



Between Law and Reality: Assessing the Effectiveness of Criminal Law in Protecting Women in India

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Abstract

Even though there are strong laws in place, like the Indian Penal Code of 1860, the Protection of Women from Domestic Violence Act of 2005, the Criminal Law (Amendment) Act of 2013, and the POCSO Act of 2012, violence against women in India is still on the rise. This paper critically analyses the disparity between the law in theory and its application in practice. It looks at changes in reported crimes, conviction rates, and implementation failures using secondary data from the National Crime Records Bureau (NCRB) for the years 2018 to 2023. The research delineates structural, socio-cultural, and institutional impediments that undermine the efficacy of criminal legislation. It contends that legislative reform, while essential, is inadequate without concurrent investment in police accountability, expedited adjudication, victim support systems, and legal literacy. The study ends with policy suggestions based on evidence.

Keywords: Criminal Law, Women's Protection, NCRB Data, Conviction Rate, Domestic Violence, POCSO, Gender Justice, Implementation Gap.

1. Introduction

India is at a very conflicting place when it comes to gender justice right now. The country's legal system looks robust and growing on paper, with the goal of protecting women. Over the years, a number of important events have changed the course of criminal law reforms. The Mathura rape case (1972) showed that the way consent was understood was very wrong, which led to changes in the legislation about rape. The Bhanwari Devi case (1992) brought attention to sexual harassment at work and led to the creation of the Vishaka Guidelines. The Nirbhaya gang rape case (2012) also caused a lot of anger across the country. This led to the Criminal Law (Amendment) Act, 2013, which made the definition of sexual offenses broader and made the sentences harsher. These changes show that Indian criminal law hasn't stayed the same; instead, it has changed in response to public pressure and feminist criticism. But this progressive legal framework is very different from what women actually experience.

The National Crime Records Bureau (NCRB) says that crimes against women have been steadily and worryingly rising. There were 3,78,236 instances reported in 2018 and 4,61,428 in 2023, which is a rise of more than 22% in just five years. This increase may be partly due to better reporting and awareness, but it doesn't entirely explain how big it is. Instead, it brings up an important question about whether the law really stops crime or gives justice. The major concern of the current research is the disparity between law and reality. Having strong legislation doesn't always mean you will be safe. In practice, the law works through groups like the police, the courts, and government agencies. Even though the law is strong, it doesn't work when these institutions fail. In many cases, victims have a hard time right at the beginning since the police could refuse or delay the filing of First Information Reports (FIRs). Even when cases are reported, the investigation procedure is typically weak, which makes it hard to gather good evidence. Judicial delays make the problem worse because litigation might take years or even decades to settle. Conviction rates, especially in rape cases, are generally less than 20%. This shows that the system is flawed, not just one case. Victims also often experience secondary victimization, which includes social stigma, insensitive questioning, and institutional indifference, all of which make them less likely to seek justice. In this framework, the current study seeks to transcend a solely theoretical comprehension of law. It takes a doctrinal-empirical approach, which means it looks at both legal rules and real-world evidence. The study analyzes constitutional safeguards, pertinent provisions of the Indian Penal Code, and significant judicial rulings to elucidate the structure and interpretation of the legislation. On the empirical side, it looks at NCRB data from 2018 to 2023 to see if these laws actually protect women and give them justice.



The aim of this research is not only to delineate the law but to rigorously analyze its operation. It aims to comprehend the reasons behind the persistent failures of a system that seems resilient in theory. The study seeks to illuminate structural, institutional, and societal impediments that hinder the efficacy of criminal law by pinpointing discrepancies between legislation and its implementation. By doing this, it adds to a larger feminist and liberationist conversation by asking if the current legal system really gives women power or just makes them feel safe.

2. Objectives of the Study

The study is guided by the following three primary objectives:

1. To critically evaluate the IPC, DV Act, POCSO Act, and Criminal Law (Amendment) Act, 2013, which protect women under Indian criminal law, to determine its sufficiency and comprehensiveness.
2. To analyze empirical data from the National Crime Records Bureau (NCRB) for 2018–2023 to determine trends in crime against women incidence, reporting, investigation, and conviction, measuring the legal intent-actual outcome gap.

3. Hypotheses

The study tests the following three hypotheses:

H1: Despite progressive criminal law reforms, women in India continue to face victimization due to structural and institutional weaknesses in the justice system.

H2: Low conviction rates in crimes against women are mainly due to weak investigation, judicial delays, evidentiary issues, and lack of victim support, rather than inadequate laws.

H3: Socio-cultural factors such as stigma, patriarchy, economic dependence, and fear of retaliation lead to underreporting of crimes against women, making official data an underestimate.

4. Research Methodology

This research employs a hybrid doctrinal-empirical methodology. The doctrinal aspect entails the examination of statute texts (IPC, CrPC/BNSS, DV Act, POCSO, POSH Act), constitutional provisions (Articles 14, 15, 21), and pivotal court rulings. The empirical component utilizes secondary data sourced from: (a) NCRB Annual Crime Reports 2018–2023; (b) National Family Health Survey-5 (NFHS-5, 2019–21); (c) Law Commission of India Reports (Nos. 172, 202, 243); and (d) United Nations Women / UN Special Rapporteur Reports. The research does not include the acquisition of primary data. All quantitative analysis is descriptive. Tables are made using NCRB data, and they are looked at in light of changes in the law and the courts. The constraint of under-reporting, estimated at 75% or higher for sexual violence, is universally recognized.

5. Legislative Framework: Law on the Books

Indian Penal Code, 1860 (Now Bharatiya Nyaya Sanhita, 2023)

The Indian Penal Code, 1860—now replaced by the Bharatiya Nyaya Sanhita, 2023—forms the core criminal law framework addressing offences against women in India. Sections 375–376 of the IPC (now corresponding to Sections 63–70 of BNS) define rape and prescribe stringent punishments ranging from a minimum of ten years' imprisonment to life imprisonment. A significant transformation occurred through the Criminal Law (Amendment) Act, 2013, which broadened the definition of rape beyond vaginal penetration to include oral, anal, and digital penetration, thereby recognising the varied forms of sexual violence. The amendment also introduced specific offences such as gang rape (Section 376D) and enhanced punishment for repeat offenders (Section 376E). Additionally, new provisions criminalised acts like stalking (Section 354D), voyeurism (Section 354C), and acid attacks (Sections 326A–B), reflecting a more comprehensive understanding of gender-based violence. However, a major limitation persists in the form of the marital rape exception, which continues to exclude non-consensual sexual acts within marriage from the definition of rape. This provision has been legally contested, notably in the Delhi High Court in 2022, where a split verdict left the issue unresolved and pending before the Supreme Court, highlighting ongoing tensions between legal reform and societal norms.



Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 (DV Act) represents a shift from purely criminal responses to a more victim-centric and civil law-oriented approach within the broader criminal justice framework. The Act recognises domestic violence in multiple forms, including physical, emotional, sexual, and economic abuse, and provides immediate relief measures such as protection orders, residence rights, and monetary compensation. It also introduced institutional mechanisms like Protection Officers and the filing of Domestic Incident Reports (DIRs) to facilitate access to justice. Importantly, the Act extends its protection not only to married women but also to women in live-in relationships, thereby broadening its scope. Despite its progressive intent, implementation remains weak. According to NCRB data (2023), over 70% of domestic violence cases remain pending at various stages of trial, indicating serious delays in justice delivery. Furthermore, many states continue to face shortages of Protection Officers, which limits the effective enforcement of the Act. Thus, while the DV Act is strong in design, its practical impact is constrained by institutional inefficiencies.

POCSO Act, 2012 (Amended 2019)

The Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted to provide a specialised legal framework for addressing sexual offences against children. The Act is designed to be child-friendly, incorporating provisions such as special courts, in-camera trials, and the appointment of special public prosecutors to ensure that victims are not further traumatised during the legal process. It also mandates time-bound investigation and trial procedures to ensure speedy justice. The 2019 amendment introduced stricter punishments, including the death penalty for aggravated penetrative sexual assault against children below 12 years of age, reflecting the seriousness of such offences. However, despite these stringent provisions, the effectiveness of the Act is undermined by systemic delays. NCRB data (2023) indicates that over 2.37 lakh POCSO cases are pending across courts in India, creating a significant backlog. This delay not only weakens deterrence but also prolongs trauma for victims, thereby limiting the Act's intended impact.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace Act, 2013 (commonly known as the POSH Act) was enacted to ensure a safe and dignified working environment for women. The Act mandates that every organisation with ten or more employees must establish an Internal Complaints Committee (ICC) to address complaints of workplace harassment. It also provides procedures for inquiry, redressal, and protection against victimisation. However, the effectiveness of the Act is significantly hindered by poor compliance. Various surveys suggest that only around 30% of Indian organisations have functional ICCs, with compliance being particularly low in rural and informal sectors where a large proportion of women are employed. The issue of non-compliance was strongly highlighted by the Supreme Court in *Aureliano Fernandes v. State of Goa* (2023), where the Court noted widespread failure in implementing the Act and issued directions for stricter enforcement. This reflects that despite a well-defined legal framework, the gap between law and practice continues to undermine women's workplace safety.

6. Data Analysis and Interpretation

The tables below are based on the NCRB Annual Crime in India Reports from 2018 to 2023. Source: Government of India's Ministry of Home Affairs.

Table 1: Trends in Reported Crimes against Women in India (2018–2023)

Year	Rape (IPC 376)	Dowry Deaths	Domestic Violence	Kidnapping/ Abduction	Total Crimes vs Women
2018	33,356	7,166	1,31,556	67,134	3,78,236
2019	32,033	7,115	1,25,298	69,184	4,05,861

Year	Rape (IPC 376)	Dowry Deaths	Domestic Violence	Kidnapping/ Abduction	Total Crimes vs Women
2020	28,046	6,966	1,11,549	59,498	3,71,503
2021	31,677	6,753	1,36,534	65,481	4,28,278
2022	31,516	6,450	1,40,752	68,962	4,45,256
2023	33,874	6,228	1,47,011	72,491	4,61,428

Source: NCRB, Crime in India Reports, 2018–2023. Ministry of Home Affairs, Government of India.

The trend analysis of reported crimes against women in India from 2018 to 2023 reveals a consistent and concerning increase in overall incidence. Total reported cases rose from 3,78,236 in 2018 to 4,61,428 in 2023, reflecting an increase of approximately 22% over six years. Although there is a noticeable decline in 2020, this cannot be interpreted as an actual reduction in crime; rather, it is largely attributed to the COVID-19 lockdowns, which restricted mobility, limited access to police stations, and suppressed reporting. Following 2020, the numbers rise again steadily, indicating that the underlying problem remained unchanged. Among the different categories, domestic violence consistently emerges as the most prevalent, accounting for nearly 31–32% of total cases each year, highlighting the persistence of violence within private spaces. Rape cases, after a temporary dip in 2020, show a gradual increase again by 2023, while kidnapping and abduction cases also demonstrate a rising trend. Dowry deaths show a slight decline, but the numbers remain significant. Overall, the steady rise across most categories suggests that the presence of stringent legal provisions has not effectively reduced the occurrence of crimes against women. This pattern clearly supports Hypothesis H1, indicating that despite progressive criminal law reforms, women in India continue to face victimisation due to deeper structural and institutional shortcomings rather than the absence of law itself.

Table 2: Conviction Rates for Key Offences against Women

Offence	Cases Reported	Cases Convicted	Conviction Rate (%)	Pending Trial (%)
Rape	31,516	5,702	18.1%	~80%
Dowry Death	6,450	2,063	32.0%	~65%
Domestic Violence	1,40,752	38,467	27.3%	~70%
Sexual Harassment	13,534	2,301	17.0%	~82%
Acid Attack	1,089	412	37.8%	~58%

Source: NCRB, Crime in India 2022 (detailed tables). *Pending trial figures are approximate. The data trends show that the criminal justice system is not working well, not because the law is weak. The conviction rate for rape is only 18.1%, which is one of the lowest for serious crimes. This means that a lot of cases don't end up with punishment even if the law is very powerful. At the same time, around 80% of rape cases are still waiting for trial at different levels, which shows that investigations and court processes are taking a long time. In contrast, acid attack cases had a higher conviction rate of 37.8%. This may be because forensic evidence is stronger and more obvious, making it simpler to prove guilt. The conviction rate in domestic violence cases is about 27.3%, but there are so many cases—about 1.4 lakh documented incidents—that there is a big backlog of cases that haven't been addressed. These numbers show that the main problem isn't a lack of strict laws, but instead systemic problems including inadequate police investigations, problems with evidence, and excessive delays in the courts.

The data significantly supports Hypothesis H2, showing that low conviction rates are mostly due to problems with institutions and procedures, not because the law isn't good enough.

Table 3: State-wise Crime Profile against Women (2023)

State/UT	Total Crimes vs Women (2023)	Rape Cases	Conviction Rate (%)	Crime Rate per 1 Lakh Women
Rajasthan	45,058	5,399	16.8%	116.8
Uttar Pradesh	65,743	3,690	22.5%	59.0
Maharashtra	39,526	2,805	28.1%	64.2
West Bengal	37,229	1,648	31.2%	77.5
Madhya Pradesh	43,716	3,029	19.7%	112.4
Delhi (UT)	14,247	2,100	20.3%	141.4
Kerala	22,415	2,117	35.2%	125.1

Source: NCRB, Crime in India 2023. Crime rate calculated per 1 lakh female population.

Uttar Pradesh has the most crimes overall (65,743), while Delhi (UT) has the most crimes per lakh women (141.4), which shows that people in cities are more aware of crime. Rajasthan has the most rape cases (5,399) and one of the lowest conviction rates (16.8%). Kerala has a higher conviction rate (35.2%) than other states since it has better literacy and institutional infrastructure. The difference between states shows that law enforcement, gender literacy, and institutional infrastructure are just as significant as the law itself.

Table 4: Legislative Framework and Implementation Gaps (Assessment Matrix)

Legislation	Year Enacted/ Amended	Nature of Offence	Implementation Gap (Key Issue)
IPC Sec 375/376 (Rape)	1860 / 2013	Cognizable, Non-bailable	Low conviction (~18%); survivor trauma in trials
Dowry Prohibition Act	1961 / 1986	Cognizable	Under-reporting; family pressure; low FIR rate
Protection of Women from DV Act	2005	Civil remedy + criminal	Poor enforcement; shelter homes inadequate
POCSO Act	2012 / 2019	Cognizable, Non-bailable	Backlog in Fast Track Courts; ~80% pending
Sexual Harassment at Workplace (POSH)	2013	Quasi-judicial (ICC)	Only 30% firms have ICC; rural non-compliance
Criminal Law Amendment Act	2013	Wider definition of assault	Under-reporting still high (~75% unreported)

Source: Author's compilation based on NCRB 2022–23, Law Commission Reports, and judicial observations.

There are significant gaps in the implementation of all major legal frameworks meant to protect women, despite their progressive design. A common pattern emerges across these laws: many survivors do not report crimes due to fear of social stigma and victim-blaming; conviction rates remain low because of weak and poorly conducted investigations; institutional support systems such as shelter homes, Internal Complaints Committees (ICCs), and fast-track courts are either inadequate or not fully functional; and a large number of women are still unaware of their legal rights and remedies. Even major reforms like the Criminal Law (Amendment) Act, 2013—



which expanded the definition of sexual offences and strengthened punishments—have not been able to address the problem of underreporting. Data from NFHS-5 suggests that more than 75% of sexual offences go unreported, indicating that legal reform alone is insufficient without social and institutional change. These realities strongly support Hypothesis H3, showing that socio-cultural barriers such as stigma, patriarchy, and fear of retaliation continue to suppress reporting and distort the true extent of crimes against women in India.

7. Key Findings

Rising crime trend: Reported crimes against women increased by approximately 22% between 2018 and 2023, indicating a persistent rise. The decline during COVID-19 (2020) reflects restricted reporting rather than an actual reduction in crime.

Low conviction rates: The conviction rate for rape in India remains critically low at 18.1%, significantly lower than countries like the UK (~60%) and Canada (~50%), pointing to systemic failures rather than weak laws.

Severe trial backlog: A large number of cases remain pending, including over 2.37 lakh POCSO cases and nearly 80% of rape cases, highlighting delays in the justice delivery system.

Under-resourced fast-track courts: Although the Fast Track Special Court Scheme (2019) was introduced, it is operational in limited states and suffers from inadequate infrastructure and manpower.

Structural under-reporting: According to NFHS-5 (2019–21), 75–80% of domestic violence cases and over 70% of sexual offences go unreported, mainly due to stigma and fear.

Socio-cultural barriers: Patriarchal norms, fear of social ostracism, economic dependence, and lack of family support significantly discourage women from reporting crimes.

Weak police investigation: Poor evidence collection, lack of forensic support, and insensitive handling of cases by police authorities contribute to low conviction rates.

Judicial delays: Long trial durations and procedural complexities reduce the effectiveness of criminal law and discourage survivors from pursuing justice.

Lack of victim support systems: Inadequate availability of shelters, legal aid, counseling services, and victim compensation schemes weakens the overall protection mechanism.

Awareness gap: A significant number of women are unaware of their legal rights and available remedies, limiting access to justice.

Regional disparities: States like Kerala and Himachal Pradesh show better conviction rates due to higher literacy, stronger institutions, and effective implementation of laws.

Partial success of 2013 reforms: While the Criminal Law (Amendment) Act, 2013 expanded definitions and increased awareness—especially in urban areas—it has not significantly reduced the overall incidence of crimes against women.

8. Discussion: Bridging the Gap between Law and Reality

Established legal and criminological ideas can help us understand the difference between how law is supposed to work and how it really works in society. Lon Fuller's concept of the "inner morality of law" posits that an effective legal system must be transparent, coherent, publicly acknowledged, and enforceable. In India, criminal laws that apply to women mostly meet these formal conditions. The rules are clear, easy to find, and becoming more in line with worldwide standards for gender equity. The fundamental problem, though, isn't the law itself; it's what may be called its "external morality"—the social and institutional environment that the law needs to work well. This encompasses operational enforcement agencies, effective court systems, and a conducive social environment. H.L.A. Hart's differentiation between "law as it is" and "law as it ought to be" elucidates this matter further. The issue in India is not mainly that the legislation is not good enough; it's that the way the law is put into action is very bad. So, the divide is more about how things work than how they are thought about.

When looking at three significant systemic problems, it becomes clear that this operational failure is real. The first problem is how the police work, especially the fact that they don't register FIRs and do a bad job of investigating. Even while the Supreme Court made it plain in *Lalita Kumari v. Government of Uttar Pradesh* (2013) that FIRs must be registered for



cognizable offenses, the reality on the ground shows that this is only partially being followed. According to NCRB data, the charge-sheeting rate in rape cases is about 77.5%. This means that a lot of instances are not being fully or properly investigated even after they are reported. Weak evidence gathering, lack of forensic support, and mistakes in the process all make it less likely that a case would be successfully prosecuted. Second, delays in the courts continue to make criminal law less effective. In a lot of places, it takes more than three years to finish a Sessions Court trial for rape cases. These kinds of delays not only make the law less effective as a deterrent, but they also make victims less likely to pursue cases since they have to deal with emotional, social, and financial stress for a long time. Third, the infrastructure for helping victims is quite lacking. The Nirbhaya Fund's One-Stop Centres were meant to offer a full range of assistance services, but there are only about 800 of them in the country when there should be more than 6,500. This gap means that a lot of survivors can't get legal help, counseling, medical care, or a safe place to stay.

These structural flaws substantially support Hypothesis H2, which posits that the issue resides not in the insufficiency of law but in the frailty of implementation methods. The deterrent effect of criminal law is considerably diminished when the likelihood of detection, prosecution, and conviction is minimal. Rational choice theory in criminology (Becker, 1968) elucidates that individuals are dissuaded from criminal behavior not solely by the harshness of penalty but also by the certainty and promptness of enforcement. In India, the punishment is very harsh, with life in jail or even death in some circumstances, although the punishment is very unlikely to happen because of problems in the system. Because of this, the law doesn't work as a credible deterrence. To close the gap between law and reality, we need more than just stronger laws. We also need to make institutions more accountable and capable, and we need to change society as a whole.

9. Recommendations

Based on the analysis, the following evidence-based reforms are suggested:

- **Strengthening Judicial Capacity:** Expand the Fast Track Special Court (FTSC) system to all districts and ensure time-bound trials (preferably within 6 months) for rape and POCSO cases, with accountability mechanisms for delays by judges and prosecutors.
- **Police System Reforms:** Establish Women's Desks in every police station, mandate video recording of survivor statements, and introduce independent review of charge-sheets to improve investigation quality and reduce bias.
- **Improving Victim Support Systems:** Develop a strong support ecosystem by increasing One-Stop Centres at the block level, strengthening shelter homes, and ensuring free legal aid, counselling, and safe housing as a guaranteed right.
- **Effective Implementation of POSH Act:** Make Internal Complaints Committee (ICC) registration compulsory, conduct regular compliance audits, and extend protection to women working in informal and unorganised sectors.
- **Criminalisation of Marital Rape:** Introduce clear legislative reforms to criminalise marital rape and resolve the constitutional issue at the earliest, considering evidence such as NFHS-5 data on spousal sexual violence.
- **Enhancing Legal Awareness:** Promote legal literacy by integrating gender rights education into school curricula and organising legal awareness camps at the community level through institutions like NALSA.
- **Addressing Socio-Cultural Barriers:** Implement long-term social reforms through awareness campaigns, community engagement, and policy interventions aimed at reducing stigma, patriarchy, and underreporting of crimes against women.

10. Conclusion

India's criminal law framework for the protection of women appears to be both progressive and comprehensive at the structural level. There has been a long history of feminist legal advocacy, judicial activism, and policy reform. Examples of this include the Criminal Law (Amendment) Act, 2013, the Protection of Women from Domestic Violence Act, 2005, the POCSO Act, 2012,



and the POSH Act, 2013. These laws have expanded the definitions of violence, strengthened punitive measures, and aimed to recognize the real-life experiences of women in both public and private spheres. But when you compare these laws to real-world facts, there is a glaring disagreement. According to NCRB data from 2018 to 2023, crimes against women have been going up steadily by roughly 22%. But the percentages of conviction for serious crimes are still low, between 18% and 38%. There are a lot of cases that still need to be heard in different courts because the judicial system is so busy. This gap between what the law says and what really happens indicates that laws alone can't guarantee justice.

The problem is not only with how the law was written, but with how it was put into reality. The police, courts, and welfare agencies are examples of organizations that are supposed to enforce the law yet often have difficulties with their structures. Some of these are not having enough resources, not having the correct training, delays in procedures, and sometimes even built-in gender biases in the system itself. Even the strongest laws don't work as well when the police won't file FIRs, the investigative procedures are bad, the forensic tests take too long, and the court proceedings take too long. In many cases, the system not only fails to protect victims, but it often makes things worse for them by being uncaring and callous. A strictly legal view of gender-based violence does not fully explain how long it lasts. It is closely tied to bigger social and cultural structures, especially patriarchy, which still thinks it okay to limit women's bodies and choices. People are less likely to report crimes and receive justice because they are afraid of revenge, worried about what others will think, dependent on the economy, and don't know enough. This makes it easy for people to break the law and harder for the law to punish people. So, the problem isn't that there aren't any laws; it's that there are progressive laws, but there are also backward social norms and institutions that don't enforce them enough. We need a thorough and coordinated response that goes beyond just altering the law to bridge this gap. We may need to make laws even better, but we need to focus more on making institutions stronger. This means that police need greater training and responsibility, that cases need to be handled better to speed up the courts, that victims need more help, such as shelters and legal aid, and that procedures like Internal Complaints Committees need to be followed strictly. Long-term transformation in society is just as important. You can oppose patriarchal attitudes by being involved in your community, educating people, and raising awareness.

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