
INVISIBLE SENTENCES: LEGAL INVISIBILITY OF POST-RAPE TRAUMA SURVIVORS IN INDIA

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ABSTRACT

This paper examines the persistent legal invisibility of post-rape trauma survivors in India, highlighting how existing criminal laws, victim compensation schemes, and judicial practices inadequately recognize and address survivors' long-term psychological and social struggles. Despite legislative reforms such as the Bharatiya Nyaya Sanhita (2023), Bharatiya Nagarik Suraksha Sanhita (2023), Bharatiya Sakshya Bill (2023), Protection of Children from Sexual Offences (POCSO) Act (2012), and Mental Healthcare Act (2017), survivors continue to face procedural, institutional, and judicial barriers that undermine their rehabilitation and reintegration.

Adopting a qualitative socio-legal research methodology, this study conducts a doctrinal analysis of statutes and judicial decisions alongside a review of interdisciplinary literature from psychology, criminology, and victimology. Primary sources include statutory provisions and landmark judgments, while secondary sources comprise peer-reviewed articles, NGO reports, government publications, and survivor narratives. Comparative insights from jurisdictions such as the United Kingdom, Canada, and South Africa are used to identify best practices in post-trial trauma care.

The study aims to map the gap between legislative intent and practical outcomes, evaluate judicial approaches to survivor rehabilitation, and propose feasible reforms to embed long-term trauma care within India's criminal justice framework. By centering survivors' experiences, this paper contributes to ongoing debates on victim-centric law enforcement, post-trial support, and socio-legal reform in India.

Keywords: Post-rape trauma; Survivor rehabilitation; Victim compensation; Criminal justice system; Bharatiya Nyaya Sanhita; Trauma-informed justice; Socio-legal reform; Victimology; Mental Healthcare Act; Comparative legal analysis.

Introduction

Sexual violence has long been acknowledged as one of the most severe infringements of physical autonomy and dignity in India.

Along with special laws like the Protection of Children from Sexual Offences (POCSO) Act of 2012, the Indian legal system has responded to public outcry against rape over the past 20 years with a series of legislative reforms, such as the Criminal Law (Amendment) Act of 2013 and the more recent Bharatiya Nyaya Sanhita (2023). These laws have broadened the definitions of rape, improved penalties, and fortified procedural protections to increase conviction rates and provide survivors with quicker access to justice.¹ However, compared to the crime and its punishment, law and policy have paid far less attention to the aftermath of rape, the continuous suffering, and the social marginalisation survivors face long after the trial is finished. Survivors frequently face stigma from their communities and family, struggle to get psychological care, and lack the institutional assistance they need to reintegrate. These post-trial difficulties are often overlooked by statutes, court rulings, and victim compensation arrangements, rendering them legally opaque. The result is what might be referred to as "invisible sentences"—a perpetuation of suffering caused by systemic problems in the legal and judicial systems rather than just the criminal.

Fragmented institutional responses exacerbate survivors of sexual trauma's legal invisibility. Although the right to mental health care is acknowledged by the Mental Healthcare Act of 2017, there is still uncertainty surrounding how this right will be incorporated into the criminal justice system. Despite being required by Section 357A of the Code of Criminal Procedure and currently covered by the Bharatiya Nagarik Suraksha Sanhita, victim compensation programs are still not always applied uniformly and are frequently inaccessible to the most vulnerable.² Additionally, judicial discourse typically ignores survivors' long-term psychological and social needs in favour of treating them as merely witnesses in court.

This paper seeks to interrogate this structural invisibility. It aims to map the gap between legislative intent and lived reality, assess judicial attitudes towards survivor rehabilitation, and draw on comparative perspectives from nations such as the UK and USA to highlight successful practices in trauma-informed justice. The study provides an interdisciplinary socio-

¹ Criminal Law (Amendment) Act, 2013; Bharatiya Nyaya Sanhita, 2023.

² Mental Healthcare Act, 2017, § 18 (Right to access mental health care).

legal approach by fusing criminology, psychology, and victimology expertise with doctrinal analysis.

Statement of Problem

The Indian criminal justice system ignores the long-term psychological, social, and economic repercussions that survivors of sexual abuse endure in favour of generally equating an offender's conviction with the completion of justice. Even if legal frameworks offer victim compensation and some types of assistance, their application is nonetheless uneven and depends on the judgement of the courts. According to judicial precedents, survivors' trauma seldom influences legal thinking, and rehabilitation that goes beyond financial assistance is rarely given priority. In addition to impeding survivors' healing, the legal invisibility of post-rape trauma also reveals a more serious structural weakness in the integration of trauma-sensitive jurisprudence into the legal system. The ensuing disparity between restorative justice and punitive justice highlights the lack of an all-encompassing legal or legislative framework that acknowledges and attends to survivors' long-term needs.

Research Questions

1. How significantly do Indian laws and court rulings acknowledge and deal with the rehabilitation of convicted survivors?
2. In what ways can judicial discretion and compensation schemes support or undermine the legal acknowledgement of post-rape trauma?
3. When comparing Indian jurisprudence to global best practices for post-trial trauma therapy, what flaws become apparent?
4. How can the Indian legal system encompass trauma-sensitive frameworks that empower survivors beyond the trial and conviction process?

Significance of the Research

Sexual abuse survivors experience psychological, social, and financial consequences that extend beyond the courtroom and often persist for years after the criminal case is over. Even though India's criminal statutes have recently been overhauled, especially the Bharatiya Nyaya

Sanhita (BNS), 2023, and the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which contain explicit language on compensation, fines, and procedural safeguards, legislative change alone has not produced a systematic, trauma-informed response that addresses survivors' long-term needs. Although survivors of sexual assault are legally entitled to mental healthcare services, this legal recognition is really under-utilised since the legislative entitlement has not been rationally operationalised within post-trial procedures, according to the Mental Healthcare Act of 2017.

Though they include child-specific procedures and safeguards, the Protection of Children from Sexual Offences Act, 2012 (POCSO) and other special laws for vulnerable victims do not guarantee long-term psychological rehabilitation after criminal adjudication.

These statutes provide a statutory opportunity to institutionalise post-trial care because BNSS locates victim-compensation mechanisms within the criminal procedure framework and BNS mentions fines payable for victims' medical and rehabilitative needs; however, policy decisions and state implementation are ultimately responsible for the on-ground design, scope, and accountability of that care. Because trauma, shame, and economic consequences are not routinely addressed, this gap results in what one research refers to as "invisible sentences"—legally sanctioned penalties of survivors' autonomy and well-being that continue beyond conviction or acquittal. Therefore, if the law's remedial promises are to be turned into lived remedies for survivors—especially for marginalised groups who cannot access private therapy or rehabilitation services—it is not only desirable but also essential to anchor a dedicated, statutory, and operational model for post-rape rehabilitation. The article will propose a realistic institutional architecture for the Specialised Survivor Rehabilitation Wing, which is legally linked to state victim-compensation/assistance institutions and linked to public mental-health services under MHCA §18. Additionally, it will provide the legal and administrative processes required to give that wing substance, scalability, and accountability.

Scope and Limitation of Research

The research being conducted is limited to examining the Indian court system's post-conviction rehabilitation programs for rape survivors. With a focus on victim compensation, penalties, and medical examination provisions, the scope encompasses legislative provisions under the Bharatiya Nyaya Sanhita (BNS), 2023, and the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Insofar as it establishes statutory rights to mental health treatments and their possible

incorporation into criminal justice procedures, the Mental Healthcare Act of 2017 is taken into consideration. To assess how courts have construed and implemented rehabilitation and compensation procedures in practice, the Supreme Court's and High Courts' jurisprudence is also reviewed. This research is limited to secondary sources, namely statutory provisions, judicial precedents, and scholarly commentary. Because this is not an empirical study, it does not rely on survivor interviews, field surveys, or statistical data. The findings are therefore normative and interpretive, based on the doctrinal method of research. The scope of the research is confined to post-conviction rehabilitation of rape survivors within the Indian legal framework. Statutes such as the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Mental Healthcare Act, 2017 are examined for their relevance to compensation and rehabilitation.³ Case law is considered to the extent that it illustrates judicial approaches toward survivor rehabilitation, but the study does not attempt to review every reported case in detail due to constraints of time and space. The limitation of this research lies in its dependence on available literature and reported judgments. Many aspects of rehabilitation, especially trauma recovery and long-term reintegration, remain underexplored in legal scholarship, which restricts the depth of analysis possible within the existing doctrinal framework.

Objectives of Research

1. To conduct a critical analysis of the legal framework that oversees the rehabilitation of rape survivors in India after being convicted, with a focus on the Mental Healthcare Act of 2017, the Bharatiya Nyaya Sanhita of 2023, and the Bharatiya Nagarik Suraksha Sanhita of 2023.
2. To evaluate Supreme Court and High Court legal decisions that have influenced the development of victim compensation, rehabilitation, and trauma acknowledgement in rape cases.
3. To identify discrepancies between legal requirements and court procedures, particularly when rehabilitation is limited to monetary compensation without taking into account

³ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India); The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India); The Mental Healthcare Act, 2017, No. 10 of 2017 (India).

survivors' long-term psychological, social, and financial needs.

4. To assess the difficulties in putting into practice the current victim assistance and compensation programs, such as judicial discretion, uneven enforcement, and a lack of institutional infrastructure.
5. To put forward recommendation for creating a more thorough, trauma-aware, and survivor-centered judicial system that effectively integrates rehabilitation and moves beyond punitive justice.

Research Methodology

This study uses a qualitative socio-legal approach, combining doctrinal analysis with insights from victimological, criminological, and psychological scholarship. The focus is not on empirical fieldwork but on examining how existing legal frameworks recognise or overlook post-rape trauma.

Primary sources for this research include statutes such as the Bharatiya Nyaya Sanhita (previously the Indian Penal Code), the Bharatiya Nagarik Suraksha Sanhita (previously the Code of Criminal Procedure), and the Protection of Children from Sexual Offences Act, along with decisions of the Supreme Court and High Courts. Secondary materials include survivor narratives, NGO reports, official documents, peer-reviewed articles, and existing empirical studies on trauma and victim support in India.

A thematic content analysis is carried out to trace how trauma is addressed at three levels: (1) post-conviction legal provisions, (2) victim compensation and rehabilitation schemes, and (3) judicial interpretations and precedents. This helps to map the strengths and gaps in current protections for survivors.

The study also makes limited comparative reference to the United Kingdom and the United States. These jurisdictions have more developed post-trial victim care frameworks, and looking at them helps to highlight the deficiencies of the Indian context and to suggest areas where reform may be possible.

Literature Review

The legal and social experiences of rape survivors in India reveal deep structural inequities that

persist even after legislative reforms. Flavia Agnes in *Law and Gender Inequality: The Politics of Women's Rights* provides a foundational perspective on these constraints, illustrating how legal frameworks—ranging from property rights under Hindu and Muslim personal law to statutory reforms addressing marriage and divorce—are often selectively applied, reflecting patriarchal and political interests rather than genuine gender equality.⁴ This observation is particularly relevant to post-conviction experiences of rape survivors, highlighting how social attitudes and institutional biases shape the treatment of women within legal processes. Marginalized groups, such as Dalit and tribal women, face compounded disadvantages due to the intersection of caste, socio-economic status, and gender, which resonates with contemporary challenges survivors encounter in accessing justice and rehabilitation.⁵ Building on this socio-legal foundation, Walklate examines victim-centered policies within criminal justice systems, emphasizing both their promise and limitations. Legislative reforms in the United Kingdom, including the Domestic Violence, Crime and Victims Act (2004) and the Victims' Code of Practice (2005/2006), aim to ensure survivor participation through mechanisms such as Victim Impact Statements, witness care units, and victim advocacy programs. However, Walklate cautions that these policies can be politically symbolic, reinforcing state authority while shaping public perceptions of crime. Her analysis of ordinary versus extraordinary victimization, and the “return of the Gothic” concept, demonstrates how emotional and cultural responses to victimhood can overshadow procedural fairness.⁶ This critique is especially pertinent in India, where survivors frequently experience secondary victimization through invasive cross-examinations, scrutiny of sexual history, and societal stigma, highlighting the gap between victim-centered ideals and lived realities.

Extending this perspective to a global human rights framework, Holder, Kirchengast, and Cassell argue that victims' rights have shifted from symbolic recognition to enforceable legal instruments. Effective protection requires normative legal standards, institutional mechanisms, and active engagement by victims and civil society.⁷ This approach underscores the importance of operationalizing legal safeguards in India through policy, litigation, and institutional oversight, ensuring that statutory protections—such as Section 228A of the IPC and in-camera

⁴ Agnes, F. (1999). *Law and Gender Inequality: The Politics of Women's Rights*.

⁵ Id. at 13–15; Diwan, P. (1997). *Modern Hindu Law*, 11th ed.; *Guramma v. Maliappa*, AIR 1964 SC 510.

⁶ Walklate, S. (2009). *Victimology: The Victim in British and International Crime*; Garland, D. (2001). *The Culture of Control*; Goodey, J. (2005). *Victim-centred Justice and Restorative Approaches*.

⁷ Holder, R., Kirchengast, T. & Cassell, P. (2021). ‘Victims’ Rights: From Myth to Enforceable Legal Instruments’, *Int'l J. Comp. & Applied Crim. Just.*, pp. 1–13.

trial mandates under Section 327 CrPC⁸—are supplemented by practical support to prevent secondary victimization.

Ethnographic research by Pratiksha Baxi in *Public Secrets of Law: Rape Trials in India* provides a detailed examination of courtroom practices, revealing how trials often perpetuate trauma rather than provide justice. Baxi demonstrates that courtrooms operate as a ‘pornographic spectacle,’ prioritizing the male gaze and reinforcing survivors’ marginalization through the violence of spoken law, medicalized scrutiny, and cultural biases.⁹ Despite legislative efforts to improve trial sensitivity, systemic challenges such as caste-based discrimination, trial delays, and social stigma continue to affect post-conviction experiences, showing that survivors’ realities are shaped as much by institutional culture as by statutory provisions.

Comparative insights from Europe, as documented in Amnesty International’s *Right to be Free from Rape*, highlight how legal definitions and procedural practices affect survivors’ experiences.¹⁰ Trauma-informed procedures and consent-based definitions remain inconsistent across jurisdictions, contributing to high attrition rates and re-traumatization. Cases like *M.C. v. Bulgaria* emphasize the importance of focusing on absence of consent rather than physical resistance,¹¹ aligning with feminist critiques in India regarding doctrinal limitations and persistent stereotypes. These observations indicate that legislative reform must be accompanied by training, protective measures, and institutional accountability to ensure survivor-centered justice.

Within the Indian legal framework, Supreme Court judgments in *Nipun Saxena & Anr. v. Union of India & Ors.* and *Delhi Domestic Working Women’s Forum v. Union of India* illustrate judicial mechanisms for protecting victims’ identity and dignity.¹² *Nipun Saxena* reinforced the necessity of maintaining anonymity under Section 228A IPC and in-camera proceedings under Section 327 CrPC, while *Delhi Domestic Working Women’s Forum* highlighted systemic gaps in protecting women from sexual assault, advocating for legal representation, compensatory mechanisms, and institutional reforms such as Criminal Injuries Compensation Boards and

⁸ Indian Penal Code, § 228A; Code of Criminal Procedure, § 327.

⁹ Baxi, P. (2014). *Public Secrets of Law: Rape Trials in India*, pp. 56–102; Uberoi, P., *Judicial Ethnosexology*.

¹⁰ Amnesty International. (2018). *Right to be Free from Rape: Overview of Legislation and State of Play in Europe and International Human Rights Standards*, Index No. EUR 01/7757/2018.

¹¹ *M.C. v. Bulgaria*, App. No. 39272/98, Eur. Ct. H.R. (2004).

¹² *Nipun Saxena & Anr. v. Union of India & Ors.*, (2018) 14 SCC 1; Gupta, D. (2018). ‘Protection of Rape Victims’ Identity’, *Indian J. L. & Soc’y*, 3, pp. 55–73.

National Commission for Women involvement.¹³ Both cases exemplify the integration of statutory provisions, judicial interpretation, and institutional oversight to mitigate secondary victimization and support meaningful post-conviction rehabilitation.

Primary legislative sources—**Bharatiya Nyaya Sanhita (2023)**, **Bharatiya Nagarik Suraksha Sanhita (2023)**, **Bharatiya Sakshya Bill (2023)**, **Mental Healthcare Act (2017)**, and the **Protection of Children from Sexual Offences (POCSO) Act, 2012**—establish the statutory framework for post-conviction protection, compensation, and mental health care.¹⁴

Landmark case law including *Bodhisattwa Gautam v. Subhra Chakraborty (1996)*, *State of Punjab v. Gurmit Singh (1996)*, *Tukaram v. State of Maharashtra (1979)*, and *Nipun Saxena v. Union of India (2018)* illustrates judicial interpretation of these statutes, balancing survivor rights with statutory mandates.¹⁵ Secondary scholarly sources deepen understanding of trauma, legal intervention, and systemic inequities. Books such as Baxi's *Public Secrets of Law (2014)* and Herman's *Trauma and Recovery (1992/2015)* provide insight into psychological impacts of sexual violence and societal responses.¹⁶ Dipa Dube's *Victim Compensation Schemes in India: An Analysis (2018)* evaluates the practical implementation of compensation frameworks, while the Justice Verma Committee Report (2013) outlines legislative and policy reforms for survivor protection.¹⁷ Additional sources—peer-reviewed studies from *Indian Journal of Gender Studies (2025)*, Amnesty International and Human Rights Watch reports, and Upendra Baxi's *Law, Justice, Society: Selected Works (2025)*—offer empirical perspectives on survivor rehabilitation, institutional accountability, and gaps in post-trial care.¹⁸

These supplementary materials enhance primary legislation and judicial precedents, highlighting the importance of implementing trauma-informed approaches within India's criminal justice system. To summarize, the post-conviction experiences of rape survivors in India are influenced by a combination of structural inequalities, procedural protections,

¹³ Delhi Domestic Working Women's Forum v. Union of India, (1994) 1 SCC 301; Temkin, J. (1987). Rape and the Legal Process; Shapland, J. & O'Reilly, K. (2000). Treating Victims as Equal Partners.

¹⁴ Bharatiya Nyaya Sanhita (2023); Bharatiya Nagarik Suraksha Sanhita (2023); Bharatiya Sakshya Bill (2023); Mental Healthcare Act (2017); POCSO Act (2012).

¹⁵ Bodhisattwa Gautam v. Subhra Chakraborty (1996); State of Punjab v. Gurmit Singh (1996); Tukaram v. State of Maharashtra (1979); Nipun Saxena v. Union of India (2018).

¹⁶ Baxi, P. (2014), op. cit.; Herman, J. (1992/2015). Trauma and Recovery: The Aftermath of Violence.

¹⁷ Dube, D. (2018). 'Victim Compensation Schemes in India: An Analysis', Indian J. Crim. Justice Stud., 13(2); Justice Verma Committee. (2013). Report of the Committee on Amendments to Criminal Law, New Delhi.

¹⁸ Indian Journal of Gender Studies, Vol. 32(2), June 2025; Baxi, U. (Ed. Thiruvengadam, A.) (2025). Law, Justice, Society: Selected Works, New Delhi: Oxford University Press; Amnesty International & Human Rights Watch Reports, 2018.

institutional responsiveness, societal perceptions, and the overarching human rights framework. For effective protection, it is essential to pursue legal reforms that solidify rights, tackle cultural prejudices, guarantee institutional support, and enforce systems that maintain the dignity and autonomy of survivors.

Scheme of Study

This study adopts a qualitative socio-legal methodology, combining doctrinal analysis with interdisciplinary insights from victimology, psychology, and criminology. The central aim is to critically examine the legal invisibility of post-rape trauma survivors in India, focusing on how legislation, judicial practice, and institutional mechanisms interact to support—or fail to support—long-term rehabilitation. The research does not rely on empirical fieldwork; rather, it evaluates how existing legal frameworks recognize or overlook post-rape trauma and survivor welfare.

The research employs a normative and analytical framework, centering on three primary dimensions:

1. **Primary legal sources** – Statutes such as the Bharatiya Nyaya Sanhita (2023), Bharatiya Nagarik Suraksha Sanhita (2023), Bharatiya Sakshya Bill (2023), the Protection of Children from Sexual Offences Act (2012), and the Mental Healthcare Act (2017) are examined for provisions related to victim compensation, mental health support, and procedural safeguards.
2. **Judicial precedents** – Landmark Supreme Court and High Court decisions, including *Nipun Saxena & Anr. v. Union of India & Ors.*, *Delhi Domestic Working Women's Forum v. Union of India*, *Bodhisattwa Gautam v. Subhra Chakraborty* (1996), *State of Punjab v. Gurmit Singh* (1996), and *Tukaram v. State of Maharashtra* (1979), are analyzed to identify judicial interpretations of survivors' rights, compensation mechanisms, and procedural fairness.
3. **Secondary literature** – Scholarly works such as Pratiksha Baxi's *Public Secrets of Law* (2014), Herman's *Trauma and Recovery* (1992/2015), Dipa Dube's *Victim Compensation Schemes in India* (2018), the Justice Verma Committee Report (2013), Amnesty International and Human Rights Watch reports, Upendra Baxi's *Law, Justice,*

Society: Selected Works (2025), and academic articles from the *Indian Journal of Gender Studies* (2025) provide interdisciplinary perspectives on trauma, legal intervention, and institutional gaps.

The study employs a **thematic content analysis**, identifying patterns across three critical dimensions:

1. **Post-conviction legal provisions** – Assessing statutory mandates and procedural safeguards for survivors.
2. **Compensation and rehabilitation schemes** – Evaluating the accessibility, scope, and effectiveness of victim support mechanisms.
3. **Judicial interpretation and practice** – Analyzing how courts operationalize statutory provisions and balance survivor welfare with legal procedure.

The research uses **triangulation** to synthesize multiple sources and perspectives: legal doctrinal analysis, comparative and empirical review, and interdisciplinary synthesis. This approach integrates insights from psychology, victimology, and criminology to evaluate how legal structures interact with survivors' mental health and social reintegration.

The study is confined to post-conviction rehabilitation within the Indian legal system, with comparative references to the United Kingdom, United States, and South Africa to contextualize best practices. While survivor narratives, NGO reports, and empirical studies are considered, the focus remains on doctrinal analysis of statutes, judicial decisions, and secondary literature. Field surveys or interviews are not conducted; rather, existing data is synthesized to evaluate systemic strengths and gaps in survivor support.

A qualitative, doctrinal approach is particularly suitable because it:

1. Enables a detailed examination of legal texts and judicial reasoning in the context of post-rape trauma.
2. Facilitates integration of interdisciplinary scholarship, linking legal analysis with psychological and victimological insights.
3. Supports a comparative perspective, allowing identification of gaps in the Indian

framework relative to international best practices.

4. **Legislation:** Bharatiya Nyaya Sanhita (2023), Bharatiya Nagarik Suraksha Sanhita (2023), Bharatiya Sakshya Bill (2023), POCSO Act (2012), Mental Healthcare Act (2017).
5. **Judicial decisions:** *Nipun Saxena & Anr. v. Union of India & Ors., Delhi Domestic Working Women's Forum v. Union of India, Bodhisattwa Gautam v. Subhra Chakraborty, State of Punjab v. Gurmit Singh, Tukaram v. State of Maharashtra.*
6. **Books and secondary literature:** Baxi (2014), Herman (1992/2015), Justice Verma Committee Report (2013), Dube (2018), Amnesty International and Human Rights Watch reports, Upendra Baxi (2025).
7. **Academic journals:** *Indian Journal of Gender Studies* (2025).

The Scheme of Study establishes methodological rigor and transparency, demonstrating how the research bridges the gap between legal provisions and survivors' lived experiences. This structured approach lays the foundation for the subsequent **Findings (Chapter 4)** and **Recommendations (Chapter 5)**, ensuring that proposals for reform are both practical and legally grounded. By integrating doctrinal analysis, interdisciplinary insights, and comparative perspectives, the study provides a comprehensive framework for understanding and improving post-rape trauma rehabilitation in India.

Findings

The findings of this study are derived from a comprehensive review of statutory provisions, judicial precedents, secondary literature, and official reports, including NCRB data and NGO publications. The research relied on a **mixed-method approach**, combining doctrinal analysis with descriptive and analytical perspectives. Primary interviews were not conducted due to ethical and practical constraints, yet the study draws substantially on documented cases, government reports, and peer-reviewed academic discussions.

The findings are organized into six key thematic areas: **(1) Post-conviction legal provisions and effectiveness, (2) Implementation of rehabilitation and compensation schemes, (3) Judicial discretion and procedural gaps, (4) Societal and cultural barriers, (5)**

Comparative insights and best practices, and (6) Discrepancies between statutory intent and execution. Each theme highlights the systemic realities of post-conviction survivor support in India.

1. Post-Conviction Legal Provisions and Their Effectiveness

Legal statutes in India, such as the **Bharatiya Nyaya Sanhita (2023)**, **Bharatiya Nagarik Suraksha Sanhita (2023)**, and the **Protection of Children from Sexual Offences Act (2012)**, theoretically provide a framework for survivor protection, compensation, and mental health support. Section 228A of the IPC and Section 327 of the CrPC allow in-camera trials and anonymity for survivors. Similarly, the **Mental Healthcare Act (2017)** recognizes the right to mental health services, theoretically linking it to post-trial support.¹⁹

However, the findings indicate that **these provisions are inconsistently implemented**, particularly at the state level. NCRB data show that while convictions have increased marginally post-2013 reforms, the application of post-conviction mental health services and survivor compensation remains **sporadic and underutilized**. Many survivors never receive structured counseling, and mental health interventions often depend on ad hoc NGO or private sector support rather than statutory enforcement.²⁰

2. Implementation of Rehabilitation and Compensation Schemes

Victim compensation mechanisms, such as the **Manodhairya Scheme in Maharashtra**, aim to provide financial assistance to survivors. Yet, the study identifies several critical gaps:

Inconsistent Disbursement: Financial support is often delayed, leaving survivors without immediate resources for therapy or livelihood restoration.

Punitive Recovery Policies: In some cases, authorities reclaim compensation if survivors retract statements, despite trauma-related reasons for doing so.²¹

Limited Scope of Support: Financial aid is rarely linked with mental health counseling, vocational training, or social reintegration services. This narrow approach

¹⁹ Indian Penal Code, § 228A; Code of Criminal Procedure, § 327.

²⁰ National Crime Records Bureau, Crime in India Report 2023, <https://ncrb.gov.in>.

²¹ Times of India, "State to Reclaim Financial Aid Given to 3 Rape Survivors Under Manodhairya Scheme for Turning Hostile During Trial," (2023), <https://timesofindia.indiatimes.com>.

fails to address the multidimensional needs of survivors and perpetuates the concept of “invisible sentences.”²²

Comparative literature shows that in countries like the UK, compensation schemes are increasingly tied to **mandatory trauma-informed care**, which highlights the gap in Indian policy execution.²³

3. Judicial Discretion and Procedural Gaps

Court rulings reveal a **wide disparity in judicial recognition of post-rape trauma**. While landmark cases like **Nipun Saxena & Anr. v. Union of India & Ors.** and **Delhi Domestic Working Women’s Forum v. Union of India** provide mechanisms for in-camera proceedings and anonymity; the enforcement of supportive measures varies significantly across courts.²⁴

Observations include:

- **Secondary Victimization:** Survivors often experience re-traumatization through rigorous cross-examination and scrutiny of personal life, which courts seldom mitigate.
- **Judicial Oversight Limitations:** There is limited follow-up on whether survivors receive counseling or social support post-trial. Judges rarely mandate compliance with rehabilitation services, leaving survivors dependent on inconsistent state or NGO mechanisms.
- **Reliance on Survivor Initiative:** The legal framework assumes survivors will seek institutional support, despite limited awareness and access to such services.

4. Societal and Cultural Barriers

Even after legal victory, survivors face **persistent societal stigma, ostracization, and victim-blaming**. Findings suggest:

Underreporting and Delayed Legal Action: Cultural taboos and fear of social

²² Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* 56–102 (2014); Dipa Dube, *Victim Compensation Schemes in India: An Analysis* (2018).

²³ Walklate, *Understanding Victimization and Victim Policy* (2009).

²⁴ *Nipun Saxena & Anr. v. Union of India & Ors.*, (2018) 14 SCC 1; *Delhi Domestic Working Women’s Forum v. Union of India*, (1994) 1 SCC 301.

ostracization prevent many survivors from pursuing claims or attending post-conviction counseling.

Mental Health Awareness Gaps: Awareness of trauma therapy or survivor rehabilitation programs is limited. Surveys indicate that less than 20% of survivors access formal mental health support post-conviction.²⁵

Intersectional Marginalization: Dalit, tribal, and economically marginalized survivors encounter compounded difficulties in accessing rehabilitation services due to systemic inequalities.²⁶

This demonstrates that **legal provisions alone cannot overcome deep-seated societal barriers**, which continue to undermine survivors' long-term recovery.

5. Comparative Insights and Best Practices

Analysis of global jurisdictions—particularly the **UK, USA, and South Africa**—shows that **post-trial rehabilitation is most effective when embedded within an integrated framework**, combining compensation, trauma counseling, and reintegration programs. Key lessons include:

Mandatory Trauma-Informed Counseling: Legal systems that require post-conviction psychological support improve long-term survivor well-being.²⁷

Victim Advocacy Services: Assigning survivor advocates ensures consistent guidance through compensation, counseling, and reintegration.

Data-Driven Policy Monitoring: Regular reporting on rehabilitation outcomes allows for continuous improvement and accountability.

These practices highlight the **gaps in Indian implementation**, where statutory provisions exist but are rarely enforced in a holistic manner.

²⁵ World Health Organization, Global Status Report on Violence Prevention (2022).

²⁶ Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights* 1–15 (1999).

²⁷ Robyn Holder, Tyrone Kirchengast & Paul Cassell, *Victims' Rights: From Myth to Enforceable Legal Instruments*, *Int'l J. Comp. & Applied Crim. Just.* 1–13 (2021).

6. Discrepancies Between Statutory Intent and Execution

The findings consistently show a **disconnect between the legislative vision and practical execution**. While laws such as BNS 2023 and BNSS 2023 recognize survivor rights and compensation, **practical barriers severely limit their effectiveness**:

- i. **Delayed Disbursement of Compensation:** Bureaucratic hurdles and lack of inter-agency coordination delay survivor support.
- ii. **Limited Institutional Infrastructure:** Few state agencies have the capacity to provide counseling, vocational training, or legal aid systematically.
- iii. **Lack of Standardized Protocols:** States differ widely in implementing rehabilitation schemes, causing unequal protection across India.²⁸
- iv. **Underutilization of Mental Health Provisions:** Although MHCA 2017 codifies the right to mental healthcare, this right is not operationalized within criminal justice procedures, leaving survivors without guaranteed psychological support.²⁹

The study indicates that the support provided for rape survivors in India after a conviction is significantly lacking, despite having strong legal frameworks in place. Notable findings include while there are legal provisions for compensation and mental health services, their application is often inconsistent. The systems in place for rehabilitation are disjointed, underfunded, and frequently out of reach for marginalized survivors. Variations in judicial discretion and procedural shortcomings lead to secondary victimization and inadequate follow-up care. Cultural stigma, social exclusion, and limited awareness of mental health further intensify trauma experienced after the trial. A comparative study shows that comprehensive and integrated methods—connecting compensation, counseling, and reintegration—are effective yet remain under-exploited in India. The disparity between legal intentions and actual implementation highlights survivors' legal invisibility, stressing the urgent need for trauma-informed frameworks dedicated to post-conviction support. The results highlight that mere conviction does not guarantee true justice. It is crucial to have a survivor-focused, legally required rehabilitation system that combines psychological assistance, social support, and

²⁸ Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* 56–102 (2014); Dipa Dube, *Victim Compensation Schemes in India: An Analysis* (2018).

²⁹ *Id.* Indian Penal Code, § 228A; Code of Criminal Procedure, § 327.

compensation to close the divide between legal outcomes and actual experiences.

Suggestions/Recommendations

Based on the findings of this study, it is evident that the Indian criminal justice system, despite recent statutory reforms, fails to provide comprehensive post-conviction support to rape survivors. The current frameworks—including the Bharatiya Nyaya Sanhita (BNS, 2023), Bharatiya Nagarik Suraksha Sanhita (BNSS, 2023), and the Mental Healthcare Act (MHCA, 2017)—recognize the need for compensation, procedural safeguards, and mental health services. However, these provisions remain largely underutilized due to implementation gaps, societal stigma, insufficient institutional mechanisms, and lack of survivor-centric operational frameworks.³⁰

In response to these systemic deficiencies, this paper proposes a multi-dimensional, legally anchored, and practically operational **Specialised Survivor Rehabilitation Wing (SSRW)**. The following recommendations are grouped into six thematic domains: (1) Institutional Design, (2) Legal Mandates and Operational Framework, (3) Psychological Rehabilitation, (4) Socio-Economic Reintegration, (5) Training and Capacity Building, and (6) Monitoring, Accountability, and Evaluation. Each theme integrates lessons from comparative jurisdictions, existing Indian policies, and interdisciplinary research in psychology, victimology, and criminology.

1. Institutional Design: Establishing a Specialised Survivor Rehabilitation Wing

The creation of a **Specialised Survivor Rehabilitation Wing (SSRW)** is proposed as a dedicated institutional body within the state criminal justice framework. Its objectives are to:

Ensure **holistic post-conviction support**, integrating mental health care, legal guidance, financial compensation, and social reintegration. Act as a **single point of contact** for survivors, reducing confusion caused by fragmented government departments, NGOs, and health services. Facilitate **continuous support from trial completion to long-term recovery**, thereby mitigating the phenomenon of “invisible sentences” identified in the findings.³¹

³⁰ Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* 56–102 (2014).

³¹ Dipa Dube, *Victim Compensation Schemes in India: An Analysis* (2018).

1. The SSRW should be autonomous yet accountable to the Ministry of Women and Child Development, with statutory powers to coordinate effectively between judicial, police, health, and social welfare departments, ensuring a seamless continuum of care for survivors. This autonomy would allow the SSRW to operate without undue bureaucratic interference while maintaining accountability through regular reporting and oversight mechanisms. Its organizational structure could include the following specialized units:
2. **Legal Unit** – responsible not only for monitoring the timely disbursement of victim compensation and ensuring enforcement of court-mandated provisions but also for providing comprehensive legal guidance to survivors throughout the post-conviction process. This unit would liaise with courts, legal aid cells, and victim compensation boards to reduce delays, prevent bureaucratic obstacles, and ensure that survivors’ rights are upheld in practice, including representing them in administrative hearings where necessary.
3. **Psychological Support Unit** – tasked with offering individualized counseling, therapeutic interventions, and trauma-informed care tailored to each survivor’s specific needs. This unit would implement long-term mental health programs, including follow-up assessments, group therapy sessions, and specialized support for survivors facing compounded trauma due to social, economic, or intersectional marginalization. Additionally, it could develop outreach programs to educate survivors and their families about the importance of mental health care, aiming to normalize therapy and reduce stigma.
4. **Socio-Economic Reintegration Unit** – designed to address the economic vulnerabilities and social reintegration challenges survivors face. This unit would create comprehensive vocational training programs aligned with current market demands, assist with job placement, provide mentorship and educational scholarships, and offer financial literacy programs to help survivors manage compensation or earnings effectively. The unit could also facilitate partnerships with private organizations and government schemes to enhance employment opportunities and social integration.
5. **Outreach and Awareness Unit** – focused on community engagement, public education, and advocacy. This unit would conduct awareness campaigns on survivor

rights, legal procedures, and available mental health services, targeting not only survivors but also local communities, schools, colleges, and workplaces. By fostering a supportive social environment, the unit would work to reduce victim-blaming, societal stigma, and discrimination, ultimately creating a broader culture of empathy and understanding toward survivors.

Comparative research from the **UK's Victim Support Services** and **South Africa's Thuthuzela Care Centre** demonstrates that survivors experience improved outcomes when legal, psychological, and social interventions are integrated under one umbrella institution.³²

2. Legal Mandates and Operational Framework

To operationalize the SSRW effectively, statutory backing is essential. The following legal mechanisms are recommended:

- i. **Enshrinement in Law:** Amendments to BNS and BNSS should explicitly recognize SSRWs as statutory bodies responsible for post-conviction survivor care. This will give them legal authority to enforce rehabilitation measures and coordinate across agencies.³³
- ii. **Mandatory Survivor Care Plans:** Upon conviction, courts should issue individualized **Post-Conviction Survivor Care Orders**, specifying compensation, counseling, and reintegration measures. The SSRW would oversee compliance with these orders.
- iii. **Integration with MHCA 2017:** Mental health services provided by SSRWs should be legally recognized under MHCA §18, ensuring survivors can access state-funded therapy without additional legal hurdles.³⁴
- iv. **Linkage with Victim Compensation Boards:** The SSRW must collaborate directly with state-level compensation boards to guarantee **timely and adequate financial support**, reducing delays and bureaucratic inefficiencies observed in the findings.³⁵

By embedding SSRWs within the legal framework, survivors would no longer need to **navigate**

³³ Bharatiya Nyaya Sanhita (2023); Bharatiya Nagarik Suraksha Sanhita (2023).

³⁴ Mental Healthcare Act (2017), §18.

³⁵ National Crime Records Bureau, Crime in India Report 2023, <https://ncrb.gov.in>.

multiple departments independently, which often leads to loss of services and re-traumatization.

3. Psychological Rehabilitation and Trauma-Informed Care

The findings underscored that **post-trial trauma often remains unaddressed**, even after legal convictions and compensation are awarded. A robust psychological support component is therefore critical. SSRW services should include:

- i. **Immediate and Long-Term Counseling:** Survivors should receive trauma-informed counseling immediately post-trial and ongoing follow-up for at least five years.³⁶
- ii. **Specialized Therapy for Complex Trauma:** Programs should incorporate **Cognitive Behavioral Therapy (CBT), Eye Movement Desensitization and Reprocessing (EMDR), and group therapy** where appropriate.
- iii. **Support for Marginalized Survivors:** Dalit, tribal, and economically disadvantaged survivors often face compounded trauma; specialized interventions should be designed to address intersectional vulnerabilities.
- iv. **Psychological First Aid Training for Legal and Police Officials:** SSRWs can offer mandatory workshops to ensure officers interact sensitively with survivors during proceedings and rehabilitation.³⁷

International models, including **Canada's Victim Services Program**, demonstrate that trauma-informed legal and therapeutic interventions significantly reduce secondary victimization and improve survivor well-being.³⁸

4. Socio-Economic Reintegration

Survivors frequently face **economic marginalization**, which exacerbates long-term trauma. SSRWs should include a dedicated **Socio-Economic Reintegration Unit** responsible for:

³⁶ World Health Organization, Global Status Report on Violence Prevention (2022).

³⁷ Robyn Holder et al., Victims' Rights: From Myth to Enforceable Legal Instruments, *Int'l J. Comp. & Applied Crim. Just.* 1–13 (2021).

³⁸ Walklate, *Understanding Victimization and Victim Policy* (2009).

- i. **Vocational Training Programs:** Offering skill development in market-relevant fields.
- ii. **Employment Placement Assistance:** Partnering with private and public sectors to secure survivor employment.
- iii. **Educational Support:** Scholarships and mentorship programs for survivors pursuing formal education.
- iv. **Financial Counseling and Micro-Enterprise Support:** Helping survivors manage compensation funds and start small businesses where feasible.³⁹

Evidence from NGO initiatives in Maharashtra and Delhi indicates that vocational and educational interventions **increase reintegration success and reduce social isolation**.⁴⁰

5. Training and Capacity Building

The SSRW's effectiveness depends on adequately trained personnel. Recommendations include:

- i. **Recruitment of Multidisciplinary Staff:** Legal experts, clinical psychologists, social workers, and trained counselors.
- ii. **Regular Training Programs:** Modules on trauma-informed care, gender sensitivity, victim-centered judicial processes, and culturally competent interventions.
- iii. **Collaboration with Academic Institutions:** Establish partnerships with universities and research centers to train professionals and evaluate program outcomes.⁴¹

Capacity building will ensure SSRW staff can **holistically address survivors' needs** and adapt interventions to local contexts.

6. Monitoring, Accountability, and Evaluation

To prevent gaps in service delivery and ensure accountability, SSRWs must establish a robust **Monitoring and Evaluation Framework** that is both comprehensive and survivor-centered.

³⁹ Ms. Khyati Singh, A Study of Juvenile Justice in India, 7 IJMFR (2025).

⁴⁰ NGO Report, Survivor Reintegration Programs in Maharashtra and Delhi (2022), <https://www.ngoindia.org>.

⁴¹ Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights 1–15 (1999).

Effective monitoring would not only assess operational efficiency but also ensure that the rehabilitation goals—mental, social, and economic—are consistently met across all units.

- I) **Standardized Protocols and Metrics** – SSRWs should develop clear, uniform standards for evaluating survivor progress in mental health, social reintegration, legal compliance, and financial stability. These protocols should incorporate both quantitative and qualitative measures, such as improvements in psychological assessments, employment or educational attainment, participation in support programs, and subjective survivor satisfaction. By standardizing these metrics, SSRWs can compare outcomes across different regions, identify systemic gaps, and implement targeted interventions where needed.
- II) **Periodic Reporting to Judiciary and Government** – SSRWs must submit detailed annual and biannual reports to relevant judicial bodies, the Ministry of Women and Child Development, and other overseeing government agencies. These reports should outline the number of survivors assisted, timelines for compensation disbursement, access to psychological services, program completion rates, and emerging challenges. Transparent reporting ensures that SSRWs remain accountable to both policymakers and the public, fostering trust and enabling evidence-based policy refinement.
- III) **Independent Oversight Committees** – To mitigate bureaucratic inefficiency, corruption, or mismanagement, independent committees composed of civil society representatives, survivor advocates, legal experts, and mental health professionals should regularly review SSRW operations. These committees could conduct audits, recommend procedural improvements, and ensure that survivor feedback informs organizational decision-making. The presence of independent oversight creates a layer of checks and balances that strengthens credibility and reduces the risk of systemic neglect.
- IV) **Feedback Mechanisms** – Survivors should have access to confidential, easily navigable avenues to report service gaps, grievances, or unmet needs. This could include hotlines, digital reporting platforms, and community liaison officers who facilitate direct communication with SSRW administration. Incorporating survivor feedback ensures that services remain responsive, culturally sensitive, and continuously improved, and empowers survivors by giving them an active role in shaping the

rehabilitation process.⁴²

Comparative frameworks from South Africa's **Thuthuzela Care Centres** highlight that systematic monitoring improves efficiency, survivor satisfaction, and compliance with statutory obligations. In addition to institutional design, policy reforms must target **social and cultural barriers**:

- i. **Public Awareness Campaigns:** Disseminate information about survivor rights, available services, and mental health support to reduce stigma.
- ii. **Community Engagement Programs:** Involve survivors, NGOs, and local leaders in program design to increase trust and uptake.
- iii. **Educational Modules:** Include survivor rights, gender sensitivity, and trauma awareness in school and college curricula⁴³ will complement SSRW services, ensuring survivors are empowered to seek and benefit from rehabilitation.

Conclusion

The proposed Specialized Survivor Rehabilitation Wing (SSRW) seeks to address the critical deficiencies identified in this research: fragmented support systems, underutilized statutory provisions, and a lack of trauma-informed care. Survivors of sexual violence often face a reality where legal victories are hollow, and the scars of their experiences linger far beyond the courtroom. The SSRW aims to bridge this gap by providing a comprehensive, survivor-centric framework that integrates legal enforcement, psychological healing, socio-economic reintegration, training, monitoring, and public education.

Implementing SSRWs would:

- I. Ensure that survivors' rights and needs are consistently prioritized across all states, acknowledging that justice extends beyond legal proceedings and encompasses emotional and social recovery.⁴⁴

⁴² United Nations Office on Drugs and Crime, Handbook on Effective Monitoring and Evaluation for Victim Support Services (2020).

⁴³ Ministry of Women and Child Development, Guidelines for Awareness and Gender Sensitivity Programs (2021).

⁴⁴ Herman, *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror* (Basic

- II. Confront the reality of "invisible sentences" i.e, the ongoing psychological, social, and economic suffering that persists long after convictions. Survivors often navigate these challenges alone, with minimal support, leading to prolonged trauma and marginalization.⁴⁵
- III. Establish a model for holistic care that merges mental health, legal support, and social reintegration, demonstrating that justice is most meaningful when survivors are empowered to reclaim autonomy and dignity in their lives.⁴⁶
- IV. Restore public faith in the justice system by showing a tangible, survivor-centered commitment: that legal victories are not abstract symbols but catalysts for genuine recovery and societal recognition of the deep scars left by sexual violence.⁴⁷

The creation of SSRWs is not merely a policy recommendation; it is a moral imperative. Survivors carry the weight of systemic failures long after their cases conclude, navigating a world that too often stigmatizes rather than supports them. Institutionalizing comprehensive post-conviction rehabilitation acknowledges the profound psychological, social, and economic consequences of sexual violence, ensuring that the justice system does not end at the sentence but continues in the real lives of those affected. SSRWs would provide structured, enforceable, and compassionate pathways for survivors to rebuild their lives, offering a rare certainty in an environment where uncertainty and trauma have long been the default.⁴⁸

In conclusion, SSRWs represent a practical, legally grounded, and ethically necessary response to the invisibility of post-conviction survivors. They ensure that convictions are transformed into meaningful justice, bridging the gap between statutory intent and lived experience. By prioritizing trauma-informed care, social reintegration, and continuous support, India can begin to confront the human cost of sexual violence in a tangible way; recognizing that the aftermath of a crime extends far beyond the courtroom, and that every survivor deserves a system designed not only to punish but to heal, empower, and restore dignity.⁴⁹

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⁴⁵ Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press 2014).

⁴⁶ Justice Verma Committee, *Report of the Committee on Amendments to Criminal Law* (Ministry of Home Affairs, Government of India 2013).

⁴⁷ *Crime Survivors Rehabilitation Program in Delhi: An Analysis* (2025).

⁴⁸ Enfold India, *Support and Rehabilitation* (2020).

⁴⁹ Equality Now, *Beyond a Verdict: Why Systemic Reforms Are Key to Ending Sexual Violence in India* (2024).

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