on year growth rates (%) show that while there was an acceleration in growth of rape cases in the first half of the nineteen nineties, in the latter half the growth rate slowed down (Fig 2).



The bulk of the rape victim comprises women in the 16-30 years age category, as can be seen from the share of cases for victims of different age-groups (Table 1).

Table 1
**Shares (%) of Reported Cases of Rape in India
 by Age Categories of Women: 1988 to 1999**

	<i>Below 16 years</i>	<i>Between 16 to 30 years</i>	<i>Above 30 years</i>
1988	23.1	64.1	12.8
1989	23.9	57.9	18.2
1990	24.8	59.9	15.3
1991	35.8	51.6	12.7
1992	26.5	59.7	13.8
1993	27.8	57.6	14.7
1994	30.1	56.3	13.6
1995	29.5	56.3	14.2
1996	27.5	55.8	16.7
1997	28.8	56.2	15.1
1998	27.0	56.0	17.0
1999	20.2	67.0	12.8

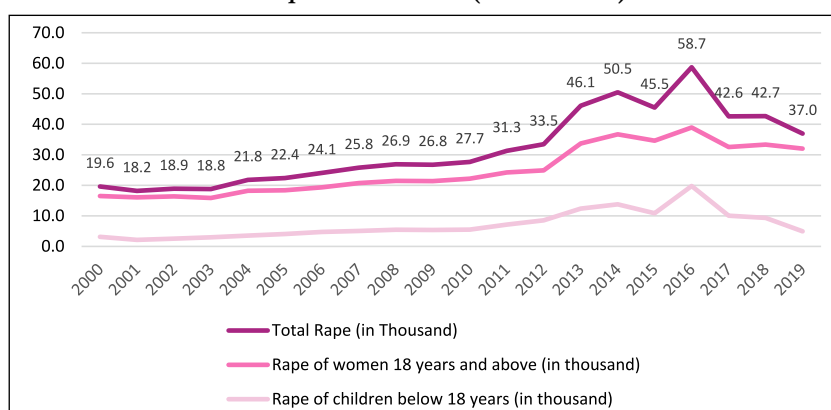
The share of the rape cases of girls below 16 years in the total number of rape cases reported, has been higher compared to 1988, for all the years except for in 1999, at the cost of rape cases reported for women between 16-30 years.

3.2 Time Period: 2000 to 2019

3.2.1 Incidence of Rape

For the period 2000 to 2019, the trend of reported rape cases is presented in Fig 3. Any individual less than 18 years old is now regarded as a child, and the more recent NCRB data have been classified accordingly. Fig 3 shows the trend for total rape cases along with the trend for women of 18 years and above, as well as children below 18 years.

Fig 3
**Total Rape Cases, Rape of Women 18 Years and above, and of Children
 below 18 Years Reported in India (in thousand) 2000 to 2019**



The reported cases of rape increased from 19.6 thousand in 2000 to 50.5 thousand in 2014. After a dip when the reported cases dropped to 45.5 thousand in 2015, there was a peaking at 58.7 thousand cases in 2016. Following 2016, the reported cases declined sharply to reach 32 thousand in 2019. While the increase in cases was gradual between the years 2003 to 2010, subsequently there was a steep rise in cases. The biggest spikes of around 12-13 percentage points occurred between 2012 and 2013, and again between 2015 and 2016. Noting that the Nirbhaya case had taken place in December 2012, it is possible that there was an increase in reporting of rape cases afterwards. The recent decline in total rape cases has been to a great extent due to decline in rape cases involving those below 18 years.

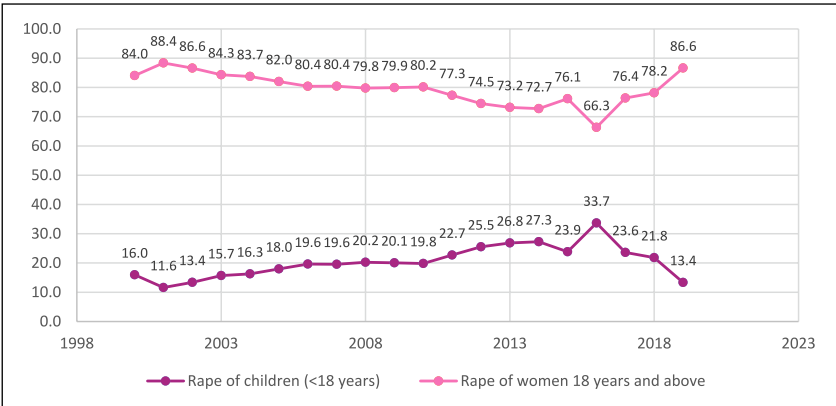
3.2.2 Growth in Reported Rape Cases

The three-year moving averages of the y-o-y growth rates for the above period shows that after an early increase in early 2000s, there was a decline in the 3 year Moving Averages of the growth rates of rape till 2009 (Fig 4). But from 2011 to 2012 there was a sharp rise from 7.8% (2011) to 19.3% (2012). The growth rates remained high during 2013 to 2015 and slowed down subsequently. In 2016 and 2018 the growth rates have been in the negative, i.e. there was a deceleration.



Considering the proportion of rape victims below 18 years and above 18 years of age for the period 2000-2019, it is seen that the proportion of victims below 18 years have risen almost steadily since 2001(11.6%) till 2014 (27.3%) (Fig 5). Subsequently it reached a peak value of 33.7% in 2016, but declined in the next three years.

Fig 5
Shares (%) of Reported Cases of Rape in India 2000 to 2019
by Age Categories of Women



3.3 The Rate of Reported Rape Cases

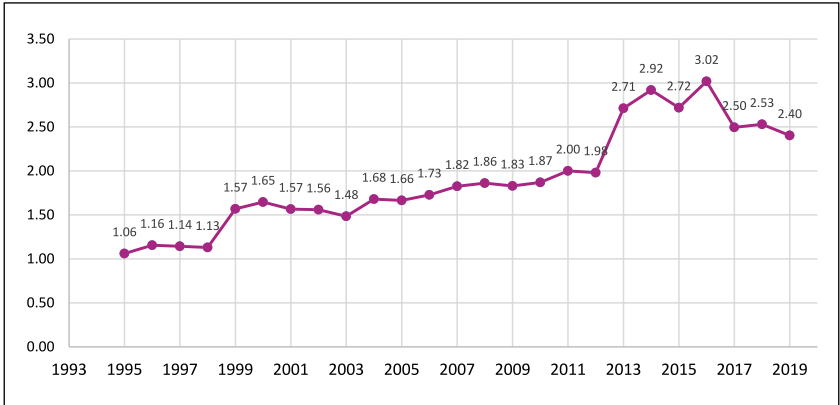
Till now, the trend of total rape cases has been discussed. But with changing population over the years, it is the rate of reported rape cases per lakh of population that needs to be looked at. NCRB data provide the rape statistics for women aged 18 years and above with different base for two periods: 1995 to 2011 and 2012 to 2019. In the former, the rate reflects reported rape cases per lakh of population and for the latter, the rate reflects reported rape cases per lakh of female population. In this paper, the data for 2012 to 2019 have been adjusted using total population estimates to get a series from 1995 till 2019¹⁴.

The rate of reported rape cases for women aged 18 years and above more than doubled over the period considered and shows mostly a steadily rising trend till 2016 (Fig 6). There was a spurt in the rate from 1998 to 1999 and again from 2003 to 2004, in the initial years. There was a significant jump in the rate of rape cases between 2012 and 2013 from 1.98 to 2.71, and further on to 2.92 in 2014. The peak came in 2016 at a rate of 3.02 following a slight dip in the year 2015. As mentioned earlier, 2012 was a watershed year due to the ‘Nirbhaya’ incident, which might have triggered more reporting of rape cases in the following years. Another reason for the increase in the number of cases reported in 2013 could be due to the fear of punishment due to more stringent laws, in the minds of the police officers

14. Although it is more appropriate to estimate the rate of rape per lakh of female population, here the total population has been used as the denominator depending on data availability. The population estimates are from Census of India 2019 rept.

to whom cases of rape are reported (Bhadra cited in Shahidullah (ed) 2017). The criminal law amendments of 2013 mandated that if an officer refuses to register a case of rape upon receiving a complaint, he/she commits an offence and may be punished with rigorous imprisonment for a period of six months to two years and will also be liable to pay a fine.

Fig 6
Rate of Rape Cases Reported per lakh Population 1995 to 2019



After 2016, the rate of reported cases declined, but at 2.40 in 2019, was more than double the rate in 1995. It is possible that amendments in the rape law, brought about by Criminal Amendment Act, 2013, had some impact on the rate of rapes taking place in the country. The laws relating to rape and amendments thereof will be discussed in Section 5.

3.4 Associations of Other Variables with Incidence of Rape and Crime against Women

Research studies have attempted to investigate any correlation of the incidence of rape with other variables. A recent study examines the determinants of rapes in India using state-level data for the time period 2001–2015, and does not find any impact of education and economic growth (Basu Roy and Ghosh Dastidar 2018)¹⁵. Rather, a larger role of social and cultural factors in this context is indicated. Social attitude towards women emerged as the most robust predictor of the extent of rapes in India and the authors conclude that the prevailing misogynistic attitude in India is largely responsible.

15. Basu Roy,S. & Dastidar, S. G. (2018) 'Why do men rape? Understanding the determinants of rapes in India, Third World Quarterly, DOI: 10.1080/01436597.2018.1460200

Mukherjee et al (2001) found a negative correlation between crimes against women and sex ratio defined as female-male ratios in the population. Analysis of district level data from NCRB indicated that regions with high sex ratios have in general low rates of crimes against women.

At the state level, however, almost no correlation was found between rate of rape and sex ratio as estimated in this paper. Taking the state-wise average rate of rape over three years 2012-14, and the 2011 sex ratio, the Spearman Rank correlation coefficient was found to be 0.051. This indicates that there is negligible association between the variables.

There are two main opposing arguments for the interpretation of the relationship between sex ratio and overall crime (Kaur et al 2016). As sex ratios fall, or, are skewed towards males, more males do not get married and therefore, are not able to derive the stability that comes from marriage, and thus, tend to channel the extra testosterone into more violence and crime, resulting in a negative relationship between sex ratio and crime rates. The opposite argument is that when females are in shorter supply, men invest more in marriage and family, ensuring stability in society and this can lower levels of violent crimes. While the causal links in the present analysis may match with the latter explanation, it may be noted that the state-level data indicate obvious under-reporting of cases for states such as Bihar and Uttar Pradesh, among others, which has also been observed for district-level data for Bihar by Mukherjee et al.

4. Other selected forms of Gender based violence

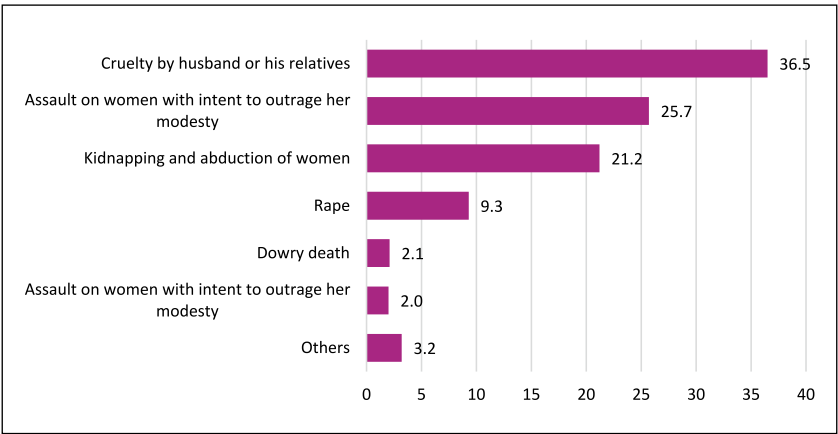
The data for crime against women for the year 2019 indicate that the total cases of crime under the Indian Penal Code (IPC) was 3,43,177 and the rate of crime defined per lakh of population was 52.8. Some crimes against women are also listed under Special and Local Laws (SLL) but these account for a much lower number of 62,684 cases in 2019 at a rate of 9.6 per lakh population. The IPC crimes against women account for around 85 percent of total crimes against women including IPC and SLL crimes. Fig 7 presents the shares in total for major crime heads for IPC crime against women for the year 2019.

The crime 'Cruelty by husband or relatives' has more than one-third share of total crimes, and this reflects that for many women, her home with her husband and in-laws is not a safe place at all¹⁶. Among different forms of GBV, wife-beating

16. This is not to assert that her natal home is always a safe place.

and intimidation have been mentioned as “*the most endemic and widespread forms of violence*” (Jejeebhoy 1998). Another crime with direct link to a woman’s home after marriage is the crime of ‘Dowry death’. Dowry deaths, while comprising a very small share of all crimes against women at present, was historically very important since it brought out private crimes into the public sphere and provided a rallying point for the women’s movement in the country in their protests against gender-based violence. These forms of violence will be discussed below in brief.

Fig 7
Share (%) in Total IPC Crime against Women 2019



4.1 Domestic violence¹⁷

Domestic violence has been defined by the Protection of Women from Domestic Violence Act 2005 as physical, sexual, verbal, emotional, and economic abuse against women by a partner or family member residing in a joint family. Deep-rooted male patriarchal roles and the long-standing cultural norm that women are subordinate to men have been mentioned as important reasons for the wide-spread domestic violence in India (Visaria 2000 and Fernandez 1997 cited in Kalokhe et al 2017, Saheli 1988 cited in John ed 2008). The patriarchal, patrilocal and patrilineal types of family structure in most of India tend to reinforce the notion that men ‘own’ women and perpetuates controlling behaviour (Jejeebhoy 1998).

The periodic survey of National Family Health Survey by Indian Institute of Population Sciences examines the issue of domestic violence closely. Considering

17. Here we are not discussing violence women face in their natal home. The discussion is around the crime ‘Cruelty by husband or his relatives’ and that forms the ambit of the Protection of Women from Domestic Violence Act 2005.

that the traditional norm of the “‘right’ of husbands is to regulate and control their wives’ behaviour and bodies through whatever actions necessary, including the use of violence”¹⁸, and viewing women empowerment as a rejection of such an attitude, probing questions are asked in the NFHS surveys to women and men regarding attitude to various forms of controls husbands exercise over their wives.

The survey findings show the extent to which gender-based violence is normalized in the Indian home and society. Around half (52%) the women surveyed and 42% of the surveyed men believe that a husband is justified in beating his wife in at least one of seven specified circumstances, according to findings from the NFHS 4 (2015-16) survey. These circumstances are: (i) she goes out without telling him, (ii) she neglects the house or children, (iii) she argues with him, (iv) she refuses to have sexual intercourse with him, (v) she doesn’t cook properly, (vi) he suspects she is unfaithful, and (vii) she shows disrespect for in-laws.

Women and men are both most likely to agree that a husband is justified in hitting or beating his wife if she shows disrespect for her in-laws and are both least likely to agree that a husband is justified in hitting or beating his wife if she refuses to have sex with him. Attitudes toward wife beating have not changed very much since the time of NFHS-3 (2005-06).

Controlling behaviour on the part of husbands is a key factor as GBV has close association with such behaviour (NFHS 4 (2015-16))¹⁹. Marital control has been defined in NFHS 4 as the following: “*Women whose current husband (if currently married) or most recent husband (if formerly married) demonstrates at least one of the following controlling behaviours: is jealous or angry if she talks to other men; frequently accuses her of being unfaithful; does not permit her to meet her female friends; tries to limit her contact with her family; insists on knowing where she is at all times; and does not trust her with any money.*”

The concentration of such controlling behaviour is more significant than the display of any single behaviour. According to the survey among ever-married 19-45 year old women, 19 percent women report that their husband displays three or more of the specified behaviours. Close to three-fourth of women whose husbands displayed 5-6 of the specified marital control behaviours have ever experienced spousal violence, compared with around one-fifth of women whose husbands did not display any specified behaviours.

18. NFHS 3 (2005-06).

19. In NFHS-4 (2015-16), information was obtained from never-married women on their experience of violence committed by anyone and from ever-married women, information was sought on their experience of violence committed by their current and former husbands and by others.

The types of physical or sexual spousal violent behaviour mentioned in NFHS-4 (and in other rounds of NFHS) are slapping, pushing, throwing things at the woman, twisting her arm or pulling her hair, punching her with fist or some other object, kicking, dragging or beating the woman, purposefully trying to choke or burn her, threatening her with knife or gun, forcing her to perform sexual intercourse or other related acts. Emotional spousal violence is also considered to be part of domestic violence with issues such as humiliation by spouse, threats of harm to the woman or someone close to her, hurting self-esteem with insults, etc.

Findings from NFHS 4 indicate that 31 percent ever-married women in the age-group 15-49 years have experienced spousal physical or sexual violence since the age of 15 years as of 2015-16. There has been a decline in the proportion since 2005-06, when 37 percent women reported experiencing such violence since the age of 15 years. But it is close to one-third of the surveyed women even in 2015-16.

Rural women are more likely to experience some form of spousal violence compared to women in urban localities. Ever experience of one or more forms of spousal violence by ever-married women rises sharply with the number of living children. Intergenerational effects of spousal violence is evident as women who report that their fathers beat their mothers are much more likely (58%) to have themselves experienced spousal violence than women who report that their fathers did not beat their mothers (26%).

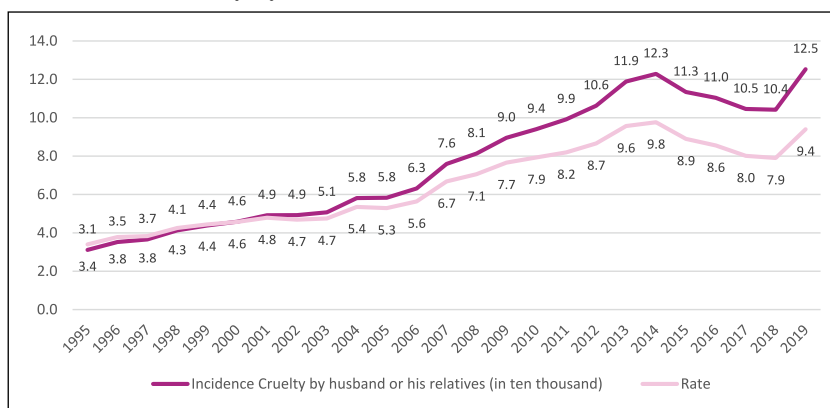
Even though all forms of spousal violence decline sharply with schooling and wealth, nearly one out of five women with 12 or more years of schooling and women who are in the highest wealth quintile report having ever experienced physical, sexual, or emotional spousal violence.²⁰ This indicates how deeply entrenched this form of gender based violence is in India.

The crime statistics provided by NCRB indicate that during the years 1995 to 2019, the all-India incidence of reported cases of Cruelty by husband or his relatives (hereinafter referred to as Cruelty), increased four-fold from 31,127 to 1,25,298. The rate of crime (per lakh population) increased in this period from 3.4 to 9.4 (Fig 8). The trajectories of total incidence of reported cases of Cruelty and the rate per lakh population were very similar, reflecting that the incidence kept pace with the population growth. Overall there is a rising trend starting from 1995 till 2014, after which there is a decline for four years till 2018. However, the data show an upturn yet again in 2019.

20. Among the lowest quintile nearly 40 percent women (15-49 years) have experienced physical violence since Kishwarthe age of 15 years.

Fig 8

Incidence (in tens of thousand) and Rate (per lakh population) of Reported Cases of Cruelty by Husband or his Relatives 1995 to 2019



It is shocking that domestic violence, which is so wide-spread, was recognized as a criminal offence under Indian Penal Code 498-A as late as in 1983. Before 1983, there were no specific provisions to deal with marital abuse and violence. But husbands could be prosecuted and punished under the general provisions of the IPC dealing with murder, abetment to suicide, etc.

4.2 Dowry Deaths

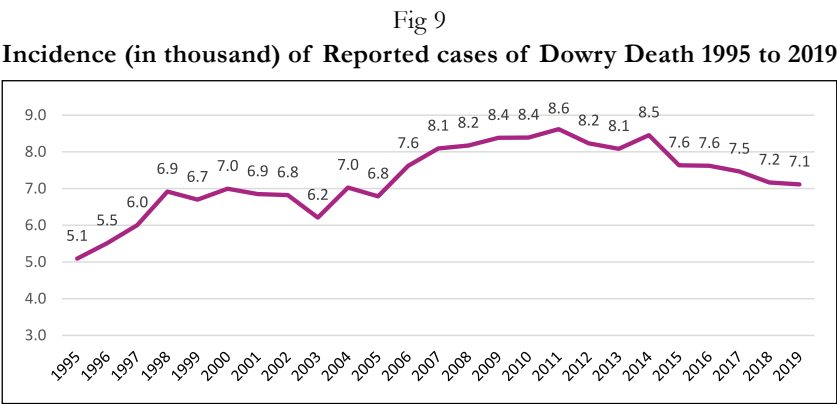
The origin of the practice of dowry is reportedly traced back to the *Manusmriti*, an ancient Hindu text written at around 1500 BC. ‘The practice of “gifting” or donating a bejeweled and expensively clothed daughter to a man in marriage was considered to be the highest type of donation and elevated the social and religious position of the father of the bride.’ (Banerjee 2013). In a similar vein, other sources mention that the ancient marriage rites in the Vedic period are associated with *Kanyadan*. It is laid down in Dharamshastara that *Kanyadan* was not complete till the bridegroom was given a *dakshina* ²¹. This practice earlier was a voluntary practice without any coercive overtones, but the later the coercion element came into it. Some regard dowry as *stridhan*, where in traditional Hindu practice, *stridhan* is that part of wealth, belonging exclusively to women, which passes from mother to daughter (Jagori 2009). Stridhan may come in the form of money, jewellery, a share in business given to a woman as wife, sister, daughter or daughter-in-law, and includes gifts to the bride from in-laws and wealth earned by her.

21. Accessed at <https://www.cyberabadpolice.gov.in/information/PDF/acts-laws/act-dowry.pdf>

However, over time, violence and death have come to be associated with dowry because brides face social pressure and physical torture, including occasionally, death, for bringing insufficient dowry or for failing to meet continued demand for dowry from her husband’s family. The woman may die by burning, poisoning, or other methods, and the incidents may not always provide a direct link to dowry demand. The issue of dowry death gains importance not only because it highlights cruelty and violence that go on within the confines of homes, but also because women’s groups rallied around this important issue during the nineteen seventies and eighties and brought it to the forefront.

‘Dowry and dowry deaths transformed the quality and character of activism, translating the feminist assertion of the personal as political’ (Jagori 2009). In the 1970s, the Progressive Organisation of Women in Hyderabad organized protests against dowry (Sen and Dhawan in Banerjee et al ed 2011). Protests against dowry involved formation of a broad platform, Dahej Virodhi Chetna Manch, which included a diverse range of women’s groups. Among these groups, Mahila Dakshata Samiti was the first in Delhi’s feminist movement to take up the issue of dowry and Stri Sangharsh made it a household term (Radha Kumar cited in Jagori 2009).

Reported crime statistics (NCRB) show that the incidence of dowry deaths increased by 40 percent during the period 1995-2019, from 5092 to 7115 (Fig 9). It increased during 1995-1998, and rose again after 2005, but has been on a declining trend since 2014. What is more important, the rate of dowry deaths per lakh population has declined from 0.6 in 1995 to 0.5 in 2019, although it remained at a slightly higher level of 0.7 during 2006-14.



In view of the dowry related death and surrounding agitations, it is disconcerting to find that the practice of dowry continues to find traction in society throughout

India and its acceptability has spread, moving beyond Hindu upper castes traditionally practising it, to Christians, Muslims, and some tribal groups (AIDWA cited in Jagori 2009).

However, the women's movement around dowry deaths did lead to some legal reforms, although the eventual outcomes have not always been as would have been desired by the agitating feminist groups, as we see in the following section.

5. Gender-based Violence and Laws²²

The Indian constitution guarantees rights to women, rights to which they can lay claim as citizens of India. There are also measures of positive discrimination to counter the disadvantages that women face due to their sex. Thus Indian women can exercise several legal rights. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantees equality of opportunity to all citizens in matters relating to employment. Articles 14 (equality), 15, 15(3) (non-discrimination and positive discrimination in favour of women), 16 (quality and non-discrimination in employment and service conditions), 21 (right to life and liberty), 39(a) (right to adequate means of livelihood), and 42 (provision for just and humane conditions of work and maternity relief) of the Constitution are of specific importance in this regard.

The widespread campaigns by women's groups during the seventies and eighties against gender based violence did bring about legal reforms in their wake. The result of the public campaigns initiated by women's organizations led to legislative reforms which received prompt response from the states (Bhadra cited in Shahidullah (ed) 2017). Most issues concerning violence against women taken up by the women's movement were transformed into legislative reforms during the eighties.

5.1 Rape Laws

Despite some disenchantment regarding the gaps between intended and unintended outcomes of the legal reforms following women's protests around

22. The sources for this section are: A Comprehensive Guide to Women's Legal Rights, Prepared by Majlis Legal Centre November 2018, Code on Wages, 2019 - An overview by Lakshmikumaran & Sridharan, October 2020, accessed at <https://www.lexology.com/library/detail.aspx?g=79ea3e17-a1bb-446a-bb9d-65916c93efed> and India: Women Centric Changes In Indian Law 05 April 2019 by Ashima Obhan and Vrinda Patodia, Obhan & Associates accessed at <https://www.mondaq.com/india/human-rights/795312/women-centric-changes-in-indian-law>

gender based violence, there have been some significant gains. In the context of agitations in the nineteen seventies to reform the rape laws, one of the lessons was *'the shocked realization that existing laws had been put in place during the nineteenth century and never been subjected to scrutiny since, thus revealing continuities in colonial and national patriarchies.'*(John ed 2008).

During the nation-wide protests following the Mathura rape case and the subsequent Open Letter, among the demands was a retrial and a reform in the Rape Law. Subsequently, in 1983, amendments were made to the Rape Law, which included defining custodial rape as a particularly serious form of rape and making the disclosure of the identity of the victim an offence. The main features of the 1983 amendments were that in selective cases of custodial rapes (such as in police lockups, prisons, hospitals, rescue homes, remand homes, and so on), the burden of proving consent, once the sexual intercourse was proved, shifted to the accused. The amendments also introduced a new offence and made consensual sexual intercourse in certain custodial situations punishable (Bhadra cited in Shahidullah (ed) 2017).

Yet, as our preceding discussion on the incidence and rate of rape has shown, the legal reforms did not act as a deterrent as hoped for, and the rape cases continued to grow. Also, it is not that by amending laws, basic attitudes and approaches can be reformed easily. For instance, the Supreme Court verdict for the Mathura rape case had raised serious legal questions about the rape victim's consent and character and the 1983 amendments aimed at addressing this issue (PUDR 1994). Yet subsequent cases continued to show that the victim's character, conduct and consent have remained matters of focal concern (ibid). The judiciary often viewed rape as an offence of man's uncontrollable lust rather than as an act of sexual violence against women, consequent of unequal power relations (Bhadra cited in Shahidullah (ed) 2017).

Following the Nirbhaya case and the appointment of the Justice Verma Committee, the Rape Law was further amended in 2013 by the Criminal Amendment Act, 2013. It redefined rape by widening its ambit and made related punishment more stringent. Rape and Sexual offences are punishable under the Indian Penal Code (as amended by the Criminal Law Amendment Act, 2013) and sexual offences include, apart from rape, outrage of modesty, sexual harassment, disrobing, voyeurism and stalking. The 2013 amendment provides a tool to fight the institutional indifference discussed earlier on; if a police officer refuses to register a case of rape upon receiving a complaint, he/she commits an offence and may be punished with rigorous imprisonment for a period of six months to two years and will also be liable to pay a fine.

5.2 Laws related to Domestic Violence and Dowry deaths²³

We have discussed how the Indian legal system was very late in waking up to the ubiquitous and serious nature of gender based violence. This is especially true of domestic violence and dowry related deaths. The nature of marital violence, which occurred mostly within the privacy of the home, implied that a woman could not call upon any independent witnesses to testify in her favour and prove her case 'beyond reasonable doubt' as was required under criminal law (Kishwar 2005). The fact that violence against women in the home has received any public attention is attributed to relentless efforts by women's organisations (Jejeebhoy 1998, Kishwar 2005). However, the widespread powers given to the police for arresting perpetrators of domestic violence has also been mentioned by some (Kannabiran and Menon (2007) cited in Banerjee et al 2011).

The laws related to dowry death and domestic violence underwent reforms as follows. In the Dowry Prohibition Act (DPA) of 1961, the giving and taking of dowry was made illegal and punishable. But loopholes remained in the law since families were permitted to give 'gifts' to brides. Subsequently in 1984 there was an amendment as a result of which the loopholes in the law were narrowed, and increased punishment was brought in (Banerjee 2014). Dowry death was made an offence under the IPC and amendment put the burden of proof on the accused. Under the Dowry Prohibition Act, demanding dowry is a serious offence and a woman, her parents, the police, Dowry Prohibition Officer, or even a non-governmental organization on behalf of the woman, can register a complaint. The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 laid down that lists of presents given at the time of the marriage are to be maintained by the bride/bridegroom as the recipient may be, including description, approximate value of present, name of the person presenting it, relation with bride/groom, etc.

As mentioned in the previous section, there were no laws to deal with domestic violence prior to 1983. The Criminal Law Act of 1983 defined 'Cruelty' as an offence under IPC Section 498-A. Introduced to protect married women from being subjected to cruelty by the husband or his relatives, a punishment extending to 3 years and fine was prescribed. Further legal reform came in 2005, with the enactment of the Protection of Women from Domestic Violence Act 2005 (PWDVA), which came into effect in 2006. This Act provided civil protections to victims of domestic violence.

23. Much of the information used in this section has been sourced from Majlis (2018).

There have been arguments that the flawed anti-dowry law has made it possible to club all cases of violence as related to dowry, although it has been contested (Jagori 2009, Kannabiran and Menon 2007 cited in Banerjee et al 2011). It has earlier been pointed out that the rape laws, too, in spite of being made more stringent, failed to produce immediate results. In the light of escalating criticism against the punitive character of laws on gender based violence, the policymakers highlighted protection of women rather than imprisonment or fines (Jagori 2009). The aim was to ensure security of the woman by recognizing her right to live in a violence-free home. The legal remedies include injunctions, compensation and monetary relief. The PWDVA gives women the right to live a life free from violence and protects the right to shelter for the woman through rights to an order of protection, right to live in the same house, to claim maintenance and compensation, and the right to custody of children. The specific legal rights within marriage, over and above the Dowry Prohibition Act, are as follows:

- A woman has the Right to live in the Matrimonial Home, which is her husband's home. Even if the husband does not own the house, the woman will have a right to reside there and cannot be thrown out.
- A woman has the Right to claim Maintenance for self and children. The law imposes a legal obligation on the husband to provide maintenance to his wife. If he fails to provide for her, the wife can approach the court for an order of maintenance.
- Mothers have the Right to Custody of Children. Earlier the father was considered as the natural guardian of children. But due to sustained struggle from the women's movement, the law has been modified and today the woman is considered as the joint natural guardian of her children and is also considered as the primary care taker of her children. Right of custody of their children is a very important concern for women facing domestic abuse, since many women continue to live in violent relationships due to the fear of losing custody of their children.

The PWDVA, too, has come under criticism on certain counts. The definition of cruelty has been vague, with inclusion of terms such as 'insult', 'verbal and emotional abuse', without clearly defining such terms, which has allegedly encouraged the misuse of the law by women who have generated complaints on trivial issues or in the heat of the moment (Abeyratne and Jain 2012, Kothari 2005). Such allegations of misuse have not been substantiated, though, according to research studies (Ibid).

Another gap has been that the protection from the law was extended only to married women although domestic violence also takes place in a woman's natal home²⁴ (Kothari 2005). It also does not apply to those in a live-in relationship. Moreover, the implementation of PWDVA has depended a lot on the police, since cruelty has been vaguely defined, and it has been observed that implementation is influenced by existing nexus of the wealthy and the powerful, so that cases involving such families have not been properly investigated and suspects have escaped prosecution with the use of corrupt means (Abeyratne and Jain 2012). Legal reform cannot guarantee changes in deeply entrenched behavioural traits. The absence of gender-sensitive behaviour has been found to be significant among key stakeholders such as police, lawyers, judges and protection officers in an impact assessment study of PWDVA in the states of Delhi, Madhya Pradesh and Uttar Pradesh (Saxena 2015).

6. Concluding Remarks

Gender-based violence permeates the lives of women, in the private and in the public spheres. Though late, societal awareness has been raised around this issue in India. A lot of the awareness has come as a result of the efforts and agitations of women activists. Statistical data coverage, too, has increased regarding GBV, but clearly there is under-reporting about incidents of rape and sexual harassment and other forms of violence.

Under-reporting regarding offences in the public sphere comes as a result of fear of social stigma, of problematic inter-action with the police and the justice system, and so on. When the offences take place in the private domain, then the woman is constrained by her own relation with the perpetrator, question of family honour and loyalty, economic dependence, fear of further physical abuse, of abandonment, social ostracization and many other factors.

Thus even while several legal reforms have taken place around GBV, as has been discussed in this paper, attaining justice is a far cry. One of the reasons is gaps in police and judicial system, leading to high pendency of cases. Moreover, legal reforms cannot ensure behavioural reforms on the part of those in charge of filing police cases or those dispensing justice. There are the deeper issues of control and power relations between men and women, which are likely to be behind the

24. This apparently came about as a result of the focus of the women's movement on dowry-related incidents and the resultant articulation of a need for legal protection for married women (Agnes 1998 cited in Kothari 2005)

incidence domestic violence, (as well as public GBV) as has been touched upon in Section 4. The violence against the girl child, not discussed in this paper, would likely throw up more psychological issues.

All these reasons do underline why gender-based violence is present everywhere and why it refuses to go away. A male-centric approach for mitigating GBV, often reflected in our legal system, puts the onus on women to dress in certain ways, not to venture out in public at all hours, setting moral and behavioural boundaries for women, but does not set boundaries for the men. The other extreme can be thought of, by putting boundaries on men's behaviour and mobility, so that women are safe, as has been imagined in the pioneering feminist fiction 'Sultana's Dream' by Begum Rokeya Sakhawat, and in a recent Hindi film 'Stree'.

However, the way forward would be that men and women live with dignity and mutual respect in the society. Although some studies have shown that gender based violence is rooted in 'culture', it is also true that the incidence of domestic violence decreases with women's education level and wealth. It is likely that education and economic empowerment provides a woman strength and courage to protest against gender-based violence. Thus at the domestic level, at least, the thrust needs to come from the women via better educational attainment, economic empowerment, and consequently, higher self-esteem. At the same time, much has been said about how men should be taught since childhood to respect women and regard them as their equal. Thus there is a parental responsibility to raise responsible citizens, especially males, rather than the usual cultural off-shoot of 'son-preference' which leads to men being raised with a sense of entitlement since childhood.

Such attitudinal changes at the micro-level must be supplemented with police and legal reforms at the macro end. Legal and police system reforms are often not adequate to bring about justice as evident from high pendency of cases in India²⁵. Capacity strengthening in terms of plugging shortage of personnel in the police and legal system, recruitment of more police women, modernisation of investigation procedures, are needed as are changes in attitude of the police, lawyers and judges towards the victims in cases of gender based violence. Induction of more qualified and capable women in both the police and the judicial system will surely help to tilt the balance towards greater gender equality.

25. The relevant data have not been presented in this paper.

References

- Abeyratne, Rehan and Deepika Jain (2012), 'Domestic Violence Legislation in India: The Pitfalls of a Human Rights Approach to Gender Equality' *American University Journal of Gender Social Policy and Law* 21, no. 2 (2012): 333-378.
- Agnes, Flavia (1998), 'Violence against Women: Review of Recent Enactments' in S. Mukhopadhyay (ed), *In the Name of Justice: Women and Law in Society*, Manohar Publishers and Distributors, New Delhi, cited in Kothari (2005).
- Agnihotri, Indu and Vina Mazumdar (1995), 'Changing Terms of Political Discourse: Women's Movement in India, 1970s-1990s', *Economic and Political Weekly*, Vol. 30, No. 29 (Jul. 22, 1995), pp. 1869-1878.
- AIDWA (2003), 'Expanding Dimensions of Dowry', cited in Jagori (2009) 'Marching Together, Resisting Dowry in India', Compiled and Edited by Monobina Gupta.
- Banerjee, Nirmala (1998), 'Whatever Happened to the Dreams of Modernity—The Nehruvian Era and Woman's Position', *Economic and Political Weekly, Review of Women's Studies*, Vol. 33, Issue No. 17.
- Banerjee, Priya R. (2014), '*Dowry in 21st-Century India: The Sociocultural Face of Exploitation*', in *Trauma, Violence & Abuse* Vol. 15, No. 1 (January 2014), pp. 34-40 (7 pages), Sage Publications, accessed at https://www.jstor.org/stable/26638331?seq=1#metadata_info_tab_contents
- Basu Roy, S. and S.G. Dastidar (2018), 'Why do men rape? Understanding the determinants of rapes in India', *Third World Quarterly*, DOI: 10.1080/01436597.2018.1460200.
- Baxi, Upendra, Vasudha Dhagamwar, Raghunath Kelkar and Lotika Sarkar (1979), 'An Open Letter to the Chief Justice of India', in Mary E. John (ed) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Bhadra, Bula (2017), 'Rape Law Reforms in India: Catalyst to Gender Justice or Modernization in Legal Reforms?', cited in Shahid M. Shahidullah (ed) 'Crime, Criminal Justice and the Evolving Science of Criminology in South Asia: India, Pakistan and Bangladesh', Palgrave Macmillan.
- Chaudhuri, Maitrayee (2019), 'National and Global media Discourse after the savage death of 'Nirbhaya': Instant Access and Unequal Knowledge', in book: *Studying Youth, Media and Gender in Post-Liberalisation India*; Publisher: Frank and Timme. Accessed at https://www.researchgate.net/publication/332512029_National_and_Global_Media_Discourse_after_the_Savage_Death_of_'Nirbhaya'_Instant_Access_and_Unequal_Knowledge
- Chaudhuri, Maitrayee (2008), 'Citizens, Workers, and Emblems of Culture: An Analysis of the First Plan Document on Women', Mary E. John (ed) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Dutta, Debolina and Oishik Sircar (2013), '*India's Winter of Discontent: Some Feminist Dilemmas in the Wake of a Rape*', *Feminist Studies*, 2013, Vol. 39, No. 1 (2013), pp. 293-306, accessed at <https://www.jstor.org/stable/23719318>
- Fernandez, M. (1997), 'Domestic violence by extended family members in India: Interplay of gender and generation. *Journal of Interpersonal Violence*', 12(3):433–455; cited in Kalokhe et al (ed) 2017, 'Domestic violence against women in India: A systematic review of a decade of quantitative studies', *Glob Public Health*. 2017 April; 12(4): 498–513. doi:10.1080/17441692.2015.1119293.
- Himabindu, B. L., Radhika Arora and N. S. Prashanth (2014), 'Whose problem is it anyway? Crimes against Women in India' in *Global Health Action*, accessed at <http://www.globalhealthaction.net/index.php/gha/article/view/23718>

- ICRW (2004), 'Violence Against Women in India: A Review of Trends, Patterns and Responses', accessed at <https://india.unfpa.org/sites/default/files/pub-pdf/435.pdf>
- Institute for Human Development (2016), 'Poverty, Inequality and Violence in Indian Cities: A study in Delhi and Patna', Report of the Safe and Inclusive Cities project submitted to IDRC Canada and DFID, UK.
- Jagori (2009), 'Marching Together, Resisting Dowry in India', Compiled and Edited by Monobina Gupta. Infopak developed for The India Court of Women on Dowry and Related Forms of Violence Against Women.
- Jeejeebhoy, Shireen, J. (1998) 'Wife-Beating in Rural India: A Husband's Right? Evidence from Survey Data', *Economic and Political Weekly*. 33(15). April 11, 1998. p.855-862.
- John, Mary E. (ed) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Kannabiran, Kalpana (2008), '*Rape and the Construction of Communal identity*' in Mary E. John (ed) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Kannabiran, K. and R. Menon (2007) cited in Nirmala Banerjee, Samita Sen and Nandita Dhawan (ed) (2011) 'Mapping the Field: Gender Relations in Contemporary India, Vol. I, School of Women's Studies, Jadavpur University, Kolkata.
- Karlekar, Malavika (2008), '*Domestic Violence*' in Mary E. John (ed) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Kaur, Ravinder, Surjit S. Bhalla, Manoj K. Agarwal and Prasanthi Ramakrishnan (2016), 'Sex Ratio Imbalances and Crime Rates', prepared for UNFPA.
- Kishwar, Madhu (2005), 'Strategies for Combating the Culture of Dowry and Domestic Violence in India', paper prepared for Expert Group Meeting organized by UN Division for the Advancement of Women.
- Kothari, Jayna (2005), 'Criminal Law on Domestic Violence: Promises and Limits', *Economic and Political Weekly*, Nov. 12-18, 2005, Vol. 40, No. 46 (Nov. 12-18, 2005), pp. 4843-4849. Accessed at https://www.jstor.org/stable/4417395?seq=1#metadata_info_tab_contents
- Kumar, Radha, 'The History of Doing' cited in Jagori (2009), 'Marching Together, Resisting Dowry in India', Compiled and Edited by Monobina Gupta.
- Majlis Legal Centre (2018), 'Rights: A Comprehensive Guide to Women's Legal Rights', prepared for Indian Institute of Technology, Kanpur Legal Training Workshop, November 1 – 3, 2018.
- Mukherjee, Chandan, Preet Rustagi and N. Krishnaji (2001), 'Crimes Against Women in India: An Analysis of Official Statistics', *Economic and Political Weekly*, October 27, 2001.
- MWCD, Towards Equality Vol I and Vol II
- MWCD, High Level Committee Report
- National Crime Record Bureau, 'Crime in India' various years.
- National Family Health Survey, several years. Indian Institute of Population Sciences, Mumbai.
- Obhan, Ashima and Vrinda Patodia (2019), India: Women Centric Changes In Indian Law. Accessed at <https://www.mondaq.com/india/human-rights/795312/women-centric-changes-in-indian-law>
- People's Union for Democratic Rights (1994), 'Custodial Rape: A Report on the Aftermath'.
- Rana, Subir (2020), 'Visualizing the Semiotics of Protest: The 'Nirbhaya' Rape Case', *Indian Journal of Gender Studies*, 27(1) 141–153, 2020, © 2020 CWDS.

- Saheli (1988), 'Wife battering: Creating Choices for individual Women, the role of Government and the issues facing the women's movement', Paper presentation at the national workshop on family violence against females, New Delhi; cited in Mary E. John (ed) (2008) 'Women's Studies in India; A Reader', Penguin Books, New Delhi.
- Saxena, Tulika (2015), 'Indian Protection of Women from Domestic Violence Act: Stumbling or Striving Ahead?', A thesis submitted for the degree of Doctor of Philosophy of The Australian National University.
- Sebastian, P.A. (1980), '*Rape and the Law*', in Economic and Political Weekly, March 15, 1980.
- Sen, Samita (2000), 'Towards a Feminist Politics? The Indian Women's Movement in Historical Perspective', The World Bank Development Research Group/ Poverty Reduction and Economic Management Network.
- Sen, Samita and Nandita Dhawan, (2011), '*Feminisms and the Politics of Gender: A History of the Indian Women's Movements*', in Nirmala Banerjee, Samita Sen and Nandita Dhawan (ed) 'Mapping the Field: Gender Relations in Contemporary India, Vol. I, School of Women's Studies, Jadavpur University, Kolkata.
- Tripathi, P., R Tiwari and R. Kamath (2016), 'Workplace Violence and Gender Bias in Unorganized Fisheries of Udupi, India', accessed at <https://pubmed.ncbi.nlm.nih.gov/27393325/>
- Woolf, Virginia (1929), *A Room of One's Own*, Grafton, London.
- Visaria, L. (2000), 'Violence against women: A field study', Economic & Political Weekly. 35(20):1742–1751; cited in Kalokhe et al (ed) 2017, 'Domestic violence against women in India: A systematic review of a decade of quantitative studies', Glob Public Health. 2017 April ; 12(4): 498–513. doi:10.1080/17441692.2015.1119293.

Centre for Gender Studies

INSTITUTE FOR HUMAN DEVELOPMENT

The Centre for Gender Studies (CGS), set up under the auspices of Institute for Human Development (IHD), aims to use multi-disciplinary approaches to study gender issues and concerns in India and in comparative perspective with other developing regions in the world. An important agenda of the Centre is to contribute to theoretical, methodological, pedagogical and evidence-based policy research keeping in view women's priorities and needs in India. The focus areas of the Centre include: gender, work and employment; gender, welfare and human development; violence and discrimination against women and gender rights; and gender implications of public policy and governance. By acting as a forum for collaborative research, the Centre networks with other institutions in India and other regions in undertaking its research, advocacy and dissemination activities.

IHD is a leading Institution in India for studies on labour markets, livelihoods and human development which aims to contribute to the building of a society that fosters and values an inclusive social, economic and political system, free from poverty and deprivation. Towards achieving its goals, it engages in analytical and policy research, teaching and training, academic and policy debates, networking with other institutions and stakeholders, and publication and dissemination of the result of its activities. The major themes of current work of IHD are: growth and employment; education and capabilities; health and nutrition; gender and development; security and vulnerability and governance and institutions.



INSTITUTE FOR HUMAN DEVELOPMENT

256, 2nd Floor, Okhla Industrial Estate, Phase-III

New Delhi - 110020

Tel: +91 11 41064676, +91 9871177540

E-mail: mail@ihdindia.org; Website: www.ihdindia.org