



## War on Women

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This article is based on **“Rape, impunity and state of denial”** which was published in The Hindu on 05/12/2019. It highlights the rising cases of crimes against women and the issues associated with it.

In the wake of the recent brutal rape and murder of a young woman in Hyderabad, much of the public discourse has been confined to outrage, policing, punishment, and tougher laws. The horrific sexual crime incidents highlight the sorrow state of national emergency in India as far as crimes against women, specifically sexual crimes, are concerned.

### Worrisome Facts

- According to the **National Crime Records Bureau data-2017** (released in 2019), a total of **3.59 lakh cases of crimes against women** were reported, marking a 6% rise as compared to 2016.
  - Of this, assault on women with intent to outrage her modesty comprised 21.7%, and rape 7% which implies on an average, around 1,000 crimes were registered every day and 93 women were victims of rape every day (of which one-third were minors).
- According to the data, **Uttar Pradesh** reported the **highest number** of crimes against women whereas **Madhya Pradesh** registered the **highest number of rape cases** in the country.

### Underlying Issues and Challenges

#### Unreported Cases

- The above mentioned figures reflect only a small percentage of the crimes committed against women, as most of the cases go unreported.

- The fear of **societal shame and the patriarchal dominance** in society prevents a woman from fighting for her justice.
  - For example, the **National Family Health Survey-4** revealed that every third married woman had experienced physical and/or sexual violence but only 1.5% had sought help from the police.
- In many cases, it has been noted that the culprit is the **familiar individual**. This prevents the victim from raising any voice against them.
- The reluctant and less-sensitive attitude of the police officials while registering the cases makes the victim feel more victimized leading to under-reporting of cases.

### **Laxity in Criminal Justice System**

- **Pendency of Cases:** The NCRB report shows that the backlog of cases, including cases of child rape, is huge. For all crimes against women, the pendency of cases is **as high as 89.6%**.
  - In 2017, there were as many as 1.17 lakh rape cases from previous years pending trial.
  - Even the **conviction rate** is way too low (only 5,822 accused were convicted in 28,750 cases sent for trial in that year, that makes around 20%).
  - This failure to reform the justice system and ensure conviction leads to an increase in the impunity with which crimes against women are committed.
- **Bureaucratic Hurdles:** The lax behavior by the concerned official authorities while conducting the investigation in a time-bound manner destroys the very purpose of the criminal justice system.

The government tries to turn the attention to the issue of the extent of punishment, instead of focusing on the urgent steps required for the **prevention of such crimes**. For example, the **Muzaffarpur Shelter Home** sexual abuse, rape and torture of at least 35 girls, reported early last year (2018) is still under investigation with no justice of any kind in sight for the girls. It later came to light how government funding was misused by the perpetrators.

- **Erring Laws:** Most of the times, laws and legislations for women safety are either not in compliance with the international standards or are not implemented properly.
  - After the **2012 Nirbhaya outrage** in Delhi, and on the recommendations of the Justice J.S. Verma Committee, the Criminal Law (Amendment) Act, 2013 was passed, by bringing in changes to the Indian Penal Code, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872, and the Protection of Children from Sexual Offences Act, 2012 to **provide for death penalty for rape** that led to death of the victim or reduced the survivor to a persistent vegetative state and anyone found guilty of rape more than once. In 2018, further changes were introduced giving death as the maximum punishment for every perpetrator in a gang-rape when the victim is less than 12, and life-long imprisonment if the victim is less than 16.
  - For instance, the **Kathua and Unnao rapes** only proved that legislation alone cannot ensure women's safety. Women remain unsafe, both in public or within the home.

## Solutions

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- **Environment:** India needs an **ecosystem of care and empathy** that focuses on the prevention of sexual assault, the protection of victims and the certainty of action against culprits. This places the onus significantly on the entire criminal justice system.
- **Awareness:** Preventive measures such as **education and awareness** (important in a deeply patriarchal society) help ensure women's safety.
  - Equally important is recognising the acts of sexual violence are deeply traumatic for survivors, and that it takes great courage and faith in the system to report them.
  - The police, dominated by men, must do more to clear all obstacles in the path of survivors.
- **Reporting:** There is a need of a **comprehensive and systematic research and analysis on crime against women** at Central, State, district and block level. Accurate data collection is very important to inform policy initiatives.
- **Infrastructure:** In India, after the Nirbhaya case, the committee under **Justice J.S. Verma** had made a series of recommendations for prevention of crimes that placed the responsibility on the Central and State governments to ensure the presence of social and physical infrastructure to prevent crimes against women.
 

The suggestions included changes in school and college syllabi to educate social values of equality and respect for women's autonomy; ensuring safe public transport, city and street lighting, CCTV cameras; mapping unsafe areas and provision of increased police patrolling in such areas.

## Government Initiatives

- **Constitutional Safeguards:**
  - **Fundamental Rights:** It guarantees all Indians the right to equality (Article 14), no discrimination by the State on the basis of gender (Article 15(1)) and special provisions to be made by the State in favour of women (Article 15(3)).
  - **Fundamental Duties:** It ensures that practices derogatory to the dignity of women are prohibited under Article 51 (A).
- **Legislative Framework:**
  - **Protection of Women from Domestic Violence Act, 2005:** It provides victims of domestic violence with a means for practical remedy through prosecution.
  - **The Dowry Prohibition Act, 1961:** It prohibits the request, payment or acceptance of a dowry.
  - **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013:** This legislative act seeks to protect women from sexual harassment at their place of work.
  - **The Protection of Children from Sexual Offences (POCSO), 2012:** enacted to protect minors from offences of sexual assault, sexual harassment and pornography, while safeguarding the interest of the child at every stage of the judicial process.

## Way Forward

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- India has taken some steps, but there is a long way to go before women, especially from marginalised backgrounds, to feel secure and safe. Enhanced accessibility to justice needs to be ensured.
- A **UN report on 'steps required to provide safety and security for women'** states that, women's safety involves strategies and policies that have been formed before violence have prevented perpetration or victimisation.
  - Prevention efforts involve strategic, long-term, comprehensive initiatives that address the risk and protective factors related to perpetration, victimisation and spectator behaviour.
  - **Awareness and sensitization** of people is equally important in this regard to prevent the crime itself. In every curriculum gender sensitisation must be included right from school. Public places must be made safer for all. Boys and girls should be raised right in an atmosphere of freedom and a culture of mutual respect.
- **Capacity building and training** programmes to service providers and law enforcement officers needs to be conducted to effectively handle cases of violence against women.
  - Better policing, **fast-track courts**, quick sentencing are the need of the hour as each can serve as a deterrent.

- There needs to be an **overhaul of the criminal justice system** in the country rather than emphasising on the stringent penalties.

The death penalty for rape and murder is already on the statute book. But the evidence suggests that such punishments have also not led to a decrease in crimes. Hence it is not just the extent and stringency of punishment, but also the certainty of fair procedures that need to be followed to discourage the crime.

### **Drishti Mains Question**

India has taken some steps but there is a long way to go before women to feel secure and safe. Comment.