

---

# DELHI CRIME: A CRITICAL ANALYSIS OF RAPE LAWS IN INDIA

---

M Vyshnavi, BBA LLB, Symbiosis Law School, Hyderabad, Symbiosis International University, Pune

## ABSTRACT

Rape is one of the most violent and gruesome crimes that could happen to anyone. The physical harm caused by violence and the emotional trauma that a victim undergoes during the crime and its aftermath haunt them throughout their lives. It is a gender-neutral crime and cannot be seen as a crime that could only happen to women like often interpreted by societies. Owing to such inferring, people bring theories like rape culture into the community and let them thrive, affecting people's mindsets. They allow such thoughts about the normalization of rape to be thrust upon them by being a part of such a community. This further gives rise to concepts like sexual objectification and harassment to grow in our societies, control even a child's mind, and direct them into thinking that rape and other violent crimes are okay. Rape has been increasing into becoming one of the most common crimes globally, where with each passing day, the most gruesome nature of this crime is being exposed. Punishments for this horrific crime are different in different countries, but capital punishment is chosen in most countries. Although many cases are reported each year, the Nirbhaya case of 2012 in India was one such case that showed the most violent nature of this crime. A popular Netflix series Delhi Crime, based on the Nirbhaya case, has been chosen as a reference for this paper to bring about an analysis on the current rape laws and the Criminal Law Amendment of 2013, also called the Nirbhaya act.

**Keywords:** Rape, Rape culture, Delhi Crime, Criminal Law Amendment 2013, Nirbhaya

## **INTRODUCTION**

Rape is a sensitive word, and it is one of the crimes that are very common in our communities. It is a type of sexual assault in which a person is subjected to sexual intercourse or other forms of penetration without their consent. It is a violent act committed by using force, abuse of authority, intoxication, or against people who cannot provide consent, such as the mentally ill, the unconscious, or minors. What led to the familiarity of this heinous and violent crime is its increased number of cases worldwide, India being one of the countries with the most cases. Associated with rape is another word, Rape culture. Rape culture is not a word we come across every day but a feeling every one of us has almost every time we get out of our homes into the society's stares and hushed talks. What is it? Rape culture is a theory wherein rape is normalized due to societal attitudes concerning gender and sexuality. In simple terms, a concept about how rape is normal and okay in society's eyes. How is rape, a heinous crime that could haunt someone for the rest of their lives, considered okay in our communities? There are several aspects associated with rape culture like victim-blaming, sexual objectification, denial of the harm caused by sexual violence, etc.

According to statistics, rape is the fourth most common crime against women in India, and one rape case is reported every 16 minutes among numerous cases that don't even get registered. Like any country, India does have rape laws to protect its citizens and deliver justice. Still, the implementation of these laws isn't entirely effective. In most cases, victims are forced by their families to forget what happened to them primarily because of victim-blaming, media interpretation, etc.

In India, Gang rape comes under section 376-D of the Indian Penal Code or the IPC. The criminal law amendment act, 2013, added various sections to the IPC, which brought in crucial changes to rape laws as well. This act is also called the Nirbhaya Act because this particular amendment was passed after the horrific Nirbhaya case of 2012. Nirbhaya case was one of the most shocking and sickening gang rape cases to have ever registered in India, which shook the entire country. It showed the most violent and hideous nature of this crime and how humans could turn into heartless creatures. Delhi crime (Mehta, 2019), a popular Netflix series, was based on the Nirbhaya case and gave us an insight into the facts of the case and the police's search of the perpetrators of the case. Richie Mehta, a Canadian filmmaker, portrayed a different angle about the incident in the series, wherein they elaborated how the accused were found and what had happened that night. An emotional yet dark thriller was the theme for the

series, which was efficiently carried out throughout the series and immensely helped the viewers to feel the pain.

Even when such cases have happened in the past or cases of that magnitude are still happening, people have normalized rape and sexual violence to an extent where even minors and children have been familiarized with these crimes that they have resorted to sexual objectification and sexual violence even before they are introduced to the actual realities in the world. Rape culture is one of the most horrifying societal theories that has led children and teenagers to joke about rape and other violent crimes. Such feelings about rape among the youth, the future of our country, could lead to severe damage in society and create a sense of fear and apprehension among the citizens.

## LITERATURE REVIEW

The current research relies primarily on statistics and societal approaches. Most articles and journals specified in this review have done a deep analysis based on data provided by the National Crime Records Bureau. In *Socio-Political Dimensions of Rape*, the author has talked about the glorification and desensitization of rape in communities which questions the moral integrity of the victim and often motivates the act to dishonour a particular community or an individual (Ghosal, 2009). By looking at the number of cases registered each year, most statisticians found that there was a considerable number of cases that were not even reported, which aggravated the issue of underreporting, which was extensively covered in *Unheard and Uncounted: Violence against Women in India* (Karp, Marwah, & Manchanda, 2015). Many authors have talked about the stigma surrounding rape that prevents most victims from registering a case, fearing societal shaming. Character discussions, the sexual history of the victim, victim-blaming, etc. are some of the key factors of a community that glorifies or normalizes rape, as concluded in *Controlling women's sexuality: rape law in India* (Gangoli, 2011). Some authors suggest that the criminal justice system plays an important role in creating a positive impact on the victim's life with regard to expression of anger, emotional processing of the event, etc. but this depends on various other factors like the seriousness with which the crime is treated in Court, discriminatory statements or allegations during the trial, trial outcome, etc. The author does believe in the above process but concludes in *Rape Victims and the Justice System: Utilization and Impact* (Steketee & Austin, 1989) that these have been derived from observations and not systematic research, which itself is very disturbing. Many authors in their writings like *Headline violence and silenced pleasure, Self-Blame and Blame*

*of Rape Victims, Culture, media and education* have talked about the importance of consent and how most children trained themselves to be okay with the kind of violence they were facing just because they were unaware of the importance of consent (Edmunds & Gupta, 2016). The above papers also highlighted the trauma of victim-blaming, growing rape culture in different communities (Snow, 1994). Media interpretation destroys the victim by giving out their own assumptions about the incident, emphasizing the victim's moral integrity, and drawing conclusions of their own, thereby justifying the act of rape (Wallby, Olive, Towers, Francis, & Strid, 2015). By analyzing and drawing out conclusions from these papers, the researcher has found that most papers talk about statistics that could be inaccurate due to the non-registration of cases but what most of them agree on is the societal impressions and stigma that surround rape cases even today that leads to self-blame and victim-blaming.

## **RESEARCH METHODOLOGY**

The methodology in the current research will be doctrinal, analytical and quantitative in its primary nature. The researcher has extensively looked into the existing laws concerning the literature and has also thoroughly analyzed various aspects with reference to statistics and data. The secondary materials in nature will be all journals and articles used for reference.

## **ANALYSIS**

Delhi Crime, set in the bustling city of New Delhi in 2011, spoke about the most horrific gang rape case in India, the Nirbhaya Case. The whole series consisted of seven episodes, giving the viewers an insight into what happened that night and how the perpetrators were found and then arrested. The case was significant on the list rape cases registered until then because of its horrific and gruesome nature.

On the night of December 16, 2012, a couple who boarded the bus from Munirka bus stand in Delhi was assaulted on a moving bus. Six people, including the driver, gang-raped the girl, and the boy was physically assaulted as he tried to help his friend from being raped. The male victim had minor injuries, but the girl had severe injuries in her internals. The doctors confirmed that an iron rod penetrated into her genitals, which pulled out her intestines caused massive damage to her genitals and internal organs. After battling death in the Safdarjung hospital for days, she was moved to a hospital in Singapore for better medical treatment. Many doctors had criticized the decision to move her as a political one. She died in Singapore two days after reaching the hospital.

The series has portrayed different aspects connected to the case, such as students protesting, media interpretation, emotional turmoil of the victim's family, and most importantly, the various emotions depicted by different characters throughout the series, even though it was a dark thriller.

The series was based on a real case. All characters have provided the viewers with different situations that built up their character, which allowed the researcher to analyze the social issue and its legal prospects. It followed a dark pace thriller genre and was successful to show the nature and intensity of the crime, all while portraying the official and legal aspects of the case. Since the case shook the entire country back in 2012 when it happened, most images and visuals in the series, even the dialogues, were disturbing, knowing that this had already happened.

DCP Vartika Chaturvedi, the inspector in charge of the case, managed to captivate the audience with her emotional delivery of dialogues and the natural rage she had while working on the case. She embodies the whole women citizens who were equally angry and scared at the sight of the victim's condition. She was both a police officer dedicated to her work and a mother concerned about her daughter. The working of the police force on a case is quite criticized by the people and the media, which was also shown in some episodes. From ineffectiveness in attending to the victim to political warfare in high profile cases, Delhi Crime (Mehta, 2019) has exposed all dark dimensions linked to a case of this magnitude.

The legal dimensions of this case cover a vast area of law provisions like the attempt to murder, gang rape and also, because of the gruesome nature of this case, it falls into the rarest of rare category in which capital punishment can be ordered.

Rarest of Rare Doctrine was first established in the case of *Bacchan v. The State of Punjab* (*Bacchan v. The State of Punjab*, 1980). The doctrine helped the courts in deciding when to go for capital punishment. In the case of *Prajeet Kumar Singh v. The State of Bihar* (*Prajeet Kumar Singh v. The State of Bihar*, 2007), the Court held that capital punishment would be sentenced only when a murder is committed in such a way that is found to be very brutal, gruesome and revolting which could create an intense outrage of the community. In the *Nirbhaya* case, the rarest of rare doctrine was applied on the basis that the crime was extremely horrid and repugnant.

In early January 2020, the Supreme Court declared a death sentence for the rapists of the case. By the end of March that year, four convicts among the original six were hanged. One of the

six had hanged himself during the early trials of the case, and another was a minor and was convicted as a juvenile defendant with a maximum of three years imprisonment.

The incident led to widespread protests, mostly among students in Delhi's prime locations like the India Gate and Raisina Hill and in front of the police headquarters where the case's inspectors were working. Over the days, the protests became uncontrollable, and barricades and several rapid action force units were put to duty near the India Gate to control the commotion. As the public protests went beyond the control of the police force, batons, tear gas and water cannon were used to drive the protestors away from the location. Silent protests, online protests, candle marches, etc., took place all over the country in cities like Kolkata, Thiruvanthapuram, Bangalore, etc. Since our legal system allows people to voice their opinions and express themselves, these protests became significant.

The incident led to widespread criticism of the Delhi police force as they were held accountable for the victim's condition. Many politicians came forward to share their opinions and feelings about the case, and some of them even addressed Delhi as the rape capital of India (Dixit, 2012).

One of the most critical decisions that followed the horrific incident was passing the Criminal (Amendment) Act, 2013. After the incident, a committee headed by former Chief Justice of India, J S Verma, which included eminent personalities from the field of law and judiciary, was assigned to submit a report within 30 days by the Central Government of India suggesting relevant amendments to the area of criminal law to deal with sexual assault cases much more strictly. They also asked the public, mostly NGOs, legal professionals, etc. to put in their valuable opinions and possible suggestions in criminal and other relevant laws so as to help in providing more quicker investigation, trial and prosecution and also regarding the extent of punishment for sexual assault crimes against women of extreme nature.

Though passing the above-mentioned amendment was not part of the series, it is still a crucial element in discussing the case since that amendment gave way for better law provisions and punishments related to crimes against women.

The series was one that was able to create an image in everyone's mind about the horrific and sadist side of a crime of that magnitude. It is such a pathetic sight to hear the perpetrators say that they hated how the victim was dressed or how the victim was with her boyfriend, etc. By giving such disgusting reasons and turning it into a hate crime for an utterly unreasonable

crime, we can see these criminals' sickening and horrible mindset. Even the series has clearly portrayed that side, and it leaves a mark in everyone's mind.

## **CONCLUSION**

What happened on the night of December 16, 2012, shook the entire country. That day revealed the horrific side of violent crimes. Rape is one of the most horrible things that can happen to someone. To go through the brutality and violence of that magnitude is something one can never accept. The feeling of being violated by people you don't know, and sometimes someone close to you could destroy a person completely and even kill them. Rape can never be justified. People in our society sometimes blame the victim's dress, way of talking and even the time for justifying what happened. Even now, society normalizes rape because people feel that women should take care of themselves and be responsible about what happens to them. But rape is a gender-neutral crime and can happen to anyone. Anyone can be violated sexually and what happens to them is never their fault. What happened to Nirbhaya cannot be justified. Whatever reasons the perpetrators came up with that led to this horrific crime cannot be reasonable. Every detail of the crime was disturbing, and knowing that it happened to someone makes it more heartbreaking.

## REFERENCES

- Bacchan v. The State of Punjab, 2 SCC 684 (Supreme Court 1980).
- Dixit, S. (2012, December 21 ). (CNN-IBN, Interviewer).
- Edmunds, E., & Gupta, A. (2016). Headline violence and silenced pleasure. *Reproductive Health Matters*, 126-140.
- Gangoli, G. (2011). Controlling women's sexuality: rape law in India. In G. Gangoli, *International approaches to rape* (pp. 101-120). Bristol University Press; Policy Press.
- Ghosal, S. G. (2009). SOCIO-POLITICAL DIMENSIONS OF RAPE. *The Indian Journal of Political Science*, 107-120.
- Karp, A., Marwah, S., & Manchanda, R. (2015). *Unheard and Uncounted: Violence against Women in India*. Small Arms Survey.
- Mehta, R. (Director). (2019). *Delhi Crime* [Motion Picture].
- Prajeet Kumar Singh v. The State of Bihar, Appeal (crl.) 1621 of 2007 (Supreme Court 2007).
- Snow, E. N. (1994). Self-Blame and Blame of Rape Victims. *Public Affairs Quarterly*, 377-393.
- Steketee, G., & Austin, A. H. (1989). Rape Victims and the Justice System: Utilization and Impact. *The University of Chicago Press*.
- Wallby, S., Olive, P., Towers, J., Francis, B., & Strid, S. (2015). Culture, media and education. In S. Wallby, P. Olive, J. Towers, B. Francis, S. Strid, A. Krizsán, . . . J. Armstrong, *Stopping rape*. Bristol University Press; Policy Press.