

## “Sexual Crimes in India: A Deep Dive into Offences against Women”

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### ABSTRACT

**Sexual offences** refer to a broad range of unlawful sexual behaviors that cause the victim to feel uncomfortable, threatened, violated, and humiliated. When directed toward women, these offences encompass acts such as rape, sexual harassment, the creation or distribution of pornographic images without consent, sexual assault, and other forms of non-consensual sexual activity. This research paper aims to highlight the prevalence and severity of sexual offences committed against women in society. Despite the existence of several laws designed for the protection and empowerment of women, sexual crimes remain alarmingly frequent. Among the key legal provisions are **Section 63 to 79 of Bhartiya Nyaya Sanhita, 2023 (BNS)**, which define and prescribe punishment for various forms of sexual assault, including rape. Additionally, **Section 75 of the BNS** specifically addresses and criminalizes sexual harassment. The Indian government has made significant efforts through legislative action to combat these offences, including the establishment of stricter punishments. For instance, the **Protection of Children from Sexual Offences (POCSO) Act, 2012**, although primarily aimed at protecting children, includes measures that also indirectly contribute to women's safety, particularly in cases involving young girls. The 2019 amendment to the POCSO Act introduced harsher penalties, including imprisonment up to 20 years and fines for penetrative sexual assault against minors. However, even with these laws in place, the implementation remains weak, and societal attitudes toward women continue to contribute to the persistence of such crimes. The condition of women in many areas remains distressing, with survivors often facing stigma, victim-blaming, and delayed justice. This research seeks to examine the root causes and psychological factors driving individuals to commit sexual offences against women, and to explore how legal and social systems can be strengthened to ensure better protection and justice for victims.

**Keywords:** forcible intercourse, unlawful sexual intercourse, molestation, ravishment, sexual harassment, rape, gender-based violence

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## **INTRODUCTION**

A sexual offence is a felony crime in which the offenders conduct a sexual act against another person, either with or without their agreement, owing to impaired mental ability or age. It happened when a person inappropriately touched someone's body with the intention of engaging in sexual intercourse. The sexual offence is also defined as a federal criminal when a kid under the age of 16 meets adults with malicious intent and intentionally touches the child's private parts in a sexual manner. Sexual offences are also conducted through phone calls, letters, and emails in which they persuade people to meet and participate in sexual activity. Sexual assaults can take numerous forms and be characterised in many ways, but one thing stays consistent: there is no culpability on the part of the victims. Rape and sodomy charges are typically prosecuted under state law. The sexual offender may be of any gender or sexual orientation

## **SEXUAL OFFENCES IN INDIA**

In India, sexual offences include non-consensual crimes including rape, sexual assault, and sexual harassment. Many crimes against minors involve child sexual abuse and sexual exploitation of others. Sexual Crimes are serious crimes with long-term consequences for the victim. In most cases, it appears that those who committed sexual misconduct are close friends, acquaintances, ex-partners, or family members who work together. They are responsible for their actions, and the victim bears no guilt or responsibility.

Offending might be persistent, sporadic, or a single incident, and it occurs more frequently. It was discovered that the victim is sometimes hesitant to speak about what occurred to them and does not seek police assistance because they willingly consumed drugs or alcohol before to the incident, and they may have little or no remembrance of what happened to them. The attacker may have a criminal record from which to blackmail them, and the victim may be concerned that no one would believe him. That is one of the primary reasons why victims of sexual offences do not file charges in India.

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## **THE EXTENT OF OFFENCES AGAINST WOMEN IN INDIA**

India is regarded as the most hazardous country for sexual crimes against women. According to the National Crime Records Bureau, one woman is raped every minute in India.

According to the Georgetown Institute for Women, Peace, and Security's Women Peace and Security Index 2023, India ranks 128th among 177 nations in terms of women's inclusion, justice, and security. According to the most recent statistics from the National Crime Records Bureau (NCRB), the rate of crimes against women in India grew by 12.9% between 2018 and 2022 (measured as crimes per 100,000 women). In India, the recorded crime against women per 100,000 women population is 66.4 in 2022, compared to 58.8 in 2018. This increase might be attributed to a variety of variables, including an increase in actual crimes, improvements in reporting methods, and women's greater willingness to speak up about their experiences with violence.

According to the numbers in the NCRB's annual report "Crime in India 2022," 13 states and union territories had crime rates greater than the national average of 66.4. Delhi led the list with 144.4 points, followed by Haryana (118.7), Telangana (117), Rajasthan (115.1), Odisha (103.3), Andhra Pradesh (96.2), Andaman & Nicobar Islands (93.7), Kerala (82), Assam (81.2), Madhya Pradesh (78.8), Uttarakhand (77), Maharashtra (75.1), and West Bengal (71.8). Uttar Pradesh had a crime rate of 58.6, accounting for approximately 15% of all cases in India.<sup>1</sup>

### **TYPE OF SEXUAL OFFENCE WITH WOMEN**

1. Sexual assault.
2. Rape.
3. Marital Rape.
4. Sexual harassment.
5. Sexual harassment at the workplace.
6. Stalking.
7. Voyeurism.

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<sup>1</sup> <https://www.isdm.org.in/blog/its-womens-day-but-on-ground-little-has-changed> (visited on 15th may 2025)

**Rape** - Under section 63 of BNS is defined as “A man is said to commit a Rape when he penetrates his penis or any other body part or insert any object to any extent in vagina, mouth, urethra or anus of a woman, or applies his mouth to her private parts or make her do so with him or any other person.” Furthermore, this definition is subject to several circumstances, such as whether the act is done against her will or without her consent, whether the consent is obtained through coercion, whether the consent is obtained while the girl is intoxicated or unsound at the time, whether the consent is obtained from a girl who is unable to communicate, and, most importantly, whether the act is done with or without the consent of a girl under the age of 18.

Rape has overtaken murder as the most prevalent crime in India. According to the National Crime Record Bureau (NCIB), India's crime rate is 2.2 for murder and 5.2 for rape as of 2017. These crime figures are based on court trials, however many crimes go unreported in police stations because to illiteracy, a lack of understanding, a fear of respect, and societal terror. Also, we cannot blame the rules governing sexual offences since, in response to the indignation of serious cases, particularly the Nirbhaya case, the courts have made significant adjustments, such as broadening the definition and extent of rape. After the Nirbhaya case, the age of consent was raised from 16 to 18.

#### **ESSENTIAL INGREDIENTS**

**Against her will**- The will refers to the desire to do an act or not. Against her will implies that sexual intercourse takes place despite her reluctance and protest.

**Without consent**- Sexual intercourse with a girl or a woman without her consent constitutes rape, however consensual intercourse does not amount to rape, and therefore, if the intercourse has been done with the consent, then it defeats all the provision relating to a sexual crime under BNS, 2023

**Consent provided under threat of death or injury**- Section 63 (D)(III) of the BNS states that a woman's consent to exonerate the accused of rape must be offered freely and willingly, without fear of death or bodily harm. In such cases, the permission given is free and legitimate.

**Consent gained through fraudulent means-** Section 63 (D)(IV) of the BNS governs permission granted by a woman to a person who pledges to marry her in the future but fails to keep his commitment and begins making excuses after a few attempts. These cases are primarily about bigamy, which implies that the accused had another spouse living when they married.

**Consent of an intoxicated woman-** According to Section 63 (D) (V) of the BNS, consent was obtained from a woman who was intoxicated or not of sound mind at the time of providing consent. If the permission is obtained by the administration, either directly or through a replacement, the lady is ignorant. The perpetrator will then be held accountable for the girl's rape.

**Consent of women under the age of 18 years-** According to Section 63 (D) (VI) of the BNS, if any person has a sexual relationship with a woman under the age of eighteen years and consent has been given, the man is considered to have committed rape because the court believes that the girl between the ages of 13 and 18 is not mature enough to understand the consequences of the act.

## **MARITAL RAPE**

Marital rape is sexual intercourse between a husband and his wife without her permission. It is recognised as an exemption in the definition of rape under Section 63 of the BNS. Sexual intercourse with a wife without her permission constitutes physical and sexual assault. The right to make choices regarding sexual activities was granted; this exception has created a distinction between married women and unmarried women because, unlike married women, is protected under BNS; however, if a married woman is being raped by her husband, she cannot claim justices under BNS due to the lack of legislative provision regarding marital rape under BNS; however, they can move to the court for domestic violence.

## **PUNISHMENTS**

Rape is punishable by Section 64 of the BNS, which provides for imprisonment for at least 10 years and a maximum sentence of life. Furthermore, some public officials, public officers, armed forces members, management of staff, or jail inmates, or if the rape is performed on the same woman, are subject to harsh imprisonment for at least ten years and up to life.

**Section 66** – “Punishment for causing death or resulting in a persistent vegetative state states that when the offence is committed in the course of commission, inflicting an injury that causes the death of women or causing the women to be in a persistent vegetative state, the offender will be sentenced to at least 20 years in prison, which may be extended to life.”

**Section 67-** “Sexual intercourse by a husband upon his wife after judicial separation, who is living separately whether under the decree of separation or otherwise, without her consent, shall be punishable by imprisonment for a term not less than two years but not more than seven years, as well as a fine.”

**Section 68** – “Sexual intercourse by a person in authority, which basically means if there is a fiduciary relationship between a man and a woman, meaning, where one person is in a position to dominate the other, like the relationship between a doctor and a patient, or the manager of a jail or custody, where a man committed such offence is liable for rigorous imprisonment for not less than five years and which can extend up to ten years and with fine.”

**Section 70** of the BNS defines gang rape as a rape committed by one or more people acting in furtherance of a common intention, and each of them shall be liable for rigorous imprisonment for a term of not less than twenty years but which may extend to life, as well as a fine that is reasonable to the victim's medical expenses and rehabilitation.

**Section 70(2)** - “If a woman under the age of eighteen is raped by one or more people or groups acting in furtherance of a common intention, each of those people is deemed to have committed the offence of rape and is punishable with life imprisonment, which means imprisonment for the remainder of that person's natural life, as well as a fine. Any fine levied under this provision will be paid to the victim.”

#### **SEXUAL HARASSMENT**

**Sexual harassment** is defined as unwanted sexual activity that humiliates the victim. Sexual harassment can be written, verbal, or physical, and it can happen in person or online. Both men

and women can be victims of sexual harassment.

**Sexual harassment includes** sexual harassment as described in BNS section 75. A man may be liable for sexual harassment if he engages in unwanted touching or other physical contact with a woman, requests and demands sex, engages in any other sexual behaviour from women, or makes a sexually charged comment. If a person shows pornography against a woman's will, they will be held accountable for sexual harassment.

There is a separate law related to sexual harassment at the workplace (prevention, prohibition act 2013).

#### **PUNISHMENT FOR SEXUAL HARASSMENT**

The first three types of sexual harassment are punishable by imprisonment of up to three years or a fine.

Making a sexual colour comment is punished by one year in jail or a fine.

#### **ASSULT OR USE OF CRIMINAL AGAINST A WOMEN WITH THE INTENT TO DISROBE**

According to Section 76 of the BNS, any male who assaults or uses unlawful force on a woman, or who aids and abets such an act with the goal of disrobing or compelling her to be nude, will be imprisoned for at least three years and up to seven years.

#### **Section 77 voyeurism**

According to the law, it is a criminal to gaze at or photograph a lady doing a private act in which she believes no one is watching her.

- using the toilet.
- Who is undressed
- Performed a sexual act.

The legal word for such an act is voyeurism.

The punishment for the act is imprisonment for at least one year, but up to three years.

### **Voyeurism-**

Where the victim consents to the capturing of a picture or any act but not to its dissemination to that person, and the image or act is disseminated. Such disclosure is an offence under Section 77 of the BNS, punishable by imprisonment for three years and up to seven years. (If the offence is repeated, the sentence is from 3 to 7 years in jail and a fine.)

### **Stalking-**

According to the sec 78 of BNS, any guy who is persistently following a woman and contacts or seeks to contact such woman is a clear sign of such women's indifference, as is pursuing a woman online or in person when she plainly indicates she does not want the attempt. The individual is accountable for stalking.

Staking is punishable by a three-year sentence and a fine. If someone is found guilty of perpetrating the same act, they face a one-time sentence of jail for up to 5 years and a fine.

### **LANDMARK JUDGMENT**

*Apparel Export Promotion Council Vs A.K Chopra & Others*<sup>2</sup> In this case, the Supreme Court ruled that sexual harassment is gender discrimination against women, and that any act or solicitation of molestation by a superior constitutes sexual harassment.

*Mrs. Rupa Deol Bajaj Vs Kanwar Pal Singh Gill*<sup>3</sup> This ruling has altered the definition of the terms modesty and privacy such that any form of harassment or discomfort to a woman's private or public life would be deemed an infraction.

*Vishaka & Ors Vs State Of Rajasthan*<sup>4</sup> The case addresses the issue of sexual harassment of a lady at her employment. The Supreme Court is now considering a historic judgement case in the history of sexual harassment. In this decision, the Supreme Court ruled that women had a basic right to be free of sexual harassment in the workplace. It also established a number of crucial

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<sup>2</sup> 1997 IVAD Delhi 646

<sup>3</sup> 1996 AIR 309

<sup>4</sup> AIR 1997 SC 3011

recommendations for employees to follow in order to avoid workplace sexual harassment against women. The court also urged developing an appropriate strategy for dealing with situations of sexual harassment in the workplace.

*Medha Kotwal Lele Vs Union of India and others*<sup>5</sup> The case was submitted by the Human Rights Law Network (HRLN) and other groups that petitioned the court, highlighting a number of specific examples of sexual harassment and alleging that the guidelines established in *Vishakha Vs State of Rajasthan* were not successfully enforced.

*State of Punjab Vs Gurmit Singh*<sup>6</sup> In this case, three people abducted a teenage girl in 10th grade and forced her to engage in sexual intercourse against her will. When the accused claimed that the girl had a loose moral character and had previously provided the accused company, the trial court acquitted him. The Supreme Court criticised the lower courts' stance, emphasising that no stigma, such as that imposed in the current instance, should be thrown on such a witness by the courts, because, after all, it is the accused, not the victim of a sex crime, who is on trial.

*Tukaram Vs State of Maharashtra*<sup>7</sup> Because of the Mathura rape case, the IPC was revised by the Criminal Law Amendment Act of 1983, as a result of the judgement (sections 376 A and 376D) added to the IPC, which recognised prison rape as a chargeable offence with other providers.

## CONCLUSION

The government continues to pass legislation aimed at decreasing crimes against women; nevertheless, the effectiveness of these laws is sometimes jeopardised due to inadequate implementation. As a result, such offences continue to increase. In many documented incidents, the attackers are identified as close relatives, co-workers, or family acquaintances of the victims. This underlines the critical necessity for families, particularly parents and guardians, to create an

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<sup>5</sup> 2012 INSC 643

<sup>6</sup> (1996) 2 SCC 384

<sup>7</sup> (1979) 2 SCC 143

open, trustworthy, and supportive atmosphere in which women and girls feel comfortable speaking out about any discomfort or wrongdoing they may encounter.

Furthermore, the justice must inflict severe and exemplary sanctions for crimes against women in order to dissuade potential perpetrators. When significant judicial action is taken publicly, it sends a clear message across society and instills dread in others who would consider doing such actions. A robust and just reaction from the legal system is needed for both justice and prevention.

## References

1 <https://www.isdm.org.in/blog/its-womens-day-but-on-ground-little-has-changed> (visited on 15th may 2025)

<sup>2</sup> 1997 IVAD Delhi 646

<sup>3</sup> 1996 AIR 309

<sup>4</sup> AIR 1997 SC 3011

<sup>5</sup> 2012 INSC 643

<sup>6</sup> (1996) 2 SCC 384

<sup>7</sup> (1979)2 SCC 143

<sup>8</sup> <https://indiankanoon.org>(Visited on 20<sup>th</sup> May 2025)

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