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JUDICIAL RESPONSE TOWARDS OFFENCES **AGAINST WOMEN**

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ABSTRACT

This research paper identifies and discusses historical background on legal safeguards for women in India, the current situation and judicial measures toward crimes on women. Nonetheless, India prides in a rich culture that once protected women, but today a number of women and girls have been harassed through dowry harassment, sexually assaulted, and abused physically. The Indian Penal Code (now BNS) and various special laws describe these offences. At the end of this research paper, two main themes can be derived from the analysis of the difficulties and complexities of the treatment of offences against women in the legal system. The analysis of the researchers after critically reviewing the landmark cases of the laws related to offences against women, other legal works of the well-renowned academicians in the field of law points out following multifaceted challenges. The paper also lays emphasis on other legal changes such as the Criminal Law (Amendment) Act of 2013 and other subsequent changes that have come with stronger measures that seek to address the acts of sexual violence. Supreme Court judgments have also helped in creating legal standards and improving the way victims have been supported and it shows that the judiciary has been very proactive in establishing the framework for tackling workplace harassment and marital rape among other issues. This study also focuses on the impact of new legislation, the developments of the lower courts and the judicial training programmes on gender sensitisation, to provide a framework for comprehensive interventions on the issues. In addition, this discussion underlines the problem of the effectiveness of a victim-oriented approach within the judicial system. Finally, this study contributes to the understanding of the objective and subjective aspects of women's rights, as well as judicial treatment of offenders that committed crimes against women. It serves to ensure and sustain efforts aimed at creating and advancing legal mechanisms, transforming cultures that support violation of women's rights, and the pursuit of a fairly just and safe justice system for women. Moreover,

our research aims at bringing out the necessary positive changes by creating an environment where women are protected from fear, discrimination and violence.

Keywords: Judiciary, Women, Crimes, Criminal Law (Amendment) Act, 2013, Landmark Judgements

INTRODUCTION

Crimes against women are a very crucial problem in society at the moment such as domestic violence, sexual assault, and harassment these are a clear violation of the law and rights of women. The purpose of this paper is to delve into the actions that the court has taken in regard to this issue and understand the development in this issue done by the court. The document analyses recent historical events where legal approaches towards offences against women have evolved, creating significant judicial milestones that have transformed legal practice.

Another key part to discuss is the programs designed to support victims for example which are legal reforms and victim support schemes making the legal system more accessible and fostering rehabilitation for survivors. Changes in women's rights and attitudes towards crimes impacted both current and future cases. Also, the paper looks at a number of judicial programs and reforms that have been designed to assist in the coordination and support of victims of these offences. Often, courts have been the first in making proposals for legal reforms, establish schemes for victim support, and organise gender-sensitization seminars for the judges.

Therefore, by introducing creative construction, the judiciary has been working on how to make the legal regime more accessible and friendly to women. This paper includes the current literature by assessing the changing nature of judicial attitudes against women. It sets out to address the question of how effectively had the courts occupied the legal terrain, solved the procedural obstacles posed, and brought relevance to the cause of the protection of women's rights. Hence, this article will contribute in evaluating the steps taken by the courts in dispensing justice, promoting women's rights and ensuring that women's lives are not at risk.

RESEARCH OBJECTIVE

This paper focuses on a few key areas to understand how courts handle crimes against women—assessing how judges sentence offenders to see if there are patterns or differences based on the type of crime, the victim's background, and the offender's profile. Checking if current laws are effective, consistently applied, and meet international standards. It is essential to see if judges' personal biases or opinions affect their decisions in cases of violence against women. Evaluating how well victim support services are integrated into the legal system can help us understand how survivors are supported. Additionally, examining how gender sensitivity training for judges impacts their decision-making. Comparing how different regions handle these cases can reveal effective practices. Lastly, understanding how court decisions influence public trust and repeat offending rates will give us a complete picture of how well the justice system addresses these crimes.

RESEARCH METHODOLOGY

Research methodology refers to the approach a researcher adopts to present their study. It outlines the strategy, research methods, and sources used during the research process. In this case, a qualitative method has been employed. Legal research involves gathering information to analyze legal decision-making and can be classified into two types:

- *Doctrinal Legal Research*: This type of research involves gathering information from primary, secondary, and statutory sources.
- *Non-Doctrinal Legal Research*: This method gathers information through surveys, interviews, and other empirical techniques.

This paper follows a doctrinal research method, relying on already published resources such as books, articles, statutes, and research papers sourced from legal databases and online platforms. The doctrinal approach was chosen due to the expansive nature of Indian laws and Judicial Response towards the Offences Against Women. This method helps ensure a more comprehensive and higher-quality analysis of the issue.

RESEARCH QUESTIONS

Q1. How have the recent legislative reforms, particularly the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Saksha Adhiniyam, 2023, influenced

judicial interpretations and outcomes in cases involving offences against women?

Q2. To what extent have landmark Supreme Court decisions shaped lower courts' approaches to cases of offences against women?

Q3. What factors contribute to variations in sentencing patterns for similar offences against women across different states or levels of the judiciary in India?

Q4. How effective have procedural reforms been in improving access to justice for women victims of crime?

Q5. What impact have judicial training programs on gender sensitisation had on judges' decision-making processes and overall case outcomes in offences against women?

LITERATURE REVIEW

The judicial response to offences against women has been an extensive topic of examination in academic literature. *Madhusree (2007)*¹, in her analysis, stated that even though ancient legal systems had some protections for women, the social attitudes of the time often weakened these protections. This is clear from the author's look into the history of women's rights. It shows how deeply rooted cultural beliefs have influenced and sometimes slowed down the progress of legal safeguards for women.

*Ghosh's (2010)*² study looked into how gender equality has shaped Indian laws. It shows that since independence, laws like the Domestic Violence Act of 2005 and the Criminal Law (Amendment) Act of 2013 have improved women's legal rights. The author focuses on how important it is to prioritise women's rights and how effective these laws have been in addressing and fighting different forms of violence and discrimination against women.

*Sharma (2014)*³ studies important rulings such as *Vishaka v. State of Rajasthan* and *Laxmi v. Union of India* that have had a huge impact on how the Indian judicial system handles sexual assault. These landmark cases set crucial standards for handling sexual harassment and ensuring victims receive compensation. Sharma highlights how these rulings have reshaped legal procedures and laws in India. By establishing clear guidelines and benchmarks, these decisions have significantly improved the way sexual assault cases are addressed, leading to

¹Madhusree, S. (2007). "Historical Perspectives on Women's Rights in India." *Historical Journal of India*, 11(2), 55-72.

² Ghosh, S. (2010). "Constitutional Provisions for Gender Equality in India." *Indian Constitutional Review*, 12(2), 35-50.

³ Sharma, R., *Landmark Decisions and Their Impact on Sexual Assault Cases in India* (2014).

better protection and support for survivors.

*Kumar (2018)*⁴ explores how legal protections for women in India have evolved, focusing on key reforms like the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013. The study looks at how well these laws have worked to improve conditions in workplaces and points out some of the challenges in putting these laws into practice. Kumar highlights that while the legislation has established important guidelines for tackling sexual harassment, there are still significant hurdles to making sure these protections effectively benefit women in real-life situations.

*Patel (2020)*⁵ looks at how judges' personal views and biases affect their decisions in cases of violence against women. By analysing court cases, Patel finds that even though there have been attempts to tackle gender bias, judges' attitudes still influence their rulings. The study highlights the importance of continuous training and reforms to help ensure that the legal system handles these cases fairly and without bias.

CRITICAL ANALYSIS

Chapter I - The historical and cultural context of women's status in India and the legal framework

India is a country known for its rich culture and tradition. During ancient times, a woman was given the place of a goddess in Indian culture, be it, Maa Durga or Lakshmi. As time passes by, cultural respect is drowning and the rate of crimes against women is increasing immensely. As it is visible the crime happening against women every minute in some part of the country. Every day, women are being molested, assaulted and violated. There are certain crimes that happen repeatedly and to a greater extent such as dowry harassment, sexual assault, domestic violence, rape, etc.

Though women can be subject to all types of crimes but some crimes are specific to women, such as rape, molestation, eve-teasing, trafficking etc In India, crimes against women broadly fall in two categories; (a) Crimes identified under IPC, and (b) Crimes identified under special laws. The crimes identified under the Indian Penal Code (now BNS) are:

⁴ Kumar, R., *The Evolution of Legal Protections for Women in India: A Critical Analysis* (2018)

⁵ Patel, S., *Judicial Attitudes and Gender Bias: An Empirical Study of Court Decisions in India* (2020)

(1) rape (section 375 IPC⁶), (2) Kidnapping and abduction for different purposes (sections 363⁷-373 IPC⁸), (3) homicide for dowry, dowry deaths, or their attempts (sections 302⁹/304B¹⁰ IPC), (4) importation of girls (up to 21 years of age, section 366B IPC¹¹), (5) sexual harassment (section 509 IPC¹²) etc.

The crimes identified under the special laws are:

(1) Commission of Sati (Prevention) Act, 1987¹³, (2) Dowry (Prohibition) Act, 1961¹⁴, (3) Immoral Traffic (Prevention) Act, 1956¹⁵, (4) Indecent Representation of Women (Prohibition) Act, 1986¹⁶ etc.

There have been few recent reforms that have aimed to strengthen the legal framework protecting women, i.e., *Criminal Law (Amendment) Act, 2013*¹⁷, commonly known as the Nirbhaya Act, this amendment introduced stricter penalties for sexual offences, including the death penalty for gang rape and enhanced punishment for offences against minor and *Criminal Law (Amendment) Act, 2018*¹⁸, further amendments increased penalties for sexual offences against children, including life imprisonment for the rape of girls under 12 years.

Few of the change introduced by the Bharatiya Nyaya Sanhita¹⁹, Bharatiya Nagarik Suraksha Sanhita²⁰ and Bharatiya Saksha Adhinyam²¹ 2023 have impacted judiciary perception and decisions regarding the offences against women such as sexual offence law and their penalties are made stricter, registration of FIRs is made compulsory in crimes relating to women, provisions to prevent misuse of IPC 498A.

Some landmark Supreme Court judgments have played a crucial role in shaping approaches

⁶ Indian Penal Code, § 375 (1860).

⁷ Indian Penal Code, § 363 (1860).

⁸ Indian Penal Code, § 373 (1860).

⁹ Indian Penal Code, § 302 (1860).

¹⁰ Indian Penal Code, § 304B (1860).

¹¹ Indian Penal Code, § 509 (1860).

¹² Indian Penal Code, § 366B (1860).

¹³ Commission of Sati (Prevention) Act, 1987, No. 3 of 1988, India Code (1988).

¹⁴ Dowry (Prohibition) Act, 1961, No. 28 of 1961, India Code (1961).

¹⁵ Immoral Traffic (Prevention) Act, 1956, No. 104 of 1956, India Code (1956).

¹⁶ Indecent Representation of Women (Prohibition) Act, 1986, No. 60 of 1986, India Code (1986).

¹⁷ Criminal Law (Amendment) Act, 2013, No. 13, Acts of Parliament, 2013 (India).

¹⁸ Criminal Law (Amendment) Act, 2018, No. 22, Acts of Parliament, 2018 (India).

¹⁹ Bharatiya Nyaya Sanhita, No. 45, Acts of Parliament, 2023 (India).

²⁰ Bharatiya Nagarik Suraksha Sanhita, No. 46, Acts of Parliament, 2023 (India).

²¹ Bharatiya Saksha Adhinyam, No. 47, Acts of Parliament, 2023 (India).

to cases of offences against women. For example, in the case of *Delhi Domestic Working Women's Forum v. Union of India (1995)*²² the court issued guidelines for assisting victims of rape and sexual assault, *Budhadev Karmaskar v. State of West Bengal (2011)*²³ the court directed governments to provide technical/vocational training to sex workers and sexually abused women, in *Laxmi v. Union of India (2014)*²⁴ case it prohibited sale of acid and mandated compensation for acid attack victims, *Mukesh & Anr v. State for NCT of Delhi & Ors. (2017)*²⁵ The court upheld death penalty for convicts in the Nirbhaya rape and murder case. Moreover, the Indian legal system provides various legislations for the protection of women, i.e., The Protection of Women from Domestic Violence Act, 2005, The Dowry Prohibition Act, 1961, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: Commonly referred to as the PoSH Act, The National Commission for Women Act, 1990, The Medical Termination of Pregnancy Act, 1971 etc.

Chapter II - Landmark Cases and Legal Evolution in Combating Crimes Against Women in India

Various landmark cases which ruled against the crimes against women have impacted the Indian legal system significantly. The *Vishaka v. State of Rajasthan (1997)*²⁶ is once such case that focused on sexual harassment against women in the workplace. This case raised awareness of the legal safeguards that are available for women who face sexual harassment in workplaces. Following the ruling of this case, the Vishaka Guidelines are a set of regulations that companies and offices are mandated to follow to deal with and eliminate sexual harassment in the workplace. Before this case, no particular laws provided women with legal protection against sexual harassment in workplaces. The Vishaka Guidelines addressed this. Following this the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013 was introduced, offering more thorough protections. This case showcases how the judiciary can guarantee that women work safely and in a respected environment.

Another landmark ruling considered one of the most significant cases in the area of offences against women is *Mukesh & Anr v. State of Delhi (NCT)*²⁷, popularly known as the *Nirbhaya*

²² Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC (1) 14 (India).

²³ Budhadev Karmaskar v. State of West Bengal, 2011 SCC (2) 277 (India).

²⁴ Laxmi v. Union of India, 2014 SCC (4) 427 (India).

²⁷ Mukesh v. State of Delhi, (2017) 6 SCC 1.

Case. The case deals with the heinous gang rape and abuse of Nirbhaya. Her intestines were pulled out, and reproductive organs were mutilated. This case was recognised as one of the most diabolical acts. The Supreme Court awarded a death sentence to the five men who assaulted her, and the juvenile convict received a sentence of 3 years in a correctional facility. This case was titled as 'rarest of the rare.' After this case, the Indian legal system, especially criminal law, underwent extensive change with the passing of the Criminal Law Amendment 2013. This included widening the definition of rape and the addition of several other provisions under section 376 of IPC. This case also brought significant changes to society. It brought the issue of sexual violence to a national level, which resulted in quicker court proceedings as well. The case demonstrated the commitment to the protection of women and the administration of justice.

The Dr. Moumita rape case in Kolkata has brought in many concerns about women's safety in India. This case has attracted the attention of many people from different parts of the country and demanded a better justice system and laws that truly protect women. It is a reminder that, there is still a long way to go to make sure women are safe and get the justice they deserve.

This case makes us think of other major rulings like **Mukesh & Anr v. State of Delhi (NCT) (2012)**²⁸ and **Vishaka v. State of Rajasthan (1997)**²⁹. The Nirbhaya case led to tougher laws and harsher punishments for rape, while the Vishaka case brought important rules to deal with harassment at work.

The way that the country and the judiciary have dealt with crimes against women has changed over time. It's now at a point where addressing problems more broadly is preferred to focussing on specific instances. People now recognise that violence against women is a social issue that impacts the entire nation and needs extensive legislative protections. As a result of this change, more sophisticated laws for defending women's rights have emerged.

²⁸Mukesh & Anr v. State for NCT of Delhi & Ors., (2017) 6 SCC 1 (India).

²⁹Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

Chapter III - Evolving Sentencing Principles in Offences against Women: Challenges of Judicial Discretion and Precedent

Sentencing continues to be the most significant part of the criminal justice system. Judges must use their discretion within the legislative framework, considering the seriousness of the offense, societal conditions, and other relevant criteria. Incorrect use of discretion and the given authority can result in injustice. The doctrine of stare decisis puts precedents into place to be considered for providing verdicts or sentencing, as similar cases must be dealt with similarly.

Dealing with rape as an offense against women, *Ravindra v. State of Madhya Pradesh*³⁰, In 1994, the appellant raped the defendant, and the trial court sentenced the accused to 10 years of rigorous imprisonment with a fine. After 20 years of trial pendency, the case reached the Supreme Court, during which time both the appellant and rape survivor had married (not to each other). The parties had compromised, with the survivor stating that she wanted to close the case. The Supreme Court examined whether this case was qualified for a lesser sentence under the *proviso to Section 376 of the IPC*³¹ (Now BNS), citing "adequate and special reasons."

The court upheld the conviction but reduced the sentence to the period already served, relying on the *Baldev Singh v. State of Punjab*³² case as precedent, as per the doctrine of stare decisis as discussed above, but in the case of *Shimbu v. State of Haryana*³³, the Supreme Court Bench held that the Baldev case could not be held as a precedent. The Shimbu case emphasized the fact that rape is a non-compoundable offense and that compromises between the victim and the accused should not and shall not be the grounds for reducing sentences.

The Ravindra judgment, Firstly, overlooks the non-compoundable nature of rape offenses and the potential for victims to be pressured into compromises which are, again, another offense altogether. Secondly, it ignores previous Supreme Court decisions, such as *Kamal Kishore v. State of Himachal Pradesh*³⁴, which held that long pendency of trials and the parties moving

³⁰ Ravindra v. State of Madhya Pradesh, AIR 2015 SC 1369.

³¹ Indian Penal Code, 1860, § 376, No. 45, Acts of Parliament, 1860.

³² Baldev Singh v. State of Punjab, AIR 1991 SC 31.

³³ Shimbu v. State of Haryana, AIR 2014 SC 739.

³⁴ Kamal Kishore v. State of Himachal Pradesh, AIR 2000 SC 1920.

on with their lives cannot be and are not special reasons for reduced sentences. These are just mere tactics used by defense lawyers to reduce the sentencing.

As per stare decisis, the precedent must be taken, and hence, the case of Shimbu must have been referred to as it was overruled by a larger bench than the Ravindra case. Sentencing becomes crucial in setting standards for reducing offenses and giving the relief or justice the victim deserves. *The Criminal Law (Amendment) Act of 2013* has since removed the *proviso* that allowed reduced sentences and increased the minimum punishment for rape, showing the legislature's intent to treat rape as a serious offense requiring severe punishment³⁵.

The Supreme Court of India has repeatedly emphasized the importance of considering various factors when sentencing offenders, including the seriousness of the crime, its impact on the victim and society, and the need for deterrence. In cases of violence against women, courts are expected to weigh these factors carefully to ensure that the sentence not only punishes the offender but also sends a strong message about the unacceptability of such behavior. "In our Judicial system, we have not been able to develop legal principles regarding sentencing."³⁶ Hence, there is a crucial need to build legal principles regarding the sentencing patterns and the judges' discretion and authority.

Chapter IV - Judicial Approaches to Crimes Against Women in India: Challenges and Reforms''

The way the judicial system responds to crimes against women is crucial for ensuring justice and promoting gender equality for everyone. This includes looking at how courts handle these cases, the steps taken to protect victims, and the difficulties in collecting evidence. By examining conviction rates and past legal decisions, we can see how effective the laws are. This analysis also shows the need for a more victim-focused and sensitive approach to address existing issues and improve access to justice.

In India, there are laws related to offences against women and these include rape, sexual harassment, domestic violence under *Indian Penal Code* and *Protection of Women from Domestic Violence Act, 2005* and *Sexual Harassment of Women at Workplace Act, 2013*. In

³⁵Rithika Singhal, *Law Mantra*, Vol 2, Issue 7, 1-5, <https://journal.lawmantra.co.in/wp-content/uploads/2015/05/111.pdf>

³⁶ State of Punjab v. Prem Sagar and others (2008) 7 SCC 550

order to cater the sensitivities of the proceedings and do justice during a trial, different courts have established certain guidelines. In *Sakshi v. Union of India*³⁷ a case heard in the Supreme Court appreciated the necessity of in-camera trials while determining whether the accused had raped the complainant as per the *provisions of section 327(2)* emphasising the need to preserve the complainant's self-preservation. The Court appreciated the fact that victims should not go through open trial as it causes further trauma and therefore in-camera trials were used to prevent them from overwhelming.

Also, the judiciary has recognized that some of the constitutionality rules should be more liberal, including the use of video conferencing in the taking of evidence. This was also emphasised in the case of *State of Maharashtra v Dr. Praful B. Desai*,³⁸, wherein the Supreme court held that video conferencing is one of the ways of taking evidence which is acceptable without the need to put the complainant in an apposition where she will face the defendant which is likely to have adverse emotional effects to her.

The Indian courts have stressed on the need to provide protection from harassment and secondary victimisation to the victims and witnesses. In *State of Punjab v. Gurmit Singh*³⁹, the Apex Court highlighted the interest of the victims in sexual offences and the need for in-camera hearings to prevent the victim from undergoing embarrassment due to the crowd. The court disapproved of the common practice which takes an upper hand and often results in blaming the victim instead of upholding the essence of trials where the atmosphere must be supportive.

Section 228A of the IPC⁴⁰ (now BNS) is one of the provisions that makes it a crime to publish the name or identity of the victim of rape which preserves their privacy and dignity. The Court further recommended the engagement of a public prosecutor who would solely deal with such classes of cases.

Thus, it was more likely that victims obtained the necessary assistance. There are no chances of added distress to the victims because this understanding takes in to account the victim's anguish while dealing with the legal procedures.

³⁷Sakshi v. Union of India, (2004) 5 SCC 518

³⁸State of Maharashtra v. Dr. Praful B. Desai, (2003) 4 SCC 601

³⁹State of Punjab v. Gurmit Singh (1996) 2 SCC 384

⁴⁰Indian Penal Code § 228A (1860)

The evidence being collected and presented is a huge issue in the prosecution of crimes against women in India the reason for the same is that victims are exposed to social stigma and hence they are unwilling. This makes it very difficult to build a strong case. In *Tukaram v. State of Maharashtra*,⁴¹, also known as the Mathura Rape Case, The Supreme Court acquitted the accused due to the lack of physical injuries This shows a flawed understanding of "consent" and "resistance." This judgment caused public outrage and highlighted the serious injustice in how rape cases are handled. This indignation resulted in significant changes in law reform, most notably *the Criminal Law (Amendment) Act, 2013*. This amended *section 375 of IPC* and increased the scope of rape by adding *section 114A of the Indian Evidence Act 1872*⁴² which makes it compulsory for the prosecuted to prove the absence of consent when sexual intercourse has been proved.

Even after all the reforms made to reduce the crimes committed against women the conviction rate of cases concerning the same are still very low as according to the *National Crime Records Bureau (NCRB)*, only 27.2% of rape cases ended in conviction in 2020 which means the accused in more than 70% of the time walks away scot free. Reasons for acquittals include lack of strong evidence, witnesses changing their statements, and delays in the legal process. In *State of Karnataka v. Manjanna*,⁴³. The Supreme Court has recognized the importance of quick medical examinations in sexual offence cases, instructing hospitals to conduct these exams even before an FIR is filed. However societal pressure and long trial durations often cause victims to withdraw or change their statements, which is a huge problem when considering the gravity of the case. In the landmark case of *Krishan Lal v. State of Haryana*⁴⁴, The Supreme Court of India stressed that delays in reporting should not automatically undermine the credibility of the victim, recognising that fear and social stigma almost often prevent victims from filing complaints promptly.

Chapter V - Judicial Activism and Reforms in Addressing Offences Against Women in India

In a country like India, where the poor execution of legislation has failed in the field of offences against women, the Indian Judiciary plays a key and vital role in addressing these

⁴¹Tukaram v. State of Maharashtra, (1979) 2 SCC 143

⁴²Indian Evidence Act § 114A (1872)

⁴³State of Karnataka v. Manjanna, (2000) 6 SCC 188

⁴⁴Krishan Lal v. State of Haryana (1980) 3 SCC 159

offences through multiple initiatives and reforms⁴⁵. Courts have started programs for victim support and rehabilitation in many jurisdictions. In many of these occasions, the judiciary has provided blueprints and options of bringing in legal or policy alterations in the legislature. The courts have been found to be very creative in the approaches they take to solve these offences for instance, delivering training sessions in gender sensitivity.⁴⁶

Victim support and rehabilitation are some of the instances that have emanated from court-led programs in the recent past. Throughout a number of judgements, the courts in India have encouraged the rehabilitation of the victims of offences against women. In *Delhi Domestic Working Women's Forum & Ors Vs Union of India & Anr*⁴⁷, it decided and acknowledged the necessity of the rehabilitation of rape victims along with direct compensation and legal support for their legal actions. As a result of this judgement, the Victim Compensation Scheme was developed under *Section 357A of the Criminal Procedure Code*⁴⁸. This scheme consists of provisions such that rape survivors can get Financial Assistance and Legal aid, among others. Similarly, in *Nipun Saxena v. Union of India*⁴⁹, the hon'ble court has directed to open shelters and homes for survivors of rape.

Further, the judiciary has also stressed the sensitisation of the judicial officers and judges to issues affecting the female gender. *Sakshi v. Union of India*⁵⁰ also reveals that the Supreme Court of India ordered that the matters relating to sexual assault cases must be dealt with sensitively in order not to humiliate the victim. Besides, the *N.J.A. (National Judicial Academy)* and state academies have included gender sensitisation training that handles prejudices and stereotyping associated with crimes against women. All these continuous efforts by the Judiciary show their continued commitment to rehabilitating and protecting victims.

The judiciary has had an active and a very relevant role in recommending legal and legislative reforms where the lack of legal protection of women's rights has been identified.

⁴⁵Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India*, Oxford University Press, 1999.

⁴⁶Indira Jaising, *Law of Domestic Violence*, Universal Law Publishing, 2007.

⁴⁷*Delhi Domestic Working Women's Forum & Ors Vs Union of India & Anr*, (1995) 1 SCC 14.

⁴⁸Code of Criminal Procedure, 1973, § 357A, No. 2, Acts of Parliament, 1973.

⁴⁹*Nipun Saxena v. Union of India*, (2019) 2 SCC 703.

⁵⁰*Sakshi v. Union of India*, (2004) 5 SCC 518.

The case of *Vishaka v. State of Rajasthan*⁵¹ is perhaps the most outstanding example to illustrate judicial activism in India. In this historic ruling, the court outlined measures to ensure that women were not harassed sexually in workplaces. The guideline that was being set by the court in this very case later turned out to be the benchmark for the *Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act, 2013*⁵². Moreover, in the *Independent Thought v. Union of India*⁵³ case, the judiciary was also very active and involved. For the purpose of this particular case, the court decided that the exception provided to marital rape under Section 375 of the Indian Penal Code is unconstitutional. This exception gave the right to have sexual intercourse with a minor girl, and the striking of this by the court signaled more protection of a minor girl from being exploited sexually in marriage.

Indian courts have adopted creative ways of dealing with vulnerable victims, especially women. In *State of Punjab v. Gurmit Singh*⁵⁴, the Supreme Court stressed the rule of *Section 327(2) of the Criminal Procedure Code*⁵⁵ relating to in-camera trial for sexual offence for the purpose of preserving the dignity of the victims. Specialised courts called fast-track courts were also set up to try sexual violence cases more quickly – the need for quicker trials was made evident after the *2012 Nirbhaya case*⁵⁶. On the same note, the judiciary has also been involved in compensation mechanisms. In the case of *Laxmi v Union of India*⁵⁷, S.C. passed directions for the regulation of the sale of acids and financial assistance to the victims of acid attacks, underlining that they also require financial help to rehabilitate. This laid the foundation for other comprehensive victim compensation policies in India.

RESEARCHOUTPUT

In conclusion, the Indian legal and judicial systems have marked significant strides in tackling crimes against women through judicial decisions, legislative changes and even overhauling of the sentencing regimes. Majoritarian judgement in the Vishaka or Nirbhaya

⁵¹Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

⁵²Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, No. 14 of 2013, India (2013)

⁵³Independent Thought v. Union of India, (2017) 10 SCC 800.

⁵⁴State of Punjab v. Gurmit Singh, (1996) 2 SCC 384.

⁵⁵Code of Criminal Procedure. § 327(2) (1973).

⁵⁶Mukesh vs State of NCT Delhi, (2017) 6 SCC 1.

⁵⁷ Laxmi v Union of India, (2014) 4 SCC 427.

case has resulted in increased consequences, protection mechanisms, and compliance standards for women, including in-camera trials and fast-track courts. However, several barriers can still be noted, such as low case conviction rates, social pressure, as well as the existence of lengthy legal processes. Even with recent efforts like Criminal Law Amendment Acts of 2013 and 2018, there are still loopholes in the process of sentencing and cases of misuse of discretion by the judiciary. Also, cultural and social taboos acting as barriers to the reporting of the incidents make it even more challenging to arrest and prosecute these offenders. This also aims to ensure that sentences not only punish offenders but also convey a strong societal message against violence towards women. Through court decisions, judicial activism has helped in advocating for changes to laws, availing rehabilitation for victims, and the adoption of gender sensitive training for judges and bench. Nonetheless, constant efforts are required to enhance the issues of the related system, facilitate the rights of justice, and combat violence against vulnerable women. To sustain this progress, there is a need for continuous reform, the sharpening of legal measures and a revival of the legal process which is more victim-oriented, and appropriate enforcement of laws to guarantee safety and justice for all women in India.

