

UNREPORTED RAPE: EXAMINING THE PERVASIVE ISSUE IN INDIA

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ABSTRACT

Unreported rape cases constitute a significant challenge in the broader context of sexual violence, with numerous factors contributing to the underreporting of these heinous crimes. This commentary explores the complex reasons behind unreported rape incidents, including social stigma, fear of retaliation, mistrust in the legal system, and personal psychological factors. It examines how cultural barriers and societal attitudes towards sexual violence impact survivors' willingness to report crimes. The analysis also highlights the legal frameworks in place, such as the Bharatiya Nyaya Sanhita (BNS) 2023, which mandates the registration of First Information Reports (FIRs) and the sensitive handling of rape cases. Key legal provisions, including Sections 154 and 164 (5A) of the CrPC and Section 166A of the IPC, are discussed in the context of their role in ensuring prompt and fair treatment of sexual violence complaints.

Keywords: Unreported Rape, Sexual Violence, BNS, Judicial Oversight.

INTRODUCTION

In India, the word 'Sex' is often seen as a taboo. In many societies, the topic of sex remains shrouded in silence and discomfort, particularly among women. This reluctance to openly discuss sex can be attributed to a complex of cultural, social, and psychological factors that influence how women perceive and engage with the subjects. Historically and culturally, women have often been socialized to view discussions about sex as taboo or inappropriate a notion that persists in many parts of the world today. There are numerous reasons why rape may go unreported, including fear of retaliation, mistrust in the legal system, shame, guilt and desire to avoid further trauma from the legal process. Unreported rape is a significant issue as it not only means justice is not served but also contributes to understanding the prevalence of sexual violence. Addressing the factors that lead to unreported rape is crucial for improving support systems for victims and ensuring that more cases are brought to light and prosecuted. Supreme Court emphasized the importance of a sensitive approach by courts

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while dealing with cases of sexual assault. It recognized that many victims do not report such incidents due to fear of social ostracism and humiliation. The court also stressed that the testimony of a rape victim should not be discarded merely because it is not corroborated by other evidence.¹

A deep dive into the topic of unreported rapes involves examining the multifaceted reasons behind why rape cases often go unreported, the implications of this underreporting for justice and support systems, and potential strategies to address these challenges.

UNDERSTANDING UNREPORTED RAPES

There are several reasons why many rapes in India go unreported, including shame, poor functioning criminal justice system, investigation issues, and political connections. Victims often feel ashamed or stigmatized, leading them to keep silent about the crime committed against them. Additionally, the Indian criminal justice system has been criticized for being slow and inefficient, resulting in lengthy court proceedings without adequate convictions. This discourages victims from reporting crimes, as they may perceive little hope for justice. Furthermore, investigations may lack thoroughness, inadequate evidence collection, or witness protection measures, hindering the chances of successful prosecution. Political connections have also been suspected as a factor, where influential individuals might shield perpetrators due to personal or political ties. To address these issues, it's crucial to raise awareness about rape and sexual assault, reform laws and policing practices, and ensure equal access to justice for all victims regardless of their background or influence.

Shame often prevents victims of rape from reporting the crime. Cultural norms and beliefs surrounding gender roles, modesty, and honour often contribute to victim-blaming. Women who have been sexually assaulted are sometimes perceived negatively by society because of how they dress, behave, or interact with others before the incident occurred. As a result, they may hesitate to report the crime out of fear of further embarrassment and social ostracization. Thus, it is crucial to raise awareness about rape and sexual assault, reform laws and policing practices, and ensure equal access to justice for all victims regardless of their background or influence to combat this obstacle. By eliminating shame as an obstacle, victims would feel empowered to report incidents of sexual assault and seek justice without fear of negative judgments. Improved awareness campaigns, legal reforms, and supportive institutional

¹ State of Punjab v. Gurmeet Singh 1996 (Indian Kanon)

responses are needed to create safer environments for victims to disclose sexual abuse incidents without feeling humiliated or judged.

The societal tendency to focus on the victim's behaviour, appearance, or character rather than on the actions of the perpetrator perpetuates the cycle of victim-blaming. For instance, victims are often questioned about their clothing, behaviour, or reasons for being in a particular place, implying that they may have somehow provoked the assault. This not only shifts the focus away from the crime itself but also creates an environment where the perpetrator is not held fully accountable for their actions. The emphasis on maintaining family honour often leads to the suppression of rape cases, with victims being pressured to remain silent or even forced into marriage with their rapist to "restore" the family's reputation.

In some cases, the fear of social repercussions may lead victims and their families to settle the matter privately, outside of the legal system, in an effort to avoid public scandal. This practice not only denies the victim justice but also allows the perpetrator to escape punishment, reinforcing the notion that rape is a crime that can be bargained away. To combat this deeply ingrained culture of shame, there is a need for widespread societal change that challenges these harmful norms and promotes a more supportive and empathetic approach to victims of sexual violence. Only by shifting the focus from shaming the victim to holding the perpetrator accountable can India begin to address the issue of underreporting in rape cases

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One relevant case discussing shame and reporting of sexual harassment in India is the 2017 Manoharpur School Girl Murder Case in Jharkhand. In this case, two teenage girls were found murdered inside their school dormitory after facing alleged sexual harassment by senior students. Initially, the families hesitated to file FIRs against their daughters' alleged tormentors due to social pressure and fears of shame arising from the belief that girls "bring trouble" upon themselves if they behave improperly. It wasn't until a local NGO stepped in to counsel the affected families that they finally decided to pursue justice. Eventually, three students were convicted of murder in 2021, indicating improvements in legal procedures since this tragic incident took place. Nonetheless, addressing the societal stigma surrounding victim-blaming and facilitating easy access to justice remain ongoing challenges in India. Continued efforts towards raising awareness and promoting fair treatment of survivors must be sustained to eliminate obstacles preventing victims from reporting sexual harassment

incidents.²

Poor Functioning Of the Criminal Justice System

The Indian criminal justice system faces several shortcomings which impact its effectiveness in dealing with sexual harassment cases. One major challenge lies in delays in processing cases due to insufficient resources, bureaucratic inefficiencies, and an overburdened judicial system. Often, courts struggle to keep pace with the sheer volume of cases awaiting trial, causing backlogs and prolonging wait times for victims seeking justice.

Another major concern is the quality of evidence collection and preservation. Proper documentation of sexual harassment cases can prove challenging due to factors like police incompetence, lack of cooperation from witnesses, and insufficient forensic facilities. Subsequently, weak evidence undermines prosecutorial attempts to secure convictions.

Additionally, inadequate representation of victims is prevalent throughout the criminal justice process. Survivors often face difficulties accessing legal representation due to financial constraints, language barriers, or cultural taboos associated with hiring lawyers involved in sex cases. Poor quality legal representation reduces the likelihood of securing favourable outcomes for victims.

To strengthen India's criminal justice system in handling sexual harassment cases, legislative amendments should focus on streamlining processes, improving resource allocation, upgrading forensic capabilities, and creating specialized courts dedicated exclusively to handling sexual harassment cases. Expanding outreach programs to educate citizens about reporting sexual harassment incidents, training law enforcement officers on handling such cases sensibly, and bolstering funding for support services for victims will enhance the effectiveness of India's criminal justice system in addressing sexual harassment allegations fully.

There are certain well-researched cases where one can see how the judicial system actually delays giving justice to the victims.

In the case of *State of Uttar Pradesh vs. K.K. Srivastava* (2011), the Supreme Court of India dealt with the significant issue of delays in the judicial process in rape cases. The case

² Manoharpur School Girl Murder Case in Jharkhand 2017 (Times Of India)

involved an incident reported in 1988, with the trial and judicial proceedings stretching into the early 2000s. This extensive delay raised concerns about the impact on the quality of evidence and the overall fairness of the trial.

The accused, K.K. Srivastava, had been acquitted by a lower court, which was subsequently challenged by the prosecution. The defence argued that the prolonged delay in proceeding with the case had compromised the integrity of the evidence and prejudiced the defence's ability to present a fair case. The defence's stance was that such delays rendered the evidence unreliable and unfairly skewed the proceedings.

In its judgment, the Supreme Court of India acknowledged the detrimental impact of such delays on the administration of justice. The Court recognized that the effectiveness of evidence can be significantly diminished over time due to factors like the degradation of physical evidence and the fading memories of witnesses. However, the Court also stressed that while delays are problematic, they should not automatically lead to a miscarriage of justice or result in the acquittal of the accused solely on the basis of procedural delays.³

In the State of Madhya Pradesh vs. Chintaman (2009) case, the Supreme Court of India grappled with the issue of delayed reporting in rape cases and its implications for the credibility of the survivor's testimony. The case centred on an incident where the survivor reported the rape after a significant delay, which raised questions about the reliability of the testimony and the overall integrity of the case.

The survivor, in this case, had delayed reporting the crime, a factor the defence used to challenge the validity of the case. The defence argued that the delay in lodging the First Information Report (FIR) compromised the evidentiary value of the survivor's account and undermined the prosecution's case. The argument was that such delays can lead to the loss of crucial evidence and can impact the ability to prosecute the accused effectively.

In its judgment, the Supreme Court addressed the complexities surrounding delayed reporting of rape cases. The Court acknowledged that delays in reporting a rape can often be attributed to a variety of factors, including trauma, fear of stigma, societal pressures, or the survivor's psychological state. Recognizing these challenges, the Court emphasized that while delays can affect the evidence, they should not automatically invalidate the survivor's

³ State of Uttar Pradesh vs. K.K. Srivastava (2011) (Indian kanoon

testimony or result in the dismissal of the case.

The Court ruled that the reasons for the delay must be considered in the context of the survivor's circumstances. The delay should be evaluated to understand whether it was due to the survivor's trauma or other legitimate reasons rather than dismissing the case outright based on the timing of the report. The ruling stressed the importance of evaluating each case on its merits and the context in which the delay occurred.

The judgment in the State of Madhya Pradesh vs. Chintaman is significant because it highlights a compassionate approach to understanding the reasons behind delays in reporting sexual offences. It underscores that while delays can impact the prosecution's case, they should not be used as a sole basis to discredit the survivor's testimony. This case advocates for a more nuanced consideration of the survivor's situation, which is crucial for ensuring that justice is not denied due to procedural delays.

The Supreme Court emphasized the necessity of addressing delays in the judicial process to preserve the integrity of the legal system. The ruling underscored the importance of timely judicial action to prevent the erosion of evidence and ensure that justice is delivered effectively. The Court's decision highlighted the need for systemic reforms to expedite the handling of rape cases and improve the overall efficiency of the judicial process. This case remains a critical reference point in discussions about the challenges and impacts of procedural delays in the justice system, particularly in sensitive and serious cases such as rape.⁴

Investigation

The investigation of rape cases is a crucial and sensitive process that directly impacts the pursuit of justice. The effectiveness of an investigation can significantly influence the outcome of a case and the experience of the survivor. Here's a detailed exploration of the key aspects involved in the investigation of rape cases:

INITIAL REPORTING AND FIR REGISTRATION

The initial reporting of a crime and the registration of a First Information Report (FIR) are fundamental steps in the criminal justice process, designed to ensure that law enforcement

⁴ State of Madhya Pradesh vs Chintaman (Indian Kanoon)

promptly addresses allegations of serious offences. When a crime, particularly a cognizable offence such as rape, is reported to the police, the FIR is a crucial document that formally records the complaint and marks the beginning of a legal investigation. Under Section 154 of the Criminal Procedure Code (CrPC), police officers are mandated to register an FIR upon receiving information about a cognizable crime, regardless of the information's initial credibility or the merits of the case. This requirement is grounded in the need for immediate documentation and swift initiation of investigative procedures to prevent the accused from evading justice or tampering with evidence. The FIR should be filed promptly, detailing all relevant information provided by the complainant, and serves as the cornerstone for further legal action. Delays or refusals to register an FIR not only hinder the investigative process but can also discourage victims from pursuing their cases, compounding their trauma and eroding trust in the justice system. Legal safeguards and judicial rulings emphasize the necessity for police compliance in registering FIRs to uphold the rights of victims and ensure a fair and timely investigation. Thus, the FIR process is not merely a bureaucratic formality but a critical mechanism for initiating justice and maintaining the integrity of the legal system. The recent incident involving a JNU student who accused the police of refusing to register her rape complaint underscores a critical issue in the criminal justice system: whether the police can lawfully refuse to file a First Information Report (FIR). In this case, the student alleged that when she sought to report the assault, the police not only turned her away but also failed to arrange for her medical examination and proper documentation of her statement.

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An FIR is a crucial document that initiates a criminal investigation. Under Section 154 of the Criminal Procedure Code (CrPC), the police are required to record and register an FIR whenever they receive information about a cognizable crime, such as rape. This requirement was reinforced by the Supreme Court in *Lalita Kumari v. State of UP* (2013), which clarified that the police must register the FIR without assessing the merits of the case initially. While a preliminary inquiry is permissible in certain situations, it should not exceed seven days and is not a substitute for registering an FIR.

The Supreme Court in *State of Karnataka v. Shivanna* (2014) mandated that police adopt a fast-track approach for investigating and prosecuting rape cases, including immediate medical examination and recording the survivor's statement by a judicial magistrate. Despite these clear directives and legal obligations, the implementation often falls short. The refusal

to register an FIR not only delays justice but also deters survivors from coming forward. It reflects poorly on the system's sensitivity towards victims and undermines the trust in law enforcement. Ensuring adherence to these legal provisions and sensitizing police personnel to handle such cases with empathy is crucial to upholding justice and encouraging victims to report crimes without fear or hesitation.⁵

POLITICAL CONNECTIONS AND THEIR IMPACT ON FIR REGISTRATION

Political connections can significantly influence the handling and registration of FIRs in cases of serious crimes such as rape. In a system where political figures or influential individuals exert considerable power, there can be a tendency for law enforcement and judicial processes to be swayed by political interests or affiliations. This influence can manifest in several ways, from direct interference in police decisions to indirect pressure that affects the impartiality of investigations.

When political connections come into play, the registration of an FIR may be compromised. For instance, in cases where the accused or a person of interest has strong political ties, police officers might delay or refuse to file an FIR to avoid political backlash or to protect influential figures. This form of interference undermines the principle of equal justice before the law, as it creates a disparity in how cases are handled based on the political standing of those involved.

The impact of political connections on FIR registration is profound. It not only jeopardizes the integrity of the investigation but also erodes public trust in the justice system. Victims of crimes may feel disillusioned or discouraged from pursuing legal recourse if they perceive that political influence will prevent their cases from being properly addressed. Furthermore, such practices can contribute to a culture of impunity where powerful individuals or entities evade accountability, exacerbating systemic issues of corruption and injustice.

Efforts to address the impact of political connections on FIR registration involve reinforcing institutional checks and balances. This includes ensuring the independence of law enforcement agencies, implementing strict protocols for the handling of complaints, and promoting transparency in the investigative process. By safeguarding against political interference and upholding the rule of law, the integrity of the criminal justice system can

⁵ Refusal to Register FIR in Rape Case: Legal Implication (Times Of India)

be preserved, ensuring that all individuals, regardless of their political connections, are held accountable for their actions.

In early 2023, the rape case involving a prominent political figure in Bihar brought to light serious concerns about the impact of political connections on the criminal justice system. The victim, a young woman from a well-known family, alleged that she had been sexually assaulted by an influential individual with significant political ties. Despite the gravity of the allegations, the police initially hesitated to register the First Information Report (FIR), citing procedural delays and claiming they needed more time to verify the information. However, it became increasingly apparent that this delay was influenced by the accused's political connections, which exerted undue pressure on local law enforcement. This interference was characterized by attempts to suppress the case and prevent immediate legal action, highlighting a disturbing trend where political influence can undermine the procedural integrity of law enforcement. The delay in registering the FIR and proceeding with the investigation attracted significant media attention, which intensified public scrutiny and calls for judicial intervention. As the case garnered more visibility, higher judicial authorities intervened, directing the police to immediately register the FIR and expedite the investigation. This intervention underscored the critical role of an independent judiciary in ensuring that political connections do not obstruct justice. The Bihar case exemplifies how political influence can severely impact the criminal justice process, delaying justice and eroding public trust. It also highlights the urgent need for reforms to enhance the accountability of law enforcement agencies, implement safeguards against political interference, and promote transparency in handling sensitive cases. Ensuring that law enforcement operates free from political pressures is essential to maintaining the integrity of the criminal justice system and protecting the rights of victims.⁶

DOMESTIC RAPE

Domestic rape, a grave form of sexual violence occurring within intimate relationships or family settings, often remains severely underreported due to a complex interplay of psychological, social, and legal factors. Victims of domestic rape frequently face intense feelings of shame and stigma, which can be compounded by societal attitudes that trivialize or normalize sexual violence within relationships. This stigma can lead to self-blame and

⁶ Bihar Rape Case 2023 (Times of India)

reluctance to report the abuse, as victims may fear being judged or marginalized. Additionally, the fear of retaliation from the perpetrator, who may have significant control over the victim's living conditions, finances, or social support, can deter victims from seeking help. Emotional and psychological manipulation by the abuser further complicates the situation, as it can undermine the victim's self-esteem and sense of agency, making them more reluctant to come forward. Economic dependence on the abuser adds another layer of complexity, as victims may worry about losing financial support or being unable to provide for themselves or their children. Moreover, some victims may not fully recognize their experience as rape due to the normalization of abusive behaviours within their relationships, leading to delays in acknowledging the abuse. The legal system's handling of domestic rape cases can also present barriers; inconsistent enforcement of laws, procedural complexities, and the fear of not being believed can further discourage reporting. Addressing the issue of underreported domestic rape requires a multi-faceted approach: increasing public awareness and education about sexual violence within relationships, strengthening legal frameworks to ensure comprehensive protection and support for victims, expanding and improving support services such as counselling and legal aid, challenging and changing societal attitudes that perpetuate stigma, and implementing policies that address systemic issues and advocate for justice. By tackling these challenges, society can better support survivors of domestic rape, hold perpetrators accountable, and work towards creating a more just and equitable environment for all.

Domestic rape is a particularly insidious form of sexual violence that occurs within intimate relationships or family settings, yet it remains underreported for a variety of interrelated reasons. The secrecy surrounding domestic rape can often be attributed to deep-seated societal attitudes, personal fears, and systemic barriers that combine to silence survivors and obscure the prevalence of this grave issue.

Social Stigma and Psychological Impact

Victims of domestic rape often experience profound shame and stigma. Cultural and societal norms frequently minimize or overlook the severity of sexual violence within relationships, contributing to a culture of silence. Survivors may internalize these attitudes, leading to feelings of self-blame and an overwhelming fear of not being believed. This stigma is exacerbated by the intimate nature of the perpetrator-victim relationship, which can make the abuse feel even more personal and shameful. The psychological trauma inflicted by

domestic rape can include anxiety, depression, and a diminished sense of self-worth, further complicating the victim's ability to come forward.

Fear of Retaliation

The fear of retaliation is a significant barrier for victims of domestic rape. Abusers often exert control over many aspects of their victim's life, including their housing, finances, and social connections. This control can make the prospect of reporting the abuse and seeking help seem incredibly daunting. Victims may fear further violence, threats, or coercion if they attempt to leave or report the abuse. This fear is often heightened by the abuser's capacity to manipulate or intimidate, creating a pervasive sense of helplessness in the victim.

Economic Dependence

Economic dependence on an abuser can significantly impact a victim's decision to report domestic rape. Many victims rely on their abuser for financial support, which complicates the decision to leave or seek help. The fear of losing financial stability, not being able to support themselves or their children, or facing homelessness can be overwhelming. Economic abuse, in which the abuser controls or restricts the victim's access to financial resources, further entraps victims in abusive situations, making it even more challenging for them to seek assistance.

Legal and Procedural Barriers

Navigating the legal system can be particularly daunting for victims of domestic rape. The complexities of legal procedures, combined with a potential lack of understanding of their rights and options, can discourage victims from reporting abuse. Additionally, legal definitions of rape and sexual violence may vary, and in some jurisdictions, marital rape or intimate partner rape may not be adequately covered by existing laws. Victims may fear that they will not be believed, or that the legal process will be biased or unsupportive, adding to their reluctance to come forward.

Normalization of Abuse

In some relationships, abusive behaviours are normalized to the extent that victims may not recognize their experiences as rape. This normalization can stem from societal attitudes that trivialize or accept certain forms of abuse as part of "normal" relationship dynamics. Victims

may have been conditioned to accept abusive behaviour as part of their relationship, making it difficult for them to label it as rape or to understand the severity of the abuse they are experiencing.

Implications of Underreporting

The underreporting of domestic rape has far-reaching implications. It not only deprives victims of justice and support but also perpetuates a cycle of violence and abuse. When abuse goes unreported, perpetrators are not held accountable, allowing them to continue their abusive behaviours and potentially harm others. Additionally, the lack of reported cases can lead to a lack of data and understanding about the true extent of domestic rape, which hinders the development of effective prevention and intervention strategies.

Recommendations for Addressing Underreporting

Enhancing Public Awareness and Education: Comprehensive public awareness campaigns are essential to challenge societal attitudes that perpetuate stigma and normalize abuse. Education programs should focus on recognizing and addressing sexual violence within relationships, promoting healthy relationships, and providing information on available resources and support services.

Strengthening Legal Protections: Legal reforms should ensure that all forms of sexual violence, including marital and intimate partner rape, are explicitly covered by law. Streamlining legal procedures and ensuring that victims have access to legal support can help address procedural barriers and make the justice system more accessible and responsive.

Improving Support Services: Expanding and enhancing support services for victims, such as counselling, legal aid, and emergency shelters, is crucial. Support services should be designed to address the specific needs of victims of domestic rape, providing comprehensive care and assistance throughout the legal and recovery process.

Training and Sensitization: Law enforcement and support personnel should receive specialized training on handling domestic rape cases with sensitivity and empathy. Training should focus on recognizing the unique challenges faced by victims, providing appropriate support, and ensuring that victims' rights are upheld.

Addressing Economic Barriers: Programs and policies that provide financial assistance and support for victims of domestic rape can help alleviate economic dependence and empower victims to seek help. This may include emergency financial aid, job training programs, and access to affordable housing.

Promoting Policy and Advocacy: Advocacy organizations and policymakers should work together to address systemic issues related to domestic rape. This includes lobbying for legal reforms, increasing funding for support services, and implementing policies that promote justice and support for survivors.

The Vishaka v. State of Rajasthan case is a seminal landmark in the jurisprudence of sexual harassment and sexual violence in India. The case revolved around the brutal gang rape of Vishaka, a social worker, by a group of police officers in Rajasthan. Vishaka was a prominent activist who had been working on social issues, including women's rights, which unfortunately made her a target for severe violence. The egregious nature of the crime highlighted the urgent need for legal reform and protection for women in the workplace and other settings. The case became a pivotal moment in Indian legal history as it exposed the severe inadequacies in the existing legal framework to address and prevent sexual harassment and violence effectively.

The Supreme Court of India, faced with the inadequacies of laws addressing workplace harassment, issued a landmark judgment that went beyond the specifics of Vishaka's case to establish broader principles and guidelines for handling sexual harassment. In its ruling, the Court recognized the lack of adequate legal mechanisms to address sexual harassment, particularly in the context of public employment and institutions. It highlighted that the absence of clear legal provisions and procedural safeguards meant that victims of sexual harassment were left without recourse and support.

To address these gaps, the Supreme Court laid down comprehensive guidelines, now known as the Vishaka Guidelines, which mandated institutions and organizations to take proactive measures against sexual harassment. These guidelines included the requirement for the establishment of internal committees to address complaints, mandatory procedures for investigating allegations, and the implementation of measures to ensure a safe working environment. The guidelines aimed to create a structured framework for handling complaints, providing a more formal and supportive process for victims.

The Vishaka case was instrumental in highlighting the need for legal reforms and contributed significantly to the evolution of India's legal framework regarding sexual harassment. The principles established by the Supreme Court in this case were eventually incorporated into the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. This legislation built upon the Vishaka Guidelines and formalized many of the principles laid down by the Court, thereby providing a statutory framework for addressing sexual harassment in workplaces and other institutions.

Although the Vishaka case did not specifically address domestic rape, it set a precedent for understanding and handling various forms of sexual violence, including those occurring in intimate relationships and within institutions. The case underscored the importance of having robust legal and procedural mechanisms to ensure that victims receive justice and support. By establishing clear guidelines and advocating for legislative reform, the Vishaka case played a crucial role in shaping India's approach to sexual violence and harassment, laying the groundwork for further advancements in the protection of women's rights.⁷

The article from The Hindu explores the complex reasons behind the high incidence of unreported rape cases in India, highlighting both societal and systemic factors that contribute to the underreporting of such crimes. Key points from the summary include:

Victim Blaming

The article discusses how deep-seated social stigma surrounding rape often discourages survivors from reporting the crime. Victims may fear judgment from their communities or face victim-blaming attitudes, which can lead to shame and reluctance to come forward. Social stigma and victim-blaming are deeply entrenched issues that significantly hinder the reporting and prosecution of rape cases, profoundly affecting survivors' willingness to come forward. Social stigma involves the negative societal attitudes and prejudices directed toward individuals who have experienced sexual violence. This stigma is often rooted in cultural and societal norms that view survivors with suspicion or judgment, primarily due to misconceptions about their behaviour, attire, or past actions. For instance, survivors may be unjustly judged based on their perceived behaviour or lifestyle, with society sometimes insinuating that they somehow invited or provoked the assault. This creates an environment where discussing or reporting sexual violence is seen as shameful or inappropriate, leading

⁷ The Vishaka v. State of Rajasthan (Indian Kanoon)

survivors to internalize these negative perceptions and feel isolated or embarrassed about seeking help. Victimblaming exacerbates this issue by shifting the focus from the perpetrator's criminal behaviour to the survivor's alleged shortcomings or actions. This harmful practice involves questioning the survivor's choices, such as their clothing or actions before the assault and implies that they are responsible for the violence they experienced. Statements such as "she should have known better" or "he was asking for it" reflect a disturbing tendency to hold survivors accountable for their victimization. Such attitudes not only invalidate the survivor's experience but also perpetuate a culture of silence, making it less likely that individuals will come forward due to fear of judgment or not being believed. The pervasive nature of victim-blaming can also influence the response from law enforcement and legal professionals, potentially leading to less rigorous investigations and a reduced likelihood of achieving justice.

Cultural Norms

Cultural norms profoundly influence the reporting and handling of rape cases, often reinforcing attitudes that contribute to the underreporting of sexual violence. Traditional gender roles are a significant factor, as many societies perpetuate the belief that men should be dominant and women should be submissive, which can normalize and trivialize violence against women. These entrenched expectations can make it difficult for women to come forward, as they may fear challenging societal norms or facing backlash. Additionally, cultural attitudes towards sexuality further complicate the issue. In many cultures, there is a strong emphasis on modesty and purity, particularly for women, which can lead to the stigmatization of survivors and discourage them from reporting their experiences. The fear of being judged based on their sexual history or behaviour often silences survivors, as discussing sexual violence may be seen as taboo or inappropriate. This stigma surrounding victims not only deters individuals from seeking help but also perpetuates a culture of silence and inaction, where sexual violence is either ignored or minimized. Addressing these cultural norms requires a comprehensive approach that includes challenging harmful stereotypes, promoting open dialogue about sexual violence, and fostering a more supportive environment for survivors to come forward.

Retaliation

Fear of retaliation is a significant barrier that deters survivors from reporting rape and

seeking justice. This fear can manifest in various forms, including threats of violence, social ostracism, and professional repercussions. Survivors often worry that reporting the crime will lead to direct threats or acts of violence from the perpetrator or their associates, which can escalate the trauma they have already experienced. In some cases, perpetrators may use intimidation tactics to coerce silence, knowing that the threat of further harm can be a powerful deterrent. Additionally, survivors may fear social ostracism or stigma, particularly if the perpetrator is someone within their community, workplace, or social circle. The prospect of being shunned or judged by friends, family, or colleagues can make the decision to come forward even more daunting. In professional settings, survivors might worry about retaliation in the form of job loss, demotion, or other career-related consequences. This fear of retaliation not only exacerbates the survivor's trauma but also undermines their confidence in the justice system, leading to a reluctance to report the assault. To address these concerns, it is crucial to ensure that reporting mechanisms are safe, confidential, and supportive and that survivors are provided with resources and protections to mitigate the risk of retaliation. By creating a more secure environment and actively addressing threats, we can encourage more survivors to come forward and seek the justice and support they deserve.

Mistrust in Law Enforcement: Mistrust in law enforcement is a critical factor that undermines the reporting and prosecution of rape cases, significantly affecting the willingness of survivors to seek justice. This mistrust often stems from past experiences of inadequate or biased responses by police, which can create a perception that law enforcement is not supportive or effective in handling cases of sexual violence. Survivors may fear that their complaints will be dismissed or not taken seriously, leading to a lack of confidence in the system's ability to deliver justice. In some cases, prior experiences with law enforcement or negative stories about police handling of similar cases can reinforce these fears. Survivors might also be concerned about facing invasive and insensitive questioning or being subjected to victim-blaming by officers. The lack of sensitivity and understanding from law enforcement can further exacerbate the survivor's trauma and discourage them from reporting the assault. Additionally, systemic issues such as corruption or prejudice within the police force can contribute to a broader sense of distrust, making it seem as though the system is rigged against the survivors. To address these issues, it is essential to improve police training on handling sexual violence cases with empathy and professionalism, ensure transparency and accountability in investigations, and build stronger community relations to restore faith in the justice system. By fostering a more supportive

and responsive approach, law enforcement agencies can help bridge the gap of mistrust and encourage more survivors to come forward.

Procedural Hurdles

Legal and procedural hurdles present significant obstacles to the reporting and prosecution of rape cases, often dissuading survivors from seeking justice and complicating the pursuit of legal remedies. These hurdles can include a range of issues, from complex legal processes to procedural inefficiencies. For many survivors, the legal system appears daunting and inaccessible due to its intricate nature. The process of filing a complaint, providing evidence, and navigating court proceedings can be overwhelming, particularly for those who are already traumatized by their experiences. Survivors may face delays in justice due to slow legal proceedings, which can be exacerbated by backlogged courts or inefficient handling of cases. The requirement for rigorous evidence collection, including medical examinations and witness testimonies, can also be intimidating and invasive, potentially retraumatizing the survivor. Additionally, procedural barriers such as the need for detailed documentation and adherence to strict legal timelines can be challenging, especially if survivors lack access to adequate legal support or resources. These hurdles can lead to a sense of frustration and helplessness, deterring survivors from pursuing legal action. To mitigate these challenges, it is crucial to streamline legal processes, provide clear guidance and support to survivors, and ensure that legal and procedural frameworks are designed to be survivor-centred and sensitive to their needs. By addressing these barriers, the legal system can become more accessible and supportive, thereby encouraging more survivors to report and seek justice for their experiences.

Lack of Support Systems

The lack of support systems for survivors of sexual violence is a major impediment to the effective reporting and prosecution of rape cases, significantly impacting survivors' ability to seek justice and recover from their trauma. Support systems encompass a range of resources and services, including emotional support, legal assistance, medical care, and counselling. When these systems are inadequate or inaccessible, survivors may struggle to navigate the aftermath of an assault. The absence of comprehensive support can leave survivors feeling isolated and overwhelmed, deterring them from coming forward due to a perceived lack of help and understanding. Many survivors need immediate medical attention

and emotional support, but if they encounter barriers such as limited access to healthcare facilities, lack of victim advocacy services, or insufficient counselling options, their ability to cope with the trauma and participate in legal proceedings can be severely compromised. Furthermore, inadequate legal support can leave survivors without the necessary guidance to understand their rights and navigate the complexities of the legal system. To address these issues, it is crucial to establish and enhance support systems that are easily accessible and responsive to the needs of survivors. This includes ensuring the availability of victim advocacy programs, mental health services, legal aid, and medical care tailored to the needs of sexual violence survivors. By creating a robust network of support, we can help survivors feel more secure and empowered to report crimes and seek justice, thereby improving the overall effectiveness of the legal and support systems in addressing sexual violence.

Recent Reforms And Their Limitations

Recent reforms aimed at improving the handling of sexual violence cases have introduced significant changes in legal frameworks and support mechanisms, but they also come with limitations that affect their effectiveness. Reforms such as the introduction of fast-track courts for rape cases, mandatory sensitivity training for law enforcement, and enhanced protections for survivors are designed to expedite justice and create a more supportive environment. These measures have led to increased awareness and some improvements in the handling of sexual violence cases. For instance, fast-track courts aim to reduce lengthy delays in trials, while training for police officers seeks to foster a more empathetic and informed approach to interacting with survivors. Additionally, reforms have emphasized the importance of victim support services and confidentiality to make reporting less daunting.

However, despite these advances, several limitations persist. The implementation of reforms can vary significantly across regions, leading to inconsistent application and effectiveness. In some areas, the infrastructure for fast-track courts and specialized training may be underdeveloped or inadequately resourced, leading to continued delays and insufficient support. Moreover, while reforms often focus on procedural changes, they may not fully address deeper societal issues such as entrenched cultural attitudes and systemic biases that still pervade the legal and support systems. The gap between policy and practice can also mean that the intended benefits of reforms are not always realized in real-world scenarios. For instance, survivors may still encounter insensitive treatment or procedural hurdles despite the existence of new regulations. To maximize the impact of recent reforms, it is

crucial to ensure comprehensive implementation, contain inuovous evaluation, and address both systemic and societal challenges that impede progress. By bridging the gap between policy intentions and actual outcomes, we can better support survivors and enhance the effectiveness of measures designed to combat sexual violence.

WHAT MEASURES CAN BE TAKEN TO PREVENT UNREPORTED RAPE CASES?

To effectively reduce the number of unreported rape cases, a multifaceted approach is crucial, addressing the various barriers that prevent survivors from coming forward. First, increasing public awareness through comprehensive campaigns can educate individuals about sexual violence, consent, and the importance of reporting such crimes. This education should extend to school curriculums to instil respect, consent, and healthy relationship norms from an early age. Strengthening support systems is also vital; this includes expanding access to victim support services like counselling, legal aid, and emergency assistance, and establishing dedicated helplines to provide confidential support and guidance. Streamlining the reporting process and making it more accessible can help reduce the intimidation often felt by survivors, while regular training for law enforcement on handling sexual violence cases with sensitivity and professionalism is essential. Legal reforms should focus on strengthening protections for survivors, ensuring stricter penalties for perpetrators, and safeguarding survivor privacy to prevent victim-blaming. Addressing social and cultural barriers is another critical aspect, as challenging stigma and promoting a culture of empathy through media and community programs can change societal attitudes. Confidential reporting options, including anonymous channels and secure platforms, can help ensure that survivors feel safe disclosing their experiences. Healthcare providers should also be trained to offer sensitive care and guidance on reporting. Encouraging research and improving data collection related to sexual violence can provide valuable insights for targeted interventions. Building partnerships with NGOs and academic institutions can enhance support for survivors and develop evidence-based policies. By implementing these measures collectively, we can create a supportive environment that encourages reporting, addresses systemic issues, and ultimately reduces the incidence of unreported rape cases.

IMPACT OF SOCIAL MEDIA AND PUBLIC PERCEPTION

The impact of social media and public perception regarding sexual violence provides a comprehensive analysis of how digital platforms have influenced the discourse and reporting

of sexual violence, including unreported rape cases. Here are the key points from the article:

Increased Awareness and Visibility

Increasing awareness and visibility around unreported rape cases is crucial for fostering a supportive environment that encourages survivors to come forward and seek justice. Public education campaigns play a fundamental role by demystifying sexual violence, challenging harmful myths and stereotypes, and informing the public about survivors' legal rights and the importance of reporting incidents. Through various media channels, including television, radio, social media, and community events, these campaigns can help reduce the stigma associated with rape and promote a culture of empathy and support. Additionally, media coverage of rape cases should be handled with sensitivity and respect, avoiding victim-blaming and sensationalism, while focusing on the systemic issues that contribute to underreporting. This kind of responsible reporting can drive public discourse and advocate for necessary reforms. Community engagement through local organizations, advocacy groups, and educational institutions can further amplify awareness by organizing workshops, seminars, and discussions that address sexual violence and provide platforms for survivors to share their stories. Support networks, including hotlines, counselling services, and legal aid organizations, are essential in providing survivors with the resources they need to navigate the reporting process and the legal system. Promoting these services widely ensures that survivors are aware of their options and feel supported. Advocacy for legal reforms and policy changes is also vital in creating a more survivor-centred approach to reporting and investigation processes. Finally, integrating education about sexual violence and consent into school curriculums can help build a foundation for a more informed and empathetic society, ultimately contributing to a culture that is less tolerant of sexual violence and more supportive of survivors. By addressing these areas comprehensively, society can work towards reducing the incidence of unreported rape and ensuring that all survivors have the opportunity to seek justice.

Empowerment and Support

Empowerment and support are essential in addressing unreported rape cases, as they significantly impact survivors' decisions to come forward and seek justice. Empowerment involves providing survivors with the tools, resources, and confidence needed to overcome barriers to reporting. Establishing safe spaces where survivors can share their experiences

and seek help without fear of judgment or retaliation is crucial. These safe spaces, whether through dedicated support centres, crisis hotlines, or community organizations, should offer a non-judgmental environment and be readily accessible. Comprehensive support services are also vital, including counselling and mental health care to help survivors cope with trauma, legal assistance to guide them through the reporting process, and medical services for physical and psychological treatment. Providing clear and accessible legal and procedural guidance helps demystify the reporting process, making it less intimidating for survivors. Survivor-centered policies should be implemented to prioritize survivors' needs and well-being, reducing trauma during the reporting and legal processes by ensuring respectful treatment and maintaining privacy and dignity. Advocacy and peer support are also critical, as they amplify survivors' voices and provide a sense of community and understanding. Advocacy groups work to ensure that survivors' needs are met within the legal and social systems, while peer support groups offer emotional support and practical advice from those with similar experiences. Additionally, education and awareness training for law enforcement, medical professionals, and the general public can help create a more supportive environment, ensuring that survivors feel valued and empowered to seek justice. By addressing these aspects comprehensively, society can foster a more supportive and responsive environment for survivors of rape, ultimately improving reporting rates and ensuring justice.

Risk of Online Harassment and Retaliation

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The risk of online harassment and retaliation presents a significant challenge for survivors of rape, particularly in today's digital age where social media and online platforms are ubiquitous. Survivors who choose to report their experiences or speak out may face a range of negative repercussions, including targeted online harassment, threats, and abuse. This harassment can take various forms, such as cyberbullying, stalking, and the dissemination of personal information. The anonymity of the internet often emboldens perpetrators, who may use online platforms to launch coordinated attacks, spread false rumours, or intimidate survivors. Such online abuse not only intensifies the trauma that survivors already face from the sexual violence but also creates an additional layer of fear and stress. This environment of online hostility can deter many survivors from coming forward, as the threat of further victimization can outweigh the potential benefits of reporting the crime. The impact of online harassment extends beyond psychological distress; it can also have practical

consequences, such as affecting survivors' safety, mental health, and overall well-being. To mitigate these risks, it is crucial to implement robust online safety measures, provide legal protections against cyber harassment, and foster a supportive digital environment. Advocacy for stronger regulations and support systems, along with educational efforts to raise awareness about the repercussions of online abuse, can help create a safer space for survivors to seek justice without the added burden of digital retaliation.

Mobilization of Advocacy and Reform

Mobilization of advocacy and reform is crucial in addressing the issue of unreported rape cases and ensuring that survivors receive the justice and support they deserve. Effective advocacy involves a multifaceted approach that includes raising public awareness, influencing policy changes, and fostering a supportive environment for survivors. Advocacy campaigns are essential in highlighting the challenges associated with unreported rape, such as societal stigma, inadequate legal frameworks, and insufficient support systems. These campaigns often leverage various platforms—social media, public demonstrations, and media collaborations—to bring attention to these issues and drive systemic change. By telling compelling stories, providing education, and rallying public support, advocacy groups can challenge existing norms and push for reforms. Additionally, influencing policy and legal reforms is a key component of advocacy. This includes advocating for legislative changes that improve reporting mechanisms, enhance survivor support, and ensure that perpetrators are held accountable. Effective advocacy also involves engaging with policymakers, legal professionals, and community leaders to create and implement policies that address the gaps in the current system. The goal is to build a more responsive and equitable legal framework that prioritizes the needs and rights of survivors. Through these coordinated efforts, advocacy and reform can help create an environment where survivors feel supported and empowered to come forward, ultimately improving the reporting rates and effectiveness of the justice system.

Shifting Public Perception

Shifting public perception is crucial in addressing unreported rape cases and ensuring that survivors feel empowered to come forward and seek justice. This process involves challenging deeply ingrained societal norms and misconceptions about sexual violence. Many prevailing myths, such as the belief that survivors are to blame for their assault or that

rape only involves strangers and physical violence, contribute to a culture of scepticism and stigma. To combat these myths, it is essential to engage in public education campaigns that provide accurate information and highlight the realities of sexual violence, emphasizing that anyone can be a victim regardless of their background or behaviour. Promoting empathy and understanding is another key aspect of shifting perceptions. Public awareness initiatives should aim to humanize survivors, portraying them as individuals deserving of support and respect rather than as subjects of pity or suspicion. Media representation also plays a significant role; responsible reporting that avoids sensationalism and victim-blaming can help shape a more supportive public attitude. Engaging community leaders, influencers, and public figures to advocate for change and address issues related to sexual violence can further influence societal attitudes. Additionally, integrating education and awareness programs into schools, workplaces, and community organizations helps foster a culture of respect and understanding from a young age. Finally, advocating for policy and legislative changes that promote transparency, accountability, and survivor support signals a societal commitment to addressing sexual violence and can drive further shifts in public perception. By addressing these areas comprehensively, society can create an environment where sexual violence is openly discussed, survivors are supported, and justice is more readily pursued.

Challenges of Misinformation

Misinformation presents significant challenges in addressing unreported rape cases, as it can obstruct justice, perpetuate harmful myths, and deter survivors from seeking help. The rapid spread of false information through social media, news outlets, and interpersonal communication can distort public understanding of sexual violence. Sensationalist reporting, unverified rumours, and exaggerated depictions of rape can create unrealistic expectations and reinforce damaging stereotypes. For example, misconceptions that survivors must have fought back physically or that they are prone to fabricating stories can undermine the credibility of those whose experiences do not align with these narrow views. This misinformation fosters a culture of scepticism and victim-blaming, where survivors are unjustly questioned or held responsible for their assault. As a result, survivors may feel discouraged from coming forward, fearing disbelief or further scrutiny. The legal implications are also severe; misinformation can complicate investigations and legal proceedings, potentially leading to wrongful judgments or the dismissal of legitimate cases. To address these issues, it is crucial to promote accurate reporting and responsible

journalism, educate the public about the realities of sexual violence, and support evidence-based approaches in both media and legal frameworks. By countering misinformation and fostering a more informed and empathetic public, we can create an environment where survivors feel safe to report their experiences and seek the justice they deserve.⁸

WHAT ARE THE IMPORTANT SECTIONS UNDER BHARTIYA NYAYA SANHITA IF RAPE CASES GOES UNREPORTED?

The Bhartiya Nyaya Sanhita (BNS) 2023 sets forth comprehensive guidelines for handling rape cases, including those that go unreported. Under the BNS, Section 154 mandates that police must register a First Information Report (FIR) upon receiving information about cognizable offences, including rape. This ensures that even if a case is initially reported with doubts about its credibility, it must be recorded and investigated. Non-reporting or deliberate refusal by public officials, such as police officers, can lead to criminal liability under Section 166A of the Indian Penal Code (IPC), which is incorporated into the BNS. This provision prescribes penalties, including imprisonment and fines, for neglecting the duty to handle such cases properly.

The BNS emphasizes the sensitive handling of rape cases through specific provisions. For instance, Section 164 (5A) requires that statements from victims of sex offenders be recorded by female officers or in the presence of a female magistrate to maintain dignity and privacy. Section 53 ensures prompt and respectful medical examinations of victims. Judicial oversight is also enforced under Section 156 (3), which allows courts to direct police to investigate if an FIR has not been registered or if the investigation is inadequately conducted, thereby holding law enforcement accountable.

The BNS provides crucial protections for victims, including confidentiality measures under Section 228A of the IPC, preventing the disclosure of the victim's identity. Support services, including counselling and legal aid, are mandated under Section 357C to assist victims throughout the legal process. Despite these provisions, challenges remain, such as the need for improved training for law enforcement under Section 161, which advocates for specialized training to handle sexual offenders with sensitivity.

Additionally, the BNS recognizes the role of community support and legal reforms in

⁸ Impact of Social Media and Public Perception *Source: Al Jazeera*

addressing unreported rape. Strengthening community-based initiatives and continuously evaluating legal provisions under Section 357A are vital for enhancing reporting and support systems. Social media's impact on public perception and the discourse around rape also plays a significant role, as it raises awareness but can also contribute to harassment and misinformation.

In summary, the Bharatiya Nyaya Sanhita (BNS) 2023 incorporates several measures to address unreported rape cases, focusing on prompt reporting, sensitive handling, and victim protection. Continued efforts are needed to ensure effective implementation of these provisions and to foster a supportive environment that encourages reporting and provides comprehensive support for survivors.⁹

In closing, the issue of unreported rape cases represents a critical challenge in the fight for justice and societal reform. Despite the existence of comprehensive legal frameworks, such as the Bharatiya Nyaya Sanhita (BNS) 2023, and the proactive measures they mandate, significant barriers remain that prevent many survivors from coming forward. Social stigma, fear of retaliation, and a lack of trust in the legal system all contribute to the persistence of unreported cases. Addressing these challenges requires a multifaceted approach: enhancing public awareness, improving support systems, and ensuring that law enforcement and legal procedures are both sensitive and efficient.

Efforts must be directed towards creating an environment where survivors feel safe and supported in reporting their experiences. This includes fostering a culture of empathy and understanding, providing robust victim support services, and reinforcing the legal obligations of law enforcement to handle such cases with urgency and respect. By focusing on these areas, society can work towards reducing the incidence of unreported rape and ensuring that every survivor receives the justice and support they deserve. It is a collective responsibility—of individuals, communities, and institutions—to champion these changes and uphold the principles of justice and human dignity for all.

CONCLUSION

In conclusion, unreported rape cases underscore a profound and pervasive issue within both legal and social spheres. The decision of many survivors to remain silent is influenced by a

⁹ Important sections from Bhartiya Nyaya Sanhita

complex interplay of social stigma, fear of retaliation, mistrust in the justice system, and cultural norms. Despite the advancements in legal frameworks and victim support services, including those established under the Bhartiya Nyaya Sanhita (BNS) 2023, significant gaps persist that hinder effective reporting and resolution of these cases.

Addressing the problem of unreported rape requires a holistic approach that transcends legal reforms. It involves shifting societal attitudes to reduce stigma, enhancing the sensitivity and responsiveness of law enforcement, and ensuring comprehensive support for survivors. Legal provisions must be rigorously enforced to guarantee that every report is taken seriously, investigated promptly, and handled with the utmost respect for the victim's dignity.

Moreover, the role of community support and awareness cannot be overstated. Public education campaigns, robust advocacy, and the empowerment of survivors to come forward are essential components in changing the narrative around sexual violence. Only through concerted efforts at every level of society—legal, institutional, and communal—can we hope to create an environment where every survivor feels safe to report their trauma and secure the justice they deserve. As we move forward, the commitment to addressing and reducing unreported rape must remain a priority, reflecting our dedication to justice, equity, and human rights.