
SILENCED BY DESIGN: INSTITUTIONAL FAILURE AND THE UNDERREPORTING OF SEXUAL VIOLENCE

Khushi Baid, Gujarat National Law University

ABSTRACT

This paper argues that the persistent underreporting of sexual violence in India and comparable jurisdictions is not a personal failing of survivors but a rational response to institutions that have repeatedly betrayed the trust placed in them. Drawing on global and Indian prevalence data, conviction statistics, and a sequence of high-visibility cases, the paper traces how discretion at the point of police registration, delay and re-traumatisation within the judiciary, unscientific and under-resourced forensic practice, and weak workplace redress mechanisms combine to produce a system in which justice is dispensed only when a case becomes too visible to ignore. A comparative section situates India's institutional failures alongside similar attrition patterns in the United States and the United Kingdom, showing that the underlying dynamic is not a marker of legal underdevelopment but a structural feature that even well-resourced systems must be pressured into correcting. The paper concludes that without enforceable accountability for institutional non-compliance, judicially mandated protections for survivors will continue to exist on paper without translating into practice.

1. Introduction

We live in a world which likes to call itself woke, but the reality victims face tells a different story. When a woman finally gathers the courage to raise her voice, she doesn't just face her trauma she faces a society that questions her, and institutions that she was taught to trust fail her instead. Nearly one in three women worldwide will experience physical or sexual violence in her lifetime¹, and yet in India, data from the National Family Health Survey shows that only about 14% of women who experience such violence ever seek help at all². The rest carry it alone, and some die with the hope of justice unmet. For those who do find the courage to speak courage that takes everything they have left after what they have survived the institutions meant to protect them too often disappoint them, while society busies itself questioning what the victim was wearing, or where she was, instead of asking why this keeps happening.

The authorities glorified as protectors, the ones survivors are told to trust with whatever courage they have left after something so traumatising, too often choose disbelief instead of justice. Government data confirms what survivors have long known: of the rape cases registered in India in recent years, the conviction rate has hovered around only 27–28%, with hundreds of thousands of cases still pending trial³. Somewhere in that backlog is a girl who did nothing to deserve what happened to her, and a system that never got around to telling her it mattered. This is how the silence continues not because survivors don't want justice, but because they have watched, repeatedly, what happens to those who ask for it. Society has taught survivors to stay quiet about these “taboo” topics, and so they learn to carry their pain alone, often turning it inward and blaming themselves for something that was never their fault.

Not every survivor has the privilege of a safe place to land. Some fear the backlash their community will bring. Some do not come from families who would believe them, let alone protect them. These barriers exist in both urban and rural India, and they are part of why so many cases go unreported in the first place. Even for those who do report, the courts meant to

¹World Health Organization, Violence Against Women Prevalence Estimates, 2018: Global, Regional and National Prevalence Estimates for Intimate Partner Violence Against Women and Global and Regional Prevalence Estimates for Non-Partner Sexual Violence Against Women 5 (2021), <https://www.who.int/publications/i/item/9789240022256>.

²International Institute for Population Sciences (IIPS) & ICF, National Family Health Survey (NFHS-5), India, 2019–21: Volume I (2021), https://rchiips.org/nfhs/NFHS-5Reports/NFHS-5_INDIA_REPORT.pdf.

³National Crime Records Bureau, Ministry of Home Affairs, Crime in India 2022, vol. I, ch. 3A, tbl. 3A.4, at 222 (2022), <https://ncrb.gov.in>; see also Factbox – India's Struggles with High Rape Cases, Low Conviction Rates, Reuters (Aug. 16, 2024).

deliver justice are too often slowed by corruption, institutional politics, or sheer apathy resulting in delayed trials, dismissed cases, and a leniency extended to the accused that survivors are rarely shown themselves.

As a woman, I know how common it is to carry at least one story like this whether it is street harassment, an inappropriate touch by someone who was supposed to be safe, trafficking, or rape itself. So I must ask: when do we stop treating these stories as inevitable? When do we start giving every case the seriousness it deserves not the superficial kind of justice performed for headlines, but the real kind survivors have been waiting for all along?

This paper argues that the silence surrounding sexual assault is not a personal failure of survivors, but a rational response to institutions legal, medical, and social that have repeatedly betrayed the trust placed in them⁴. By examining how police, courts, and society itself discourage disclosure, this paper hopes to move the conversation forward: from asking why survivors don't speak, to asking why we have given them so little reason to.

2. The Scale of the Problem: Statistical Realities and the Cases That Forced a Reckoning

The root of the problem of unreported cases is not confined to developing countries but is also present in countries that like to consider themselves developed. Countries with strong institutional frameworks face a similar challenge. In India, only 14% of the cases related to violence against women are reported, or the victims sought any kind of help at all⁵. Equally alarming is that no meaningful action has followed: from 2018 to 2022, the conviction rate for this small share of reported cases remained stagnant at around 27–28%, indicating that of the fraction of victims who gather the courage to report, only roughly one in four sees justice delivered⁶.

Even in the United States the situation is no better: only about 31% of sexual assault cases are reported, meaning roughly seven in ten go unreported, according to RAINN and the gap widens across age groups. Around 72% of senior citizens do not report these incidents; among the youth the picture is somewhat better but still alarming, with about 20% of college-going women reporting compared with 32% of non-college-going women in the same age bracket⁷. This

⁴Carly P. Smith & Jennifer J. Freyd, Institutional Betrayal, 69 Am. Psychologist 575 (2014).

⁵See supra note 2.

⁶See supra note 3.

⁷RAINN, The Criminal Justice System: Statistics, <https://www.rainn.org/statistics/criminal-justice-system> (last

points to a vicious cycle that has persisted across generations. What becomes apparent on analysing the data is a shared mindset of accepting the violence as though it were the victim's fault a pattern that runs through every ethnicity, age group, and stratum of society.

All of this data on unreported cases is drawn from credible surveys, which show that underreporting is not incidental but systemic. The causes have become clear: institutional distrust and a lack of willingness to report. Victims of robbery accompanied by sexual assault, for example, are observed to report the robbery while remaining silent about the assault a pattern that reveals the intent, the fear, and the root cause of underreporting. Underreporting also stems from internalised stigma, shame, and other similar barriers.

2.1 Justice by Protest: How Public Outrage, Not Institutional Duty, Has Driven Reform

The uncomfortable reality of living in a system where a case must be politically costly to ignore or visible and highlighted enough to receive justice, while mere violations of rights are not treated as reason enough, is a pattern that recurs in almost every widely known case.

The Mathura case did not lead to legal reform until law professors raised their voices in an open letter to the Chief Justice of India⁸, and it took groups of people protesting to make it a nationwide issue that the courts could no longer avoid. The Nirbhaya case did not result in the Criminal Law (Amendment) Act of 2013 because the existing law was quietly recognised as inadequate; it resulted in that law because a nation shut down its capital in protest, forcing the government to convene the Justice Verma Committee under public pressure⁹. Even the R.G. Kar Medical College case, which haunts the country to this day, required thousands of people across the nation to come down to the streets before the Supreme Court took suo motu cognisance of the matter without waiting for it to arrive through its ordinary channel¹⁰. This reflects how justice has been proportioned to how loudly a case is discussed.

visited Sept. 9, 2026); RAINN, Victims of Sexual Violence: Statistics, <https://www.rainn.org/statistics/victims-sexual-violence> (last visited Sept. 9, 2026).

⁸Tuka Ram v. State of Maharashtra, (1979) 2 SCC 143 (also reported at AIR 1979 SC 185); see Upendra Baxi, Lotika Sarkar, Raghunath Kelkar & Vasudha Dhagamwar, An Open Letter to the Chief Justice of India, (1979) 4 SCC (Jour) 17.

⁹The Criminal Law (Amendment) Act, No. 13 of 2013, India Code; Report of the Committee on Amendments to Criminal Law (Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam eds., Jan. 23, 2013).

¹⁰In re: Alleged Rape and Murder Incident of a Trainee Doctor in R.G. Kar Medical College and Hospital, Kolkata and Related Issues, Suo Motu Writ Petition (Crl.) No. 2 of 2024 (S.C., India, order dated Aug. 20, 2024).

When institutions do take up the responsibility to deliver justice, a second failure often follows to disappoint. The Kathua case shows how the rape of an eight-year-old became entangled with politics, with public figures defending the accused rather than the victim¹¹. The Unnao case shows that when the accused holds power, the very institution meant to protect the victim can leave her helpless it took the death of her father and a suspicious accident before the case yielded a conviction. The Hathras case shows, on the other hand, that even after nationwide and international attention, a trial court can acquit three of four accused and the police can cremate the body without the consent of the family, suggesting that mere attention does not by itself guarantee justice¹².

These cases often have the opposite of their intended effect, discouraging rather than encouraging victims to come forward, because they show that justice can be obtained only when a case becomes too visible to be ignored an outcome that is impossible to secure for the great majority of cases. This instils in survivors the notion that silence may be safer than pursuing rightful justice.

2.2 What the Numbers Can't Tell Us: Reading Statistics with Appropriate Caution

Every statistic cited in this paper the WHO's global estimate, NFHS-5's help-seeking figures, NCRB's conviction rates, RAINN's reporting data is real, verifiable, and drawn from credible institutions. But numbers are only ever as honest as the process used to collect them, and in the case of sexual violence that process runs into limits that no survey design has fully solved.

The first limitation begins before any institution is even involved. Prevalence surveys like NFHS-5 rely on survivors disclosing their experiences to a researcher, often in their own home, sometimes with family members nearby. If survivors underreport to police out of fear, shame, or distrust, there is no reason to assume they are fully forthcoming with a survey interviewer either. This means that even the best prevalence estimates the very numbers this paper uses to expose the gap between institutional data and lived reality are themselves likely undercounts. The true scale of the problem may be larger than even these figures suggest, which should be

¹¹See Kathua Rape and Murder Case, Wikipedia, https://en.wikipedia.org/wiki/Kathua_rape_case (last visited Sept. 9, 2026); BJP Ministers Who Rallied in Support of Kathua Gangrape Accused Resign, Outlook (Apr. 2018).

¹²See An SC/ST Court Acquits Three of Four Accused in the 2020 Hathras Rape-Murder Case, Deccan Herald (Mar. 2, 2023); the Supreme Court subsequently directed the Allahabad High Court to monitor the family's security and the investigation, see In re: Hathras Case, W.P.(Crl.) diary (S.C., India, Oct. 2020 order).

read as a caution toward, not against, the argument this paper makes.

A second limitation lies in what different studies measure. Not every “sexual violence” statistic refers to the same act. Some studies, including several WHO estimates, measure a broad category encompassing everything from unwanted touching to rape. Others, including many NCRB figures, measure “rape” as a narrowly defined legal offence under a specific penal provision. Placing these numbers side by side, as this paper does, is useful for showing overall patterns, but it would be inaccurate to treat a 30% global prevalence figure and a 28% conviction rate as describing precisely the same population of incidents. The comparison illustrates scale and institutional response, not a single continuous statistic.

A third limitation is methodological. WHO's estimates are built from multi-country survey data gathered years apart using varying interview protocols. NFHS-5 is a large, government-administered household survey specific to India with its own sampling design. The U.S. National Crime Victimization Survey, which underlies RAINN's figures, uses yet another methodology entirely. None of these surveys were built to be directly compared with one another, and differences in sample size, question phrasing, cultural context, and willingness to disclose across regions all affect the final numbers. This paper treats cross-country comparisons as indicative of a broader global pattern, not as precise, apples-to-apples figures.

The final and perhaps most important limitation concerns official crime data itself. NCRB figures, like FBI data in the United States, can only count what was formally reported to police and officially registered as a case. This is not a neutral measurement of how much sexual violence occurred; it is a measurement of how much sexual violence survivors trusted the system enough to report, and how much of that reporting police chose to record. Every conviction rate discussed in this paper describes institutional performance on the smallest and most visible fraction of actual incident sat best a floor, never a ceiling, on the true scope of the problem.

None of these limitations undermine the argument this paper makes. If anything, they strengthen it. Even working from data that almost certainly understates the true scale of sexual violence and its underreporting, the picture that emerges is damning enough. A more complete accounting one survivors' silence has made impossible to produce would very likely reveal an even wider gap between the violence women experience and the justice institutions deliver.

3. Mechanisms of Institutional Failure

From the data and cases discussed above, it is apparent that cases go unreported mainly because of inconsistent institutional response frequently delayed, and often contingent on public pressure. But how is this inconsistency produced? This section shows how survivors are betrayed at every step following an assault. In India, every institution expected to deliver justice or render a fundamental right from law enforcement, the judiciary, and medical and forensic systems to the workplace is arguably betraying the very purpose on which it is founded. This section examines how procedures, incentives, and institutional design themselves produce outcomes that discourage disclosure and compound survivor trauma.

3.1 Law Enforcement: The First Point of Failure

For most survivors, the police station is the first resort in seeking justice, but an authority presumed to be fair betrays the very root of that trust. The police station becomes a place where discretion enters suddenly at the moment of filing a First Information Report (FIR), with filing sometimes discouraged or downgraded at the desk. In the landmark case of *Lalita Kumari v. Government of Uttar Pradesh*¹³, a petition of habeas corpus was filed by the father of a minor victim who had been abducted, after the incident was not immediately registered as an FIR by the police in charge even though the offence was cognizable in nature; an FIR was filed only once the Superintendent of Police intervened. Because different states had taken inconsistent approaches to filing FIRs, there was no uniformity in how police handled such cases. The Court ruled that police are required to register an FIR immediately upon receiving information about a cognizable offence, and that failure to do so constitutes a violation of legal and constitutional obligations inviting contempt proceedings. Importantly, the police officer has no discretion to decline registration in such circumstances and must act without delay. The Court also addressed the tension with the accused's rights, holding that conducting investigation only after FIR registration satisfies "procedure established by law" and is consistent with Article 21 of the Constitution mandatory registration does not itself violate the accused's due process rights, since the actual inquiry happens afterward, not before. Cases like this suggest how institutions supposed to safeguard citizens have instead become emblematic of injustice.

¹³*Lalita Kumari v. Govt. of U.P.*, (2014) 2 SCC 1; AIR 2014 SC 187.

3.2 The Judiciary

A police station is where a survivor's case meets institutional discretion; a courtroom is where it meets institutional endurance. The Indian judicial system is a place where justice is usually delayed, but delay itself becomes a form of punishment for the victim. Case pendency is often explained away as an ordinary administrative problem insufficient judges or overlooked dockets. As of early 2023, more than 2.4 lakh cases under the Protection of Children from Sexual Offences (POCSO) Act were pending in fast-track courts nationwide, and even at the present rate of disposal the backlog would take years to clear in several states¹⁴. Even the dedicated Fast Track Special Courts set up specifically to prevent this kind of delay continue to carry a substantial pending caseload despite disposing of tens of thousands of matters each year¹⁵. The data shows that the average case takes hundreds of days to resolve, with most cases exceeding the statutory timeline and convictions taking even longer than acquittals to conclude.

Where trials do proceed, they frequently re-traumatise rather than vindicate. Cross-examination has long relied on a survivor's sexual history, clothing, and post-assault conduct as though her character were on trial the same logic that produced the two-finger test discussed in the next section. The cases from Section 2.1 show how this compounds in high-visibility matters: in Kathua, defence strategy extended to attacking the victim's community identity in open court; in Hathras, the disputed cremation without family consent and delays in forensic reporting became judicial and administrative failures in their own right, not merely upstream policing lapses.

Even without any of this, the evidentiary standard itself compounds the difficulty. Proof beyond reasonable doubt is a reasonable general safeguard, but it interacts badly with the documented pattern of witnesses turning hostile under inducement, family pressure, or the influence of a more powerful accused a pattern Indian courts have themselves identified and named in judgments addressing witness retraction¹⁶. A survivor can report promptly, endure examination, and survive cross-examination, only to watch conviction collapse because the

¹⁴India Child Protection Fund, Justice Awaits: An Analysis of the Efficacy of Justice Delivery Mechanisms in Cases of Child Sexual Abuse in India (2023); Over 243,000 POCSO Cases Pending in Fast-Track Courts Till Jan 2023: Report, Bus. Standard (Dec. 9, 2023).

¹⁵Dep't of Justice, Ministry of Law & Justice (India), Fast Track Special Courts Scheme, <https://doj.gov.in> (last visited Sept. 9, 2026); see also Kolkata, Thane Incidents Put Focus on Fast Track Special Courts, PTI (Aug. 25, 2024).

¹⁶See, e.g., *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158 (the "Best Bakery" case, addressing witness intimidation and retraction).

people around her case were reached first.

3.3 Medical and Forensic Systems

If a police station and a courtroom fail a survivor through discretion and delay, a medical and forensic system fails her through practices that were never scientifically justified yet persisted for decades under the authority of the state. The clearest example is the two-finger test. In a judgment delivered on April 9, 2013, the Supreme Court held in *Lillu v. State of Haryana*¹⁷ that the test used in cases of rape violates a survivor's right to privacy, physical and mental integrity, and dignity. The Court found the test has no scientific basis and neither proves nor disproves an allegation of rape, instead re-victimising and re-traumatising women who may have already been sexually assaulted, and directed that it must not be conducted. What makes this doctrine significant for this paper is not the ruling itself but its afterlife: despite the Court's clear 2013 prohibition, the two-finger test continued to be performed on survivors across the country, forcing the Supreme Court to revisit the same issue in 2022. In *State of Jharkhand v. Shailendra Kumar Rai*¹⁸, the Court again condemned the practice, ruling that performing the test constitutes misconduct on the part of the examiner. A prohibition restated a decade later is not a legal technicality it is documentary proof that a Supreme Court ruling, on its own, does not change what happens inside a district hospital examination room. This is the same structural failure identified in Section 3.1's discussion of Lalita Kumari: doctrine exists, but no enforcement mechanism translates it into practice.

The forensic system fails the survivor at every stage. Government hospitals often decline to conduct an examination without a prior police referral, trapping the case in a bureaucratic loop while biological evidence degrades within hours. Once samples are collected, the downstream system is severely under-resourced: a 2018 investigation found thousands of DNA samples from assault cases backlogged in national forensic laboratories, with only a fraction of state forensic laboratories equipped for DNA analysis at all¹⁹. A more recent government-data-based report found a substantial share of sanctioned forensic posts nationwide still vacant, with caseloads running several times sanctioned capacity²⁰. Delays are serious enough that an

¹⁷*Lillu @ Rajesh v. State of Haryana*, (2013) 14 SCC 643.

¹⁸*State of Jharkhand v. Shailendra Kumar Rai @ Pandav Rai*, 2022 SCC OnLine SC 1494.

¹⁹See *Over 12,000 DNA Samples in Rape and Assault Cases Pending in Forensic Labs*, India Today (2018) (reporting that only 16 of 31 state forensic laboratories were equipped for DNA analysis).

²⁰See Ministry of Home Affairs (India), *Status of Forensic Science Laboratories* (2025) (reporting large-scale vacancies against sanctioned forensic posts).

accused can win default bail simply because the laboratory failed to process evidence within the statutory chargesheet period²¹. Police, judiciary, and forensic medicine thus reveal an underlying pattern: each has a clear, often court-mandated, standard for treating survivors, and each routinely fails it not through one dramatic betrayal but through ordinary, unenforced, under-resourced practice.

3.4 Workplace Institutions: A Redress Mechanism Undermined from Within

The way workplace sexual harassment law functions closely resembles what is seen in policing and medicine: a judicial standard existed for a long time before the enforceable law caught up. It has been more than twenty years since the Supreme Court issued the Vishaka guidelines in 1997²², and over ten years since the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force²³. Yet the Supreme Court continues to find substantial gaps in how the law is implemented across the country. The Act requires every workplace with ten or more employees to constitute an Internal Complaints Committee (ICC), and it sets out rules for the committee's composition: at least half of its members, including the Presiding Officer, must be women, and every committee must include one external member²⁴. On paper, the system for addressing workplace sexual harassment looks precise, designed to close the power gaps that typically undermine institutional handling of sexual violence.

In practice, the system breaks down in many ways. There are documented failures where ICC members lack training or basic knowledge of harassment law, and no clear procedure exists for handling an inquiry once a complaint is filed. Many smaller, less organised workplaces do not even constitute an ICC in the first place. Courts have set aside ICC inquiries entirely because the required external member was unqualified or absent altogether. This shows that an ICC offers no real protection if it does not follow the law or function properly. Even where an ICC does function, complainants often face quiet retaliation sidelined careers, exclusion from meetings, or a more generally hostile work environment. This resembles the “compromise pressure” survivors face from police, discussed in Section 3.1. The formal avenue to complain

²¹Code of Criminal Procedure, 1973, § 167(2), No. 2 of 1974, India Code (proviso governing default/statutory bail).

²²Vishaka v. State of Rajasthan, (1997) 6 SCC 241; AIR 1997 SC 3011.

²³Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, India Code.

²⁴Id. § 4(2).

exists, but using it still carries a hidden cost that the institution is never made to explain.

Perhaps the most telling indictment of this gap is who it implicates. In monitoring compliance, the Supreme Court has directed High Courts and the Union and State governments to conduct time-bound audits confirming whether Internal Complaints Committees have in fact been constituted including inside courts, tribunals, and bar associations themselves²⁵. That the judiciary has had to be reminded of its own legal duties under the POSH Act is a striking illustration for this section. This gap suggests that institutional failure around sexual violence is not limited to under-resourced police stations or overburdened hospitals, but reaches into the very institutions that are supposed to hold others accountable.

4. Societal and Cultural Barriers to Disclosure

4.1 Stigma, Shame, and Victim-Blaming as Social Enforcement Mechanisms

The institutional failures described in Section 3 are by no means detached from the environment in which they occur. These failures depend on a broader societal construct in which it is the victim, not the perpetrator, who is held responsible for what has taken place. Rather than a personal moral failing of a few individuals, victim-blaming functions as a tool of institutional control over women: it imposes social consequences on the fact of having been raped or assaulted, rather than on the act of assault itself. “What was she wearing? Why was she out so late? Why didn't she fight back?” is not a genuine question it is a social consequence. By placing blame in this way, victim-blaming legitimises the same institutional indifference described in Section 3, and functions as a rational deterrent to reporting, not an irrational reflex.

4.2 Family and Community Pressure: Patriarchal Norms Around “Honour”

Whereas Section 4.1 focused on the stigma attached to the survivor through the reactions of strangers and institutions, this section addresses the pressure exerted by people who know her. In many parts of India, a family's status is bound up with the “honour” of its women. Sexual assault, even where the survivor is entirely blameless, is perceived as an affront to that honour rather than a crime against the person. This produces the cruel situation in which the family that should provide support instead becomes another source of pressure, compelling the

²⁵ Aureliano Fernandes v. State of Goa, 2023 SCC OnLine SC 621, and subsequent compliance orders in the same proceeding.

survivor to remain quiet, withdraw her complaint, or resolve matters privately with the accused's family especially where the accused is himself a family member, a neighbour, or someone who wields social or economic power over the survivor's family.

4.3 Media Framing and Selective Institutional Attention

In each of the cases discussed in this paper Nirbhaya, Kathua, Unnao, Hathras the action that followed was not a response to those cases being worse than the thousands of other rapes committed the same year; it followed because the sustained attention and resulting protest had become politically costly to ignore. This fits the theory presented in Section 2.1 about justice in India functioning as an occasional privilege awarded on the basis of visibility, rather than the usual product of institutional design. Media framing determines which cases receive attention, and that framing is not objective. Cases in which the victim belongs to an urban or upper-caste community, or is otherwise seen as “sympathetic,” along with cases that have striking and easily narrated facts, dominate coverage, while cases involving marginalised-caste or rural survivors, or violence occurring within domestic life those most affected by the pressures described in Section 4.2 are neglected.

5. A Comparative Lens

Analysing institutional failure in relation to sexual violence in India carries the danger of being read as a story about an underdeveloped legal system catching up to more developed ones. A cursory look at the United States and the United Kingdom, however, shows that highly developed systems with complex legal institutions display the same underlying dynamic.

In the United States, based on the National Crime Victimization Survey, only about 38.4% of rapes are reported to the police, and out of every 1,000 sexual offences only about 50 result in an arrest, 28 in a felony conviction, and 25 in incarceration implying that roughly 98% of perpetrators continue to evade the law²⁶. This attrition has little to do with inadequacies in the law itself, since the United States has rape shield laws, forensic facilities, and victim service funds that India largely lacks. Even so, the attrition occurs, and it is far more pronounced at the reporting and investigative stages than at the trial stage consistent with the reasons survivors themselves give, discussed in Section 4.

²⁶RAINN, The Criminal Justice System: Statistics, *supra* note 7.

The United Kingdom offers an even sharper illustration of the institutional bottleneck, because its data are unusually well-disaggregated. Official data show that in the year ending March 2025, only about 2.8% of rape offences recorded by police in England and Wales resulted in a charge or summons²⁷. This has persisted despite a steady rise in the number of rapes reported to police since 2010, meaning the volume entering the system has grown without a corresponding rise in cases proceeding to charge. Commentators and parliamentary-linked reports have argued that rape had effectively become “decriminalised” in England and Wales, given that prosecutions and convictions fell for years to some of the lowest levels since records began²⁸. Only in the last few years has this begun to reverse, with Crown Prosecution Service data showing rising conviction rates and completed rape prosecutions at their highest level in a decade, alongside falling rates of victims withdrawing from the process²⁹. Even this improving trend is worth reading carefully: it reflects a system that functioned for over a decade as what critics called a *de facto* shield for perpetrators, and the turnaround is itself the product of sustained public pressure and dedicated reform programmes principally the End-to-End Rape Review not a spontaneous correction.

The key point of this comparison is not that India's institutional flaws are exceptional in nature, but that they are especially intense and undocumented compared with the United Kingdom, at the same level of granularity a failure of transparency that is itself part of the institutional problem discussed in this paper. Wealthier legal systems can narrow their attrition gaps through sustained pressure; the UK's recent improvement shows that this is possible even after a decade of demonstrated attrition. This comparison strengthens rather than weakens the case made regarding India: it is not that India lacks the state capacity to be different, but that its institutions have not yet been subjected to the same sustained pressure that produced the UK's reforms.

6. Accountability Vacuum: A Deterrent That Doesn't Deter

The legal obligation established in *Lalita Kumari*³⁰ does not overlook the problem of

²⁷Home Office (UK), *Crime Outcomes in England and Wales: Year Ending March 2025* (Aug. 2025), <https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-2024-to-2025>.

²⁸See, e.g., House of Commons Justice Committee, *Rape Investigations and Prosecutions*, Fifth Report of Session 2021–22, HC 68; Ministry of Justice, Home Office & Attorney General's Office, *The End-to-End Rape Review Report on Findings and Actions* (2021), <https://www.gov.uk/government/publications/end-to-end-rape-review-report-on-findings-and-actions>.

²⁹Crown Prosecution Service (UK), *Violence Against Women and Girls Report: Quarterly Data Tables*, <https://www.cps.gov.uk/publication/violence-against-women-and-girls-report> (last visited Sept. 9, 2026).

³⁰See *supra* note 14.

implementing such a provision, but non-registration of an FIR for a cognizable offence is itself a legal violation for which the officer concerned may be charged with disciplinary action and contempt of court. In practice, however, this rarely happens. FIR non-registration cases seldom become the subject of a departmental inquiry unless they attract public attention. Even in the rare instances where an inquiry is held and the official is found guilty of misconduct, the outcome is typically a warning rather than the punishment the victim's case would seem to warrant. The result is a structural imbalance: the survivor bears the consequences of whatever the officer decides, on his own discretion, while the officer himself faces only a marginal and often merely theoretical chance of facing punishment. A rule that is mandatory by law but not enforced is not a rule at all; it is a guideline that institutions may disregard when it does not suit their purposes precisely what occurs in the examples given in Sections 3.3 and 3.4 of this paper.