VOLUME 7 | ISSUE 2

INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

PROTECTION OF HUMAN RIGHTS OF WOMEN AND CHILDREN IN INDIA: LEGAL FRAMEWORK, CRIMINAL JUSTICE RESPONSE AND EMERGING CHALLENGES

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ABSTRACT

This paper examines how Indian law protects the human rights of women and children, how the criminal justice system enforces that protection, and where it falls short. It analyses the constitutional and international foundations, the Bharatiya Nyaya Sanhita, 2023, the POCSO Act, 2012 and the principal special statutes, and the procedural reforms of the Bharatiya Nagarik Suraksha Sanhita, 2023. Using NCRB data for 2020 to 2024 with survey and judicial data, it shows that registered crimes against children rose by 46% while crimes against women plateaued after 2022, that more than 91% of trials involving crimes against children were pending at the end of 2024, and that the conviction rate in completed rape trials was 24.4%. It argues that the normative framework is broadly adequate but incomplete (the marital rape exception, the gender-specific definition of rape and the lack of an anti-trafficking statute), that the principal deficit lies in implementation, and that heavier punishment has not produced gains in speed, conviction or victim support. It examines emerging challenges, compares other jurisdictions and makes certain recommendations.

I. INTRODUCTION

A. Background

The protection of women and children from violence is no longer treated in India as a matter of social welfare alone. It is now understood as an obligation of the State arising from constitutional guarantees and from binding international commitments. A society may be

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measured by the security it affords to those who are least able to defend themselves, and in the Indian setting that burden falls disproportionately upon women and children, whose vulnerability is compounded by caste, poverty, disability, geography and dependence on the very persons who harm them.

The National Crime Records Bureau (NCRB) recorded 4,48,211 crimes against women in 2023 and 4,41,534 in 2024.[3] Crimes against children rose from 1,77,335 cases in 2023 to 1,87,702 in 2024, which works out to roughly 512 registered offences every day and the highest figure in a decade.[4] These are only the offences that reach a police register. Under-reporting, the stigma attached to sexual violence, and the fact that in the great majority of child sexual abuse cases the offender is known to the child all suggest that the true incidence is considerably higher.

B. Human Rights Dimension

Violence against women and children is a violation of the rights to life, dignity, bodily integrity, equality and non-discrimination. The Supreme Court has repeatedly read the right to live with dignity under Article 21 of the Constitution to include freedom from sexual harassment and exploitation, and it has treated international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) as aids to constitutional interpretation. A criminal law that is directed at women and children therefore has two aims at once: to punish the offender and to vindicate the victim's human rights.

C. Why the Present Moment Warrants Study

The subject calls for fresh examination for three reasons.

[3] National Crime Records Bureau, *Crime in India 2024* (Ministry of Home Affairs 2026); Feminism in India, 'NCRB Report 2024: Violence Against Women Is Not An Exception; It Is The Norm' (1 June 2026) https://feminisminindia.com/2026/06/01/ncrb-report-2024-violence-against-women-is-not-an-exception-it-is-the-norm/ accessed 30 October 2026.

[4] NCRB, *Crime in India 2024* (n 3); 'India Registered 512 Crimes Against Children Every Day In 2024' *iSignal* (3 June 2026) https://www.isignal.in/data-viz/dataviz-india-registered-512-crimes-against-children-every-day-in-2024-986538 accessed 30 October 2026.

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1. **Codification.** The Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Bharatiya Sakshya Adhiniyam, 2023 (BSA)[5] replaced the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 with effect from 1 July 2024. A new chapter on offences against women and children has been created, and time-bound investigation, electronic record-keeping and victim-centred procedure have been introduced.

2. **Persistent implementation deficit.** Stricter punishments, including the death penalty for certain rapes, have been enacted after each public outcry, yet pendency and acquittal rates remain high.

3. **New harms.** Technology-facilitated abuse, deepfakes, online child sexual abuse material (CSAM), and trafficking through digital platforms were not contemplated by the legislation of earlier decades.

II. RESEARCH DESIGN

A. Objectives, Questions and Hypotheses

The study has three objectives: to map the constitutional, international and statutory framework protecting women and children in India, including the changes made by the 2023 criminal codes; to evaluate how the criminal process, from registration of the FIR to trial and victim support, applies that framework; and to identify emerging challenges and propose reforms. It asks whether the framework adequately protects the human rights of women and children, how effectively registered offences become convictions and support for victims, and which harms current law fails to address. It tests three hypotheses.

- **H1.** The normative framework is broadly adequate, and the principal deficiency lies in implementation.
- **H2.** Successive enhancement of punishment has not been accompanied by corresponding gains in conviction, speed of trial or victim support.
- **H3.** Technology-facilitated and structural harms are developing faster than the law's capacity to respond.

[5] Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023); Bharatiya Nagarik Suraksha Sanhita 2023 (Act 46 of 2023); Bharatiya SakshyaAdhiniyam 2023 (Act 47 of 2023), each in force from 1 July 2024.

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B. Methodology, Scope and Limitations

The study is doctrinal, supplemented by analysis of secondary empirical data. It examines constitutional provisions, statutes, treaties and judgments of the Supreme Court and High Courts, and draws on the National Crime Records Bureau's *Crime in India* reports for 2020 to 2024, the National Family Health Survey (NFHS-5, 2019-21), the India Justice Report 2025, ministerial replies and Press Information Bureau releases. A comparative component considers England, Canada, Sweden, Iceland and South Africa. Where primary documents were not directly accessible, figures were taken from reputable secondary reports and are cited accordingly. NCRB figures record only offences registered by the police, apply the principal offence rule and cannot establish causation, and the trial-stage conviction rate is calculated against completed trials, not registered cases. The paper addresses criminal law and procedure, uses no interviews or field surveys, and states developments as at 30 October 2026, when the Supreme Court's decision on the marital rape exception and the future of the Fast Track Special Courts scheme were unresolved.

III. CONSTITUTIONAL AND INTERNATIONAL FOUNDATIONS

A. The Constitutional Scheme

The Constitution of India does not merely tolerate special protection for women and children; it directs it. The relevant provisions may be grouped by their function.

Function	Provision	Substance
Equality with protective discrimination	Article 14; Article 15(1) and 15(3)	Equality before law; prohibition of discrimination on grounds of sex; express power to make special provision for women and children
Life and dignity	Article 21; Article 21A	Personal liberty including dignity and bodily integrity; free and compulsory education for children aged six to fourteen
Prohibition of exploitation	Article 23; Article 24	Ban on trafficking in human beings and forced labour; ban on employment of children below fourteen in factories, mines or hazardous work

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Directive Principles	Article 39(e), 39(f); Article 42; Article 45	Protection of health and strength of workers, men, women and tender age of children; opportunities and facilities for healthy development of children; just and humane conditions of work and maternity relief; early childhood care
Fundamental Duty	Article 51A(e)	Duty to renounce practices derogatory to the dignity of women

Article 15(3) has an important doctrinal role. It operates as an exception to the anti-discrimination command in Article 15(1), and the Supreme Court has used it to sustain beneficial legislation for women and to reject the argument that gender-specific criminal provisions offend Article 14. At the same time, the Court has insisted that protection must not harden into paternalism. In *Joseph Shine v. Union of India* (2018)[6], the Court struck down the offence of adultery under Section 497 IPC because it treated a married woman as the property of her husband, which shows that the equality jurisprudence works in both directions.

Article 21 has been the principal vehicle for judicial expansion of rights. In *Vishaka v. State of Rajasthan* (1997)[7] the Supreme Court read Articles 14, 15, 19(1)(g) and 21 together with CEDAW to lay down binding guidelines against workplace sexual harassment, which stood until the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013[8]. In *Bodhisattwa Gautam v. Subhra Chakraborty* (1996)[9] the Court held that rape violates the right to life and dignity and is not merely an offence against modesty. For children, it has treated education, protection from hazardous labour and freedom from exploitation as facets of Article 21 (*M.C. Mehta v. State of Tamil Nadu*[10], 1996; *Unni Krishnan v. State of A.P.*, 1993)[11].

[6] *Joseph Shine v Union of India* (2019) 3 SCC 39.
[7] *Vishaka v State of Rajasthan* (1997) 6 SCC 241.
[8] Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (Act 14 of 2013).
[9] *Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490.
[10] *MC Mehta v State of Tamil Nadu* (1996) 6 SCC 756.
[11] *Unni Krishnan v State of Andhra Pradesh* (1993) 1 SCC 645.

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B. International Human Rights Commitments

India is a dualist State, so a treaty does not by itself create enforceable domestic rights. Article 51(c) and Article 253, however, enable Parliament to legislate to implement international obligations, and courts have used treaty norms to fill gaps in domestic law where no statute occupies the field. This was the reasoning in *Vishaka* and in *Apparel Export Promotion Council v. A.K. Chopra* (1999)[12].

Instrument	**India's position**	**Relevance to the paper**
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979	Ratified 1993, with declarations on Articles 5(a), 16(1) and 16(2); Optional Protocol not ratified	General Recommendations 19 (1992) and 35 (2017) treat gender-based violence as discrimination and a breach of due diligence
Declaration on the Elimination of Violence against Women (DEVAW), 1993	Adopted by the General Assembly	Defines violence against women and requires States to punish and prevent it
Convention on the Rights of the Child (CRC), 1989	Ratified 1992	Best interests principle (Art. 3); protection from abuse (Art. 19), sexual exploitation (Art. 34) and trafficking (Art. 35)
Optional Protocols to the CRC on sale of children, child prostitution and pornography; and on children in armed conflict	Both ratified 2005	Require criminalisation of sale of children, child prostitution and child sexual abuse material

[12] *Apparel Export Promotion Council v AK Chopra* (1999) 1 SCC 759.

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UN Convention against Transnational Organised Crime and the Palermo Protocol on trafficking in persons, 2000	Ratified 2011	Definition of trafficking; victim protection and assistance
ILO Conventions 138 (minimum age) and 182 (worst forms of child labour)	Ratified 2017	Basis for the 2016 amendment to the Child Labour Act

C. Institutional Human Rights Machinery

The Protection of Human Rights Act, 1993 created the National Human Rights Commission (NHRC) and State Commissions. The National Commission for Women (NCW) was constituted under the National Commission for Women Act, 1990, and the National Commission for Protection of Child Rights (NCPCR) under the Commissions for Protection of Child Rights Act, 2005. Each body can inquire into violations and recommend action, but none can enforce its recommendations, which is a structural limitation to which this paper returns in Part XI.

IV. THE STATUTORY FRAMEWORK PROTECTING WOMEN

A. Evolution of the Penal Response

India's penal law on sexual violence has developed largely through reaction to public outrage. The Mathura case (*Tukaram v. State of Maharashtra*, 1979)[13] led to the Criminal Law (Amendment) Act, 1983. The Delhi gang rape of December 2012 led to the Justice J.S. Verma Committee and the Criminal Law (Amendment) Act, 2013[14], which widened the definition of rape, raised the age of consent to eighteen, created offences such as acid attack, sexual harassment, voyeurism and stalking, and introduced the death penalty for rape causing death or a persistent vegetative state. The Kathua and Unnao cases produced the Criminal Law (Amendment) Act, 2018[15], which prescribed a minimum of twenty years for rape of a

[13] *Tukaram v State of Maharashtra* (1979) 2 SCC 143.

[14] Criminal Law (Amendment) Act 2013 (Act 13 of 2013), implementing the recommendations of the Justice JS Verma Committee.

[15] Criminal Law (Amendment) Act 2018 (Act 22 of 2018).

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girl below sixteen, death or life imprisonment where she is below twelve, and a two-month limit for investigation and trial.

The Bharatiya Nyaya Sanhita, 2023 consolidated these provisions in Chapter V, titled "Of Offences Against Woman and Child" (Sections 63 to 99). Substantively, however, the Chapter is largely a restatement of the amended IPC, with a few real innovations noted below.

B. Principal Offences under Chapter V of the BNS

BNS section	**Corresponding IPC provision**	**Offence**	**Punishment (summary)**
63, 64	375, 376(1)-(2)	Rape; punishment for rape	Rigorous imprisonment of not less than 10 years, extendable to life, with fine
65(1)	376(3)	Rape of a woman under 16	Not less than 20 years, extendable to imprisonment for the remainder of natural life
65(2)	376AB	Rape of a woman under 12	Not less than 20 years, imprisonment for the remainder of natural life, or death
66	376A	Rape causing death or persistent vegetative state	Not less than 20 years, life for the remainder of natural life, or death
69	New	Sexual intercourse by deceitful means, including false promise of marriage, employment or promotion, or suppression of identity	Up to 10 years and fine

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70(1), 70(2)	376D, 376DA, 376DB	Gang rape; gang rape of a woman under 18	Not less than 20 years to life; for a victim under 18, life for the remainder of natural life or death
71	376E	Repeat offenders	Life for the remainder of natural life or death
74 to 79	354, 354A, 354B, 354C, 354D, 509	Assault to outrage modesty; sexual harassment; assault to disrobe; voyeurism; stalking; insult to modesty	Ranging from up to 1 year (sexually coloured remarks) to 7 years (disrobing; repeat voyeurism)
80	304B	Dowry death	Not less than 7 years, extendable to life
85, 86	498A	Cruelty by husband or relatives; definition of cruelty	Up to 3 years and fine
124	326A, 326B	Acid attack and attempt	Not less than 10 years to life (acid attack), with fine payable to the victim
143, 144	370, 370A	Trafficking of persons; exploitation of a trafficked person	Graded, from 7 years to life depending on the number and age of persons trafficked

C. Notable Features of the BNS

Deceit. Section 69 is the first express statutory treatment of sexual intercourse obtained by deceitful means. It addresses a recurring litigation problem in which courts had to decide, case by case, whether a false promise of marriage vitiated consent under the "misconception of fact" clause. The Supreme Court had distinguished a false promise made with no intention

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of performing it from a promise later broken (*Pramod Suryabhan Pawar v. State of Maharashtra*, 2019)[16]. Section 69 codifies the first category but, because the term "deceitful means" is defined to include a false promise made without any intention to fulfil it, it leaves the evidentiary burden of proving intention at the time of the promise squarely on the prosecution.

Marital exception. Exception 2 to Section 63 preserves marital immunity for a husband where the wife is not under eighteen years. This raises the protected age from fifteen to eighteen, in accordance with *Independent Thought v. Union of India* (2017)[17], but the immunity for an adult wife remains. Section 67 separately penalises sexual intercourse by a husband with a wife living separately, but only with a lighter sentence of two to seven years.

Gender specificity. Rape (Section 63) and several offences against modesty are framed with a male perpetrator and a female victim. The BNS also omitted the former Section 377 IPC. The Parliamentary Standing Committee on Home Affairs had recommended retaining a gender-neutral equivalent, but the Government did not accept the recommendation. As a result, there is no general penal provision for non-consensual penile penetration of an adult man or a transgender person, a gap that the Common Cause study of the Sanhita also identifies.

D. Special Statutes for the Protection of Women

Statute	Core protection	Observations
Dowry Prohibition Act, 1961	Penalises giving, taking and demanding dowry	Rarely enforced as a stand-alone offence; usually invoked with Section 85 or Section 80 BNS
Protection of Women from Domestic Violence Act, 2005 (PWDVA)	Civil remedies: protection orders, residence orders, monetary relief, custody and compensation; Protection Officers and	Covers women in relationships "in the nature of marriage" (*Indra Sarma v. V.K.V. Sarma*, 2013); extended to female respondents by *Hiral P. Harsora v. Kusum*

[16] *Pramod Suryabhan Pawar v State of Maharashtra* (2019) 9 SCC 608.

[17] *Independent Thought v Union of India* (2017) 10 SCC 800.

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	service providers	*NarottamdasHarsora* (2016) 10 SCC 165; right to reside in shared household (*Satish Chander Ahuja v. Sneha Ahuja*, 2020)
Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013	Internal Complaints Committees and Local Committees; time-bound inquiry	The Supreme Court in *Aureliano Fernandes v. State of Goa* (2023) noted widespread non-compliance and directed authorities to constitute committees
Immoral Traffic (Prevention) Act, 1956	Penalises trafficking, brothel-keeping and living on earnings of prostitution	Criticised for treating sex workers as offenders; in *Budhadev Karmaskar v. State of West Bengal* (2022), the Court directed that adult consenting sex workers must not be harassed or arrested
Criminal Law and procedure on acid attacks	Sections 326A, 326B IPC (now Section 124 BNS); compensation and regulation of acid sale	*Laxmi v. Union of India* (2014) 4 SCC 427 mandated regulation of retail acid sales and a minimum compensation of three lakh rupees

E. Critical Observations

First, the Chapter concentrates on punishment and says little about prevention, rehabilitation and reintegration. Second, rising sentences have not been matched by evidence that severity deters, as the Verma Committee cautioned when it declined to recommend the death penalty for rape. Third, Sections 85 and 86 reproduce Section 498A IPC unchanged despite repeated judicial notice of its misuse. In *Achin Gupta v. State of Haryana* (2024)[18] the Court asked Parliament to reconsider them in light of practical realities, and in *Dara Lakshmi*

[18] *Achin Gupta v State of Haryana* 2024 INSC 369.

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Narayana v. State of Telangana (December 2024)[19] it cautioned against vague and omnibus allegations against a husband's relatives. Yet the NCRB records over 1.2 lakh cruelty cases in 2024,[20] so the design needs safeguards that protect genuine complainants without exposing the innocent to prolonged prosecution.

V. THE STATUTORY FRAMEWORK PROTECTING CHILDREN

A. Conceptual Approach

B. The Protection of Children from Sexual Offences Act, 2012

The POCSO Act, 2012[21] is the central instrument. Prior to its enactment, child sexual abuse was prosecuted under Sections 375, 354 and 377 IPC, which did not recognise male victims of penetrative abuse, did not treat sexual harassment of children as a distinct offence and did not provide child-sensitive procedures. The Act has the following distinguishing features.

1. **Gender neutrality.** Both victims and offenders may be of any gender.

2. **Graded offences.** Penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, use of a child for pornographic purposes, and possession of child sexual abuse material are separately defined, with aggravating factors for abuse by persons in authority, relatives, public servants and staff of institutions.

3. **Mandatory reporting.** Sections 19 and 21 impose a duty on any person with knowledge of an offence to report it, and failure is itself an offence. Because the offender is overwhelmingly known to the child, the provision is intended to prevent silence within families and institutions.

4. **Child-friendly procedure.** The statement of the child is to be recorded at a place of the child's choice, by a woman police officer not in uniform; the child is not to be brought to the police station at night; the identity of the child must be protected; and

[19] *Dara Lakshmi Narayana v State of Telangana* 2024 INSC 953.
[20] Feminism in India, 'NCRB Report 2024' (n 3).
[21] Protection of Children from Sexual Offences Act 2012 (Act 32 of 2012).

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the child may be assisted by a support person and a translator or special educator where required (Sections 24 to 26, 33 and 38).

5. **Special Courts and time limits.** Section 28 requires Special Courts in every district, Section 35 requires the child's evidence to be recorded within thirty days, and the trial is to be completed within one year as far as possible.

6. **Statutory presumptions.** Sections 29 and 30 presume the commission of the offence and the existence of a culpable mental state once the prosecution establishes the foundational facts, which reverses the ordinary burden at that stage.

The Criminal Law (Amendment) Act, 2019, which amended POCSO, increased minimum sentences for penetrative sexual assault, introduced the death penalty for aggravated penetrative sexual assault on a child, and widened the offence of storing child sexual abuse material. Rules framed in 2020 deal with interim compensation, support persons and the roles of Child Welfare Committees.

C. Related Penal Provisions and Special Statutes

Instrument	Core protection	Key points
BNS, 2023 Sections 93 to 99, 143, 144	Exposure and abandonment of child; hiring a child to commit an offence; procuration, selling and buying of minors for prostitution; trafficking and exploitation of trafficked persons	Enhanced penalties where the victim is a minor
Juvenile Justice (Care and Protection of Children) Act, 2015	Care and protection of children in need; juveniles in conflict with law	Allows a child aged 16 to 18 accused of a heinous offence to be tried as an adult after a preliminary assessment by the Juvenile Justice Board (Sections 15 and 18(3)); Section 75 penalises cruelty

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		to children
Prohibition of Child Marriage Act, 2006	Minimum marriageable age is 21 for men and 18 for women; child marriages are voidable at the option of the child party	Offences are cognisable and non-bailable; Child Marriage Prohibition Officers; Parliament has not enacted the 2021 proposal to raise the age for women to 21
Child Labour (Prohibition and Regulation) Amendment Act, 2016	Prohibits employment of children below 14 and of adolescents in hazardous work	Exempts family enterprises and child artists, a concession critics view as a loophole
Immoral Traffic (Prevention) Act, 1956 and Bonded Labour System (Abolition) Act, 1976	Penalise commercial sexual exploitation and bonded labour	Enforcement has been uneven

D. Recent Judicial Developments

Four decisions deserve attention. In *Attorney General for India v. Satish* (2021)[22] the Supreme Court reversed a Bombay High Court ruling that sexual assault under Section 7 POCSO requires skin-to-skin contact, holding that the offender's intention, not the form of contact, is decisive. In *Just Rights for Children Alliance v. S. Harish* (23 September 2024)[23] it held that viewing, storing or constructively possessing child sexual abuse material can attract Section 15 POCSO and Section 67B of the IT Act, and directed courts to use the term "child sexual exploitative and abuse material" (CSEAM); in September 2026 it was still pressing the

[22] *Attorney General for India v Satish* (2022) 5 SCC 545.

[23] *Just Rights for Children Alliance v S Harish* 2024 INSC 716.

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Union to report on steps taken.[24] In *Society for Enlightenment and Voluntary Action v. Union of India* (October 2024)[25] it held that the Prohibition of Child Marriage Act must be enforced through prevention, protection and prosecution by trained officers rather than punishment alone, and declined to decide its interface with personal laws because an amending Bill was pending. In *State of Uttar Pradesh v. Anurudh* (9 January 2026)[26] it urged the Union to consider a "Romeo-Juliet" clause exempting genuine consensual relationships between adolescents close in age while penalising misuse of the Act.[27] The last suggestion exposes a tension examined in Part IX: a rigid age threshold gives certainty and protects children from exploitation, but it can criminalise adolescent conduct.

VI. THE CRIMINAL JUSTICE RESPONSE

A statute protects only to the extent that the machinery which enforces it works. The criminal process for offences against women and children has four stages (reporting and registration, investigation, trial, and post-trial support), and at each stage the law now prescribes a protective rule. The table below sets the rule beside the recurrent practical difficulty documented in judgments, parliamentary replies and independent studies.

A. Stage-wise Safeguards and Gaps

Stage	Legal safeguard	Practical gap
Registration of FIR	Section 173 BNSS: mandatory registration of cognizable offences, Zero FIR irrespective of territorial jurisdiction, electronic information to be signed within three days; *Lalita Kumari v. Government of*	Informal "settlement", jurisdictional shifting and social pressure delay registration; the Unnao case showed how a powerful accused can obstruct an FIR

[24] 'SC gives Centre final chance to report steps against online child abuse' *Business Standard* (24 September 2026) https://www.business-standard.com/india-news/sc-gives-centre-final-chance-to-report-steps-against-online-child-abuse-126092401394_1.html accessed 30 October 2026.

[25] *Society for Enlightenment and Voluntary Action v Union of India* 2024 INSC 790.

[26] *State of Uttar Pradesh v Anurudh* 2026 INSC 47.

[27] 'Consider enacting clause shielding consensual teen relationships from POCSO Act, SC tells Centre' *Scroll.in* (January 2026) https://scroll.in/latest/1089916/consider-enacting-clause-shielding-consensual-teen-relationships-from-pocso-act-sc-tells-centre accessed 30 October 2026.

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	U.P. (2014) 2 SCC 1 makes registration mandatory; refusal is punishable under Section 199 BNS	
Recording of statement	Woman police officer or woman officer must record information on sexual offences; statement at the victim's residence or place of choice; statement before a Magistrate under Section 183 BNSS; audio-visual recording under Section 176 BNSS	Women are about 12 per cent of the police overall and only about 8 per cent of officers, with fewer than 1,000 in senior ranks (India Justice Report, 2025)
Medical examination and forensics	Examination by a woman doctor where possible with consent; report within seven days to the investigating officer (Section 184(6) BNSS); forensic investigation for serious offences; ban on the "two-finger test" (*Lillu v. State of Haryana*, 2013; *State of Jharkhand v. Shailendra Kumar Rai*, 2022)	Forensic laboratories are overloaded; the two-finger test continues to be reported in some districts despite judicial prohibition
Investigation	Rape and POCSO investigations to be completed within two months (Section 193(2) BNSS); victim informed of progress within ninety days (Section 193(3)(ii)); sequence of custody for electronic devices	Time limits are directory in practice, with no consequence for non-compliance beyond departmental action
Trial	Trial in camera; woman judge where practicable; Special Courts for POCSO; Fast Track Special Courts for rape and POCSO; protective questioning of victim;	Adjournments, hostile witnesses and compromise between parties, particularly in cases involving minors, produce acquittals

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	legislative bar on character evidence about prior sexual history	
Victim support and compensation	Section 396 BNSS (formerly Section 357A CrPC) victim compensation schemes; free medical treatment under Section 397; Witness Protection Scheme, 2018 (given statutory recognition by Section 398 BNSS); POCSO Rules, 2020 interim compensation	Compensation is paid late, unevenly and frequently without a hearing; victims remain unaware of entitlements

B. Institutional Architecture

The Women Helpline (181) and the Emergency Response Support System (112) offer telephone access. One Stop Centres under Mission Shakti provide medical, legal, police and counselling services; Parliament was told in March 2026 that 926 are operating and have assisted over thirteen lakh women.[28] Women help desks exist in more than fifteen thousand police stations, over fourteen thousand headed by women officers,[29] yet no State meets its own reservation quota for women in the police. For children, the Child Welfare Committees, Juvenile Justice Boards and CHILDLINE 1098 form the statutory care system, while the National Database on Sexual Offenders and the Cyber Crime Reporting Portal support tracking and reporting.

C. Fast Track Special Courts

The Fast Track Special Courts scheme is the State's principal answer to delay in sexual offence trials. Introduced in October 2019 after the Criminal Law (Amendment) Act, 2018 and the Supreme Court's proceedings on child rape (*In Re: Alarming Rise in the Number of Reported Child Rape Incidents*, 2019)[30], it is centrally sponsored from the Nirbhaya Fund. By 30 June 2025, 725 courts, 392 of them exclusive POCSO courts, had disposed of 3,34,213

[28] 'Government says 926 OSCs are operational across country to support women in distress' *All India Radio* (27 March 2026) https://www.newsonair.gov.in/government-says-926-oscs-are-operational-across-country-to-support-women-in-distress accessed 30 October 2026.

[29] '926 OSCs are operational' *All India Radio* (n 28).

[30] *In Re: Alarming Rise in the Number of Reported Child Rape Incidents* (Supreme Court of India, 2019).

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cases;[31] by 30 April 2026 there were 775 courts, 398 of them exclusive POCSO, but the scheme was extended only to 30 September 2026.[32] High Court data show the persistent mismatch between disposal and institution:

Year	Cases registered before FTSCs	Cases disposed of	Cases pending at year-end
2023	81,471	76,319	2,02,175
2024	88,902	85,595	2,04,122
2025	1,43,936	66,500	2,45,579

The figures, drawn from the Law Ministry's information as reported in July 2026, show that registrations in 2025 rose by about 62% while disposals fell, so that pendency reached nearly 2.46 lakh. A scheme that is renewed in short extensions, with the central funding horizon uncertain, is poorly suited to a structural problem. The authors of the scheme designed each court to dispose of at least 165 cases a year, but a court with a single judicial officer and seven support staff cannot clear a backlog when new filings exceed its capacity.

D. The Rights of the Accused

The process must also protect the accused. The right to a fair trial, the presumption of innocence and the arrest standards in *Arnesh Kumar v. State of Bihar* (2014)[33], which discouraged automatic arrest in offences punishable with up to seven years, are constitutional requirements, not obstacles; reform must make the process faster and more humane for victims without weakening them.

[31] Press Information Bureau, Ministry of Law and Justice, 'Scheme of Fast Track Special Courts' (2025) https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=2154077 accessed 30 October 2026.

[32] '775 Fast Track Special Courts functional across 29 States/UTs; Centre extends FTSC scheme till September 2026' *ANI* (26 July 2026) https://aninews.in/news/national/general-news/775-fast-track-special-courts-functional-across-29-statesuts-centre-extends-ftsc-scheme-till-september-202620260726082611/ accessed 30 October 2026.

[33] *Arnesh Kumar v State of Bihar* (2014) 8 SCC 273.

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VII. JUDICIAL CONTRIBUTION TO THE PROTECTION OF WOMEN AND CHILDREN

In the field of gender and child rights, the Supreme Court has acted as lawmaker, supervisor and, on occasion, as a brake on legislative excess. Its contribution falls into three overlapping modes: filling statutory gaps through guidelines (*Vishaka*); reinterpreting existing provisions so that they conform to constitutional values (*Independent Thought*); and overseeing the implementation of statutes through continuing mandamus (*Sampurna Behura*[34], *Alakh Alok Srivastava*[35]).

A. Women

Case	Core holding
Bodhisattwa Gautam v. Subhra Chakraborty (1996) 1 SCC 490	Rape is a violation of the fundamental right to life under Article 21; compensation may be awarded in addition to punishment
Vishaka v. State of Rajasthan (1997) 6 SCC 241	Laid down binding guidelines on sexual harassment at work, relying on CEDAW
Lalita Kumari v. Government of U.P. (2014) 2 SCC 1	Registration of an FIR is mandatory where information discloses a cognisable offence; a preliminary inquiry is allowed only in limited categories such as matrimonial disputes
Arnesh Kumar v. State of Bihar (2014) 8 SCC 273	Police must satisfy the statutory necessity for arrest in offences punishable up to seven years, including cruelty under Section 498A
Laxmi v. Union of India (2014) 4 SCC 427	Regulated over-the-counter sale of acid; directed compensation and free treatment
Shayara Bano v. Union of India (2017) 9 SCC 1	Instantaneous triple talaq struck down

[34] *Sampurna Behura v Union of India* (2018) 4 SCC 433.

[35] *Alakh Alok Srivastava v Union of India* (2018) 12 SCC 291.

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Mukesh v. State (NCT of Delhi) (2017) 6 SCC 1	Death sentences in the Nirbhaya case confirmed
Shakti Vahini v. Union of India (2018) 7 SCC 192	Preventive, remedial and punitive guidelines against honour-based violence
Joseph Shine v. Union of India (2019) 3 SCC 39	Section 497 IPC (adultery) unconstitutional
Nipun Saxena v. Union of India (2019) 2 SCC 703	Prohibited disclosure of the identity of victims of sexual offences, even deceased or of unsound mind, and directed a model compensation scheme
Aparna Bhat v. State of Madhya Pradesh 2021 SCC OnLine SC 230	Bail conditions that require contact between accused and victim or that reinforce stereotypes are impermissible
State of Jharkhand v. Shailendra Kumar Rai (2022)	The "two-finger test" is regressive; doctors who conduct it are guilty of misconduct

B. Children

Case	**Core holding**
Sheela Barse v. Union of India (1986) 3 SCC 596	Directions on the treatment of children in jails and on speedy trial of children
M.C. Mehta v. State of Tamil Nadu (1996) 6 SCC 756	Directions against hazardous child labour; rehabilitation fund of twenty thousand rupees per child
Independent Thought v. Union of India (2017) 10 SCC 800	Exception 2 to Section 375 IPC read down to treat intercourse with a wife aged fifteen to eighteen as rape
Sampurna Behura v. Union of India (2018) 4 SCC 433	Continuing mandamus to establish Juvenile Justice Boards, Child Welfare Committees and monitoring bodies
Shilpa Mittal v. State (NCT of	An offence for which the maximum is more than

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Delhi) (2020) 2 SCC 787	seven years but with no prescribed minimum is a "serious", not "heinous", offence under the Juvenile Justice Act
Attorney General for India v. Satish (2022) 5 SCC 545	Sexual assault under POCSO does not require skin-to-skin contact
Just Rights for Children Alliance v. S. Harish (2024)	Viewing, storing or constructively possessing CSEAM is an offence; terminology to be changed
Society for Enlightenment and Voluntary Action v. Union of India (2024)	Guidelines for the enforcement of the Prohibition of Child Marriage Act with focus on prevention
State of Uttar Pradesh v. Anurudh (2026)	Age determination is a question for trial, not bail; Parliament urged to consider a Romeo-Juliet clause

C. Assessment

The Court has been most effective where it has articulated clear, administrable standards (the *Vishaka* guidelines, the *Nipun Saxena*[36] rules on anonymity, the prohibition on the two-finger test), and least effective where supervision depends on State funding and will. Its approach to gender has not been uniform: *Joseph Shine*, *Shayara Bano*[37] and *Aparna Bhat*[38] reflect a transformative view of equality, yet in matrimonial offences it has voiced concern about misuse, and it has not decided the marital rape question.

VIII. THE EMPIRICAL PICTURE

Official data show a steady rise in registered crimes against children and a plateau in crimes against women, but the figures on convictions and pendency show that the central weakness lies in what happens after registration.

[36] *Nipun Saxena v Union of India* (2019) 2 SCC 703.
[37] *Shayara Bano v Union of India* (2017) 9 SCC 1.
[38] *Aparna Bhat v State of Madhya Pradesh* 2021 SCC OnLine SC 230.

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A. Trends in Registered Crime

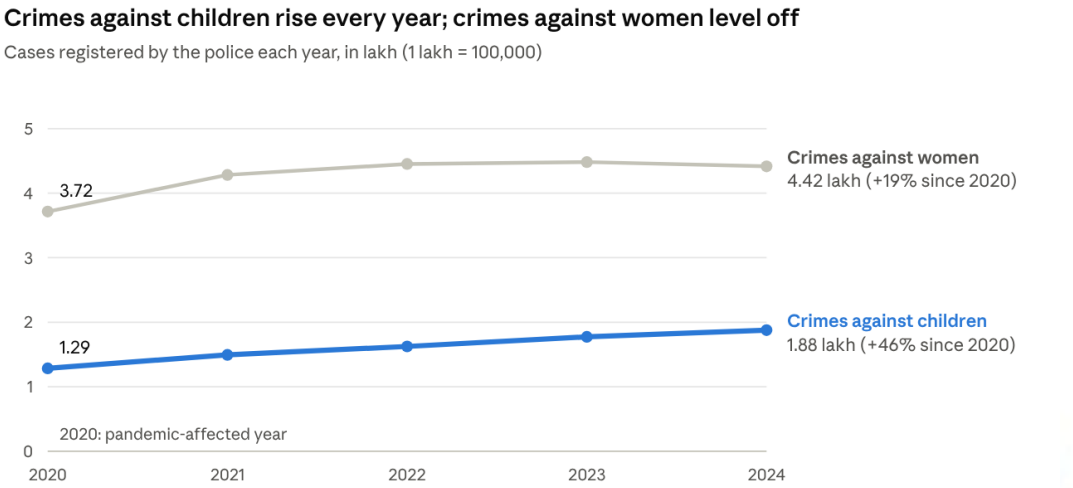


Figure 1: Registered crimes against women and children in India, 2020–2024 (cases, in lakh)

Between 2020 and 2024 registered crimes against children rose by 46% and those against women by 19%, almost all of the latter before 2022. The 2020 base is misleading because pandemic restrictions depressed reporting; measured from 2019, when the NCRB recorded 1,48,090 crimes against children, the rise is about 27%.[39] Two cautions apply. A rise in registered crime is not necessarily a rise in actual crime: Delhi police attributed the capital's high figures to zero tolerance and prompt registration of FIRs,[40] and Zero FIR and mandatory reporting under POCSO are designed to increase registration. And the NCRB's principal offence rule counts only the most serious offence in a multi-offence case, understating the total.[41]

B. The Snapshot for 2024

Indicator (2024)	Figure	Observation
Crimes against	4,41,534 cases; rate	Uttar Pradesh recorded the highest

[39] 'Significant rise in crime against women, children in 2021' *Sentinel Assam* (2022) https://www.sentinelassam.com/national-news/significant-rise-in-crime-against-women-children-in-2021-says-ncrb-data-610045 accessed 30 October 2026.

[40] 'Delhi tops metro cities in crimes against women' *Deccan Herald* (2025).

[41] Commonwealth Human Rights Initiative, *NCRB Data on Rape Statistics: Analysis Part 2* (September 2024) https://humanrightsinitiative.org/download/CHRI-NCRBData-RapeStats-Analysis-Part2-Sep24.pdf accessed 30 October 2026.

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women	64.6 per lakh women (66.2 in 2023)	number, with 66,398 cases
Cruelty by husband or relatives	1,20,227 cases	About 27 per cent of all crimes against women; the single largest head
Rape	29,536 cases	Rajasthan registered the most, at 4,871; 4,262 cases involved Scheduled Caste women and 1,268 Scheduled Tribe women
Dowry deaths	5,737 cases	Nearly sixteen a day
Crimes against children	1,87,702 cases; rate 42.3 per lakh children (39.9 in 2023)	About 512 a day; the highest in ten years
Kidnapping and abduction of children	75,108 cases (40.0 per cent)	Nearly 59 per cent were missing children treated as kidnapped
Offences under POCSO	69,191 cases (36.9 per cent)	In the 2023 data, the offender was known to the child in 96.6 per cent of cases under Sections 4 and 6
Juveniles in conflict with law	34,878 cases	Increase of 11.2 per cent over 2023
Spousal violence (NFHS-5, 2019-21)	29.3 per cent of ever-married women aged 18 to 49	About three-fourths of those who experienced violence never sought help or told anyone

C. From Registration to Conviction

The following table traces the course of cases through the system. It shows that attrition occurs at every stage.

Stage	**Figure**	**Reading**

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Police: chargesheeting rate, crimes against women (2024)	77.2 per cent of cases investigated	Roughly one case in four is closed without a chargesheet
Courts: cases pending trial, crimes against women (end of 2024)	26,40,698, of which 23,04,089 were carried forward from earlier years	The backlog is nearly six times the annual inflow of fresh registrations
Courts: outcomes, crimes against women (2024)	45,832 convictions against 1,23,340 acquittals	Convictions are about 27 per cent of cases ending in conviction or acquittal (author's calculation)
Rape trials (2024)	5,032 convictions; conviction rate 24.4 per cent of completed trials; 1,85,785 cases pending at year end	Only 421 rape cases sent for trial in 2024 ended in conviction within the same year
Crimes against children: cases for trial (2024)	7,07,523	Includes carried-forward cases
Crimes against children: trials completed and convictions (2024)	60,435 trials completed; 20,513 convictions; conviction rate 33.9 per cent	About one in three completed trials ends in conviction
Crimes against children: cases pending at year end (2024)	6,44,887, or 91.1 per cent	Courts disposed of fewer than nine in every hundred cases available for trial

D. Interpreting the Data

First, the principal failure lies not in lawmaking or registration but in the movement of cases through investigation and trial. With pendency above ninety per cent, justice for a victim who reports in one year will typically arrive years later, when memories have faded, witnesses have turned hostile and the child victim has grown up. Second, outcomes vary

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widely between States. In Haryana in 2023 only 818 of 6,006 trials ended in conviction;[42] in Karnataka courts convicted in 428 cases and acquitted in 12,760 cases of crimes against women;[43] and in Jammu and Kashmir the conviction rate for crimes against children was 9.4 per cent in 2024.[44] Outcomes therefore depend on local prosecutorial and judicial practice as much as on the statute. Third, there are signs of improvement: in 2025 courts disposed of 87,754 POCSO cases against 80,320 fresh registrations, a disposal rate of 109 per cent, although nearly half the pending cases had been pending for more than two years.[45] Faster disposal must not come at the cost of fair trials.

IX. EMERGING CHALLENGES

A. Technology-Facilitated Violence and AI-Generated Abuse

Cybercrime in India crossed one lakh registered cases for the first time in 2024, a rise of nearly eighteen per cent,[46] and a Child Rights and You analysis recorded 1,238 cybercrimes against children.[47] The BNS criminalises voyeurism (Section 77) and stalking, including electronic monitoring (Section 78); the IT Act penalises violation of privacy and publication of sexually explicit material, including material depicting children (Sections 66E, 67, 67A and 67B); and *Just Rights* extended Section 15 POCSO to viewing and constructive possession. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, effective from 20 February 2026, require labelling of synthetically generated information, prohibit synthetic child sexual abuse material and non-

[42] 'Haryana ranks 4th in crime rate nationwide, says NCRB report' *The Tribune* (2025) https://www.tribuneindia.com/news/haryana/state-ranks-4th-in-crime-rate-nationwide-says-ncrb-report accessed 30 October 2026.

[43] 'Karnataka sees surge in crimes against women but 92% cases end in acquittal' *Deccan Herald* (2025), see also https://www.deccanherald.com/india/karnataka/over-3-000-pocso-cases-recorded-in-karnataka-in-2023-ncrb-3750980 accessed 30 October 2026.

[44] 'Jammu Kashmir reports over 300 POCSO cases' *ETV Bharat* (May 2026) https://www.etvbharat.com/en/state/jammu-kashmir-reports-over-300-pocso-cases-537-child-crime-probes-pending-in-2024-ncrb-enn26050803852 accessed 30 October 2026.

[45] 'Beyond tareek pe tareek: India's POCSO courts turned the corner this year' *The Week* (20 December 2025) https://www.theweek.in/news/india/2025/12/20/law-beyond-tareek-pe-tareek-2025-india-pocso-courts-turned-the-corner-stats-disposal-rate.amp.html accessed 30 October 2026.

[46] 'NCRB Crime in India 2024 Report Explained' *Budding Forensic Expert* (May 2026) https://www.buddingforensicexpert.in/2026/05/ncrb-crime-in-india-2024-report.html accessed 30 October 2026.

[47] 'NCRB 2024: Crime against children up 46% in 4 years; cyber sexual exploitation major concern' *NewsBits* (2026) https://newsbits.in/ncrb-2024-crime-against-children-up-46-in-4-years-cyber-sexual-exploitation-major-concern accessed 30 October 2026.

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consensual intimate imagery, and cut removal times to three hours for court or government orders and two hours for non-consensual intimate imagery.[48] Commentators warn of over-removal and weak due process.[49] More fundamentally, the penal provisions were drafted around recordings of real events and do not clearly reach wholly fabricated images, and Section 77 protects only women, and only in respect of a "private act".

B. Marital Rape and Intimate Partner Violence

The marital exception is the most conspicuous gap in the law of sexual violence. On 9 September 2026 a bench headed by Chief Justice of the Hon'ble Supreme Court of Indiaheard the petitions challenging Exception 2 to Section 63 BNS, framing two questions: whether a husband can be prosecuted while the exception stands, and whether the exception is constitutionally valid. The Union argued that criminalisation is for Parliament, and the bench observed that legislation is tested against the Constitution and not against social morality.[50] The matter was undecided at the date of writing. The case for striking down the exception is that it contradicts the statutory definition of consent, denies married women equal protection, violates bodily autonomy under Article 21, and treats marriage as irrevocable consent. The case against is that proof of non-consent within marriage is difficult and open to misuse, that Sections 85 and 67 BNS and the Domestic Violence Act already provide remedies, and that a new category of rape is for Parliament. The survey evidence is stark: 29.3 per cent of ever-married women aged 18 to 49 reported spousal violence (NFHS-5, 2019-21), and about three-fourths of those never sought help.[51]

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[48] 'IT Rules 2026 Deepfake Regulation: Three Hour Takedowns And AI Labelling Obligations' *Legal500*https://www.legal500.com/intelligence/india/technology/it-rules-2026-deepfake-regulation-three-hour-takedowns-and-ai-labelling-obligations accessed 30 October 2026; 'India orders social media platforms to take down deepfakes faster' *TechCrunch* (10 February 2026) https://techcrunch.com/2026/02/10/india-orders-social-media-platforms-to-take-down-deepfakes-faster accessed 30 October 2026.

[49] 'Synthetic Content, Three-Hour Compliance and the Risk of Over-Removal: Analysing the IT rules amendments' *Sabrang India* (2026) https://sabrangindia.in/synthetic-content-three-hour-compliance-and-the-risk-of-over-removal-analysing-the-it-rules-amendments/ accessed 30 October 2026.

[50] 'Marital Rape Case: Supreme Court to examine legal exception as Centre says criminalisation is Parliament's job' *Free Press Journal* (9 September 2026) https://www.freepressjournal.in/india/marital-rape-case-supreme-court-to-examine-legal-exception-as-centre-says-criminalisation-is-parliaments-job accessed 30 October 2026; 'SC questions prosecution of husbands amid marital rape exception challenge' *ETV Bharat* (9 September 2026) https://www.etvbharat.com/en/bharat/sc-questions-prosecution-of-husbands-amid-marital-rape-exception-challenge-enn26090907313 accessed 30 October 2026.

[51] 'Silence of abused women is the norm, says Supreme Court' *Siasat Daily* (2026) https://www.siasat.com/silence-of-abused-women-is-the-norm-says-supreme-court-3547753/ accessed 30 October 2026.

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C. Adolescent Sexuality and the Limits of Age-Based Criminalisation

POCSO treats every person below eighteen as incapable of consent. This is simple and protects young adolescents from older exploiters, but it produces many prosecutions of consensual relationships between adolescents of similar age, usually after parental complaints, and may deter adolescents from seeking contraception or sexual health care because providers must report. In *Anurudh* the Supreme Court recorded that the Act is sometimes used to settle scores and asked the Union to consider a close-in-age exemption with penalties for misuse.[52] A well-drafted exemption would specify the age gap, exclude coercion, authority and grooming, and preserve confidential health services; it would not lower the age of consent.

D. Trafficking and Missing Children

The NCRB recorded 2,135 trafficking cases in 2024 with 6,018 victims, of whom 2,297 were children, Telangana (423 cases) and Maharashtra (337) reporting the most.[53] Of 5,839 persons whose purpose was recorded, 2,347 were trafficked for sexual exploitation and 1,493 for forced labour.[54] Official figures understate the problem, since much trafficking is recorded as kidnapping, missing children, child labour or forced marriage: in 2024, 59 per cent of kidnapping and abduction cases involving children were missing-child reports treated as kidnapping, and the chargesheeting rate for the whole category was only 25.3 per cent.[55] There is no comprehensive anti-trafficking statute; the 2018 Bill passed the Lok Sabha but lapsed in 2019, and rehabilitation depends on executive schemes.

E. Intersectional and Group-Based Violence

Violence is shaped by caste, tribe and conflict. In 2024, 4,262 rape cases involved Scheduled Caste women and 1,268 Scheduled Tribe women.[56] After the ethnic violence in

[52] 'Consider enacting clause shielding consensual teen relationships' *Scroll.in* (n 27).

[53] SPM IAS Academy, 'NCRB Report 2024: Key Findings on Crime Rate, Cyber Crime, Women and Child Safety in India' (2026) https://spmiasacademy.com/currentaffairs/ncrb-report-2024-key-findings-on-crime-rate-cyber-crime-women-and-child-safety-in-india/ accessed 30 October 2026; 'Telangana Saw Highest Crime Rate Against Women And Children In 2024: NCRB' *ETV Bharat* (8 May 2026) https://www.etvbharat.com/en/state/ncrb-report-for-the-year-2024-reveals-that-telangana-has-recorded-the-highest-crime-rate-against-women-and-children-enn26050802448 accessed 30 October 2026.

[54] Dataful, NCRB human trafficking datasets 2024 https://dataful.in/datasets/24003/ accessed 30 October 2026.

[55] 'India Registered 512 Crimes Against Children Every Day In 2024' *iSignal* (n 4).

[56] Feminism in India, 'NCRB Report 2024' (n 3).

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Manipur in 2023, in which two women were paraded naked, the Supreme Court appointed a committee of three former women High Court judges headed by Justice Gita Mittal and 42 Special Investigation Teams, and was still supervising the sexual violence cases in February 2026.[57] Honour-based violence remains without a dedicated statute despite *Shakti Vahini*[58], and transgender and male victims fall outside the gender-specific definition of rape.

F. Safety in Institutions and Workplaces

The rape and murder of a young resident doctor at R.G. Kar Medical College, Kolkata, on 9 August 2024 led the Supreme Court to take suo motu cognisance and constitute a National Task Force on the safety of medical professionals.[59] More than a decade after the 2013 Act, internal committees under the Sexual Harassment of Women at Workplace Act are still absent or ineffective in many institutions, as the Court noted in *Aureliano Fernandes*[60]. Women help desks exist in about 78 per cent of police stations, yet no State has met its own reservation target for women in the police.[61]

X. A COMPARATIVE PERSPECTIVE

Comparison does not supply a template, but it shows that India's choices are not inevitable.

Issue	India	Comparative practice
Marital rape	Exception 2 to Section 63 BNS preserves a husband's immunity	England abolished the common law immunity in *R v. R* (House of Lords, 1991); Canada removed the spousal

[57] 'Manipur violence: Supreme Court constitutes all-women judicial committee' *Bar and Bench* (August 2023) https://barandbench.com/amp/story/news/litigation/manipur-violence-supreme-court-constitutes-all-women-judicial-committee-probe-cbi-sits accessed 30 October 2026; 'Manipur Violence: Supreme Court seeks CBI's status report on sexual violence cases' *LiveLaw* (13 February 2026) https://www.livelaw.in/amp/top-stories/manipur-violence-supreme-court-seeks-cbis-status-report-on-sexual-violence-cases-proposes-to-ask-hc-to-monitor-trials-523084 accessed 30 October 2026.

[58] *Shakti Vahini v Union of India* (2018) 7 SCC 192.

[59] 'R.G. Kar Medical College rape and murder case: updates from the Supreme Court' *Supreme Court Observer* (2024) https://www.scobserver.in/journal/r-g-kar-medical-college-rape-and-murder-case-updates-from-the-supreme-court/ accessed 30 October 2026.

[60] *Aureliano Fernandes v State of Goa* (Supreme Court of India, 2023).

[61] Tata Trusts, *India Justice Report 2025* (National Press Release) https://indiajusticereport.org/files/English_National%20Press%20Release_India%20Justice%20Report%202025.docx.pdf accessed 30 October 2026.

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	where the wife is eighteen or above	exemption in 1983; South Africa, Sweden, New Zealand and all American States criminalise marital rape
Adolescent relationships	Age of consent is eighteen with no close-in-age exception	Canada, since 2008, sets sixteen but allows close-in-age exemptions (two years for those aged twelve and thirteen, five years for fourteen and fifteen), the model the Supreme Court pointed to in *Anurudh*
Child-friendly justice	Special Courts and support persons, but no unified child-interview facility	Iceland's *Barnahus* (1998) brings police, prosecutors, child protection and medical staff into one child-friendly building so that the child gives a single forensic interview

Two lessons follow. First, the marital exemption is an outlier: India is among a small minority of countries retaining it, although estimates vary between about thirty and forty,[62] and the CEDAW Committee has recommended that India criminalise marital rape. Second, models of child-friendly justice, now widely adopted in Europe including Spain,[63] depend on coordination of agencies, a single interview and specialist staff, which are matters of institutional design rather than penal provisions.

XI. FINDINGS AND CRITICAL ANALYSIS

A. Principal Findings

1. **The framework is extensive and rights-based but has grown by accretion.** Constitutional guarantees, treaty commitments, Chapter V of the BNS, POCSO and special statutes cover nearly every recognised form of violence, and the Supreme

[62] Feminism in India, 'The Marital Rape Exception: What The Law Says And What It Refuses To See' (14 April 2026) https://feminisminindia.com/2026/04/14/the-marital-rape-exception-what-the-law-says-and-what-it-refuses-to-see/ accessed 30 October 2026; Drishti IAS, 'Marital Rape' (2020) https://drishtiias.com/pdf/1608643048.pdf accessed 30 October 2026.

[63] 'Development and implementation of the Barnahus model in Spain' *Som360* (2025) https://adicciones.som360.org/en/monografico/child-sexual-abuse/articulo/development-and-implementation-barnahus-model-spain accessed 30 October 2026.

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Court has supplied rights-based interpretation from *Vishaka* to *Just Rights*. But the law grew in reaction to particular tragedies, producing overlapping provisions, repeated sentence enhancement and little attention to prevention.

2. **The new codes changed the arrangement of the law more than its content.** Chapter V and the BNSS (Zero FIR, e-FIR, a two-month investigation limit, a ninety-day progress report, audio-visual recording) are useful, but the marital exception, the gender-specific definition of rape and the silence on synthetic imagery remain.
3. **The central failure is implementation.** In 2024 over 91 per cent of trials involving crimes against children were pending at year end, the conviction rate in completed trials was 33.9 per cent, and in rape trials 24.4 per cent. Statutory time limits are directory in practice.
4. **Institutional capacity is the limiting factor.** Women are about 12 per cent of the police, forensic laboratories are overloaded, and the Fast Track Special Courts run on short extensions while carrying a pendency of nearly 2.46 lakh cases.
5. **Heavier punishment has not demonstrably helped.** Sentences were enhanced in 2013, 2018, 2019 and 2023, yet registration stayed high and conviction low. Official data cannot establish causation, but they do not support the view that severity alone secures protection, as the Verma Committee warned.
6. **Misuse and under-protection coexist.** The Court has noted misuse of Section 498A (now Section 85 BNS) and, in *Anurudh*, of POCSO, yet survey data show vast unreported abuse. A blunt penal instrument can fail genuine victims and burden the innocent at once.
7. **Emerging harms and accountability are weakly addressed.** The 2026 IT Rules do not alter the criminal law of image-based abuse, there is no anti-trafficking statute, the NHRC, NCW and NCPCR make non-binding recommendations, and India has not accepted the CEDAW individual complaints procedure.

B. Testing the Hypotheses

Hypothesis	**Assessment**	**Basis**
H1: The normative framework is broadly	Largely confirmed, with	Pendency above 90 per cent and low conviction support the first limb; the

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adequate, and the main deficiency lies in implementation	three exceptions	marital exception, absence of an anti-trafficking statute and gender-specific definition of rape show that the substantive law also has gaps
H2: Successive enhancement of punishment has not been matched by gains in conviction, speed and victim support	Confirmed, subject to the caution that causation cannot be established from official data	Registered crime remained high after each amendment; conviction and pendency figures have not improved at a comparable rate
H3: Technology-facilitated and structural harms are developing faster than the law's capacity to respond	Largely confirmed	Rapid growth of cybercrime; synthetic media not squarely addressed by penal law; trafficking and conflict-related sexual violence handled through ad hoc and fragmented measures

C. Critical Reflection

A deterrent depends on the probability and speed of conviction more than on its severity. Where only about one in four rape trials ends in conviction and trials commonly run for years, raising the maximum penalty changes little. A graduated system is preferable: civil protection, mediation and counselling available early, and the criminal process reserved for serious cases and made fast, evidence-based and fair.

XII. RECOMMENDATIONS

The recommendations are grouped by the institution that must act.

A. Legislative Reform

Parliament should begin by omitting Exception 2 to Section 63 BNS and aligning Section 67, so that non-consensual intercourse within marriage is treated as rape, with graded

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sentencing and the ordinary safeguards of a fair trial; any result the Supreme Court reaches on the pending reference should then be codified. Sexual offences should also be made gender-neutral as to victims. Provisions protecting women specifically should be retained, but an offence of non-consensual penetration should be added to protect adult men and transgender persons, as the Parliamentary Standing Committee on Home Affairs recommended when Section 377 was omitted. A comprehensive anti-trafficking law is needed, reviving the 2018 Bill with a victim-centred definition, immunity for trafficked persons from prosecution, time-bound rehabilitation entitlements and a specialised investigative agency. POCSO should be amended to replace "child pornography" with "child sexual exploitative and abuse material" (CSEAM), as the Supreme Court urged, to cover AI-generated material expressly, and to add a narrow close-in-age exemption that excludes coercion, authority and grooming while preserving confidential access to health services. Section 77 BNS should likewise be redrafted in gender-neutral terms to cover manipulated imagery, with a statutory right to prompt removal and compensation. The two-month investigation limit under Section 193(2) BNSS and the one-year POCSO trial limit should carry consequences: recorded reasons for delay, district-level supervisory review and published data. Finally, Section 85 BNS should be retained with safeguards, namely strict adherence to the notice-of-appearance procedure under Section 35 BNSS, specific allegations against each accused relative, and early access to remedies under the Protection of Women from Domestic Violence Act, following *Arnesh Kumar*, *Achin Gupta* and *Dara Lakshmi Narayana*.

B. Institutions, Procedure and the Judiciary

The Fast Track Special Courts should be placed on a permanent footing instead of relying on rolling extensions. The C-LAB study recommends 600 additional exclusive POCSO courts at an estimated cost of Rs 1,977 crore over four years from the Nirbhaya Fund, each with a dedicated prosecutor and support person (The Week, 2025). Each State should also create Barnahus-style child advocacy centres, where a child gives a single recorded forensic interview that is admissible at trial. Policing and victim support need parallel strengthening: States should meet their own quotas for women in the police, create specialised sexual-offence and cyber units, fix forensic turnaround times, pay interim compensation under Section 396 BNSS early and independently of conviction, and fund the

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Witness Protection Scheme. Within the judiciary, judicial academies should adopt the Supreme Court's Handbook on Combating Gender Stereotypes, High Courts should monitor sexual offence trials through the National Judicial Data Grid and enforce day-to-day hearing under Section 346 BNSS, and the Supreme Court should decide the marital rape reference promptly.

C. Technology, Prevention and Accountability

On technology, the faster takedown duties now imposed on platforms should be combined with due process: a victim-facing complaint portal, a shared hashing database for known intimate images and abuse material, an independent appeal against wrongful takedown, and transparency reporting. Prevention requires adopting the Supreme Court's recommendation for comprehensive sex and health education in schools and implementing the prevention, protection and prosecution model it laid down for child marriage. Data and accountability must improve as well. The NCRB should publish within a year of the reference period (the 2024 report appeared only in May 2026), disaggregate offences under the BNS, POCSO and special laws, and report outcomes at each stage of the process, while the NFHS and victimisation surveys should be used to estimate the gap between registered and actual violence. Parliament should require action-taken reports on the recommendations of the NHRC, NCW and NCPCR, and India should consider acceding to the CEDAW Optional Protocol so that women have access to an international complaints procedure.

XIII. CONCLUSION

The protection of the human rights of women and children in India rests on strong foundations: constitutional commands, treaty commitments read into fundamental rights by the Supreme Court, and a dense body of penal and protective law reorganised in 2023 into the BNS, BNSS and BSA. By what the statute book says, India does not neglect these rights.

The record of delivery is less encouraging. In 2024 the police registered 4,41,534 crimes against women and 1,87,702 crimes against children, but more than nine in ten trials involving crimes against children remained pending at the end of the year, and the conviction rate in completed rape trials was 24.4 per cent. The law promises a speed that the courts, police and forensic services cannot yet deliver, and victims bear the cost in delay and secondary trauma.

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Three matters will decide the next phase of reform: the Supreme Court's decision on the marital exception; Parliament's response to harms the codes did not anticipate (synthetic imagery, trafficking, adolescent relationships), where careful drafting matters more than harsher punishment; and, above all, the commitment of States and High Courts to treat the prosecution of sexual offences and child abuse as a matter of institutional capacity: permanent courts, trained police, functioning forensic services, prompt compensation and honest data. These reforms need no new penal philosophy. They require the existing promises of the law to be kept.



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