



Rape in India: A Legal and Cultural Perspective from the Mahabharata to Modern Law

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Date of Submission: 15-01-2025

Date of Acceptance: 30-01-2025

ABSTRACT: This paper examines the overview of rape cases in India and the existing framework to address the sexual injustice and discrimination and the socio-cultural implications that can be reflected by an ancient text, the Mahabharata. Despite these strict laws, the conviction rate in India is constantly low, which highlights the challenges and attitudes that are shown towards the victims. In this paper I will analyse the crime by using the statistical data that is given by National Crime Records Bureau [NCRB], which reveals the upcoming trend of increasing the reported cases which discourages the other victims to come forward. In the Mahabharata, that particular scene of Draupadi's humiliation, that reflects the gendered violence and shows the consequences which sometimes prioritize the patriarchal values. This connection needs a re-evaluation of cultural narratives that normalize women's sufferings. Ultimately, this research paper aims at building a contemporary talk with our ancient texts, that talks about both cultural and legal dimensions of sexual discrimination in India. By doing this, it tells us to contribute to the currently ongoing talks about justice, protection and empowerment of women in modern society.

[NCRB] shows a disturbing trend in recent years: the rising number of rape cases in India. Our society is changing and has become more open to discuss the rape issues which has empowered the victims to report the incidents. Rape cases in the country has risen up to an extent where to figure out the exact number of cases and to execute or even drag the culprit seems impossible, a lot of women don't even step up to file a case or even register themselves as the victim because our society won't accept them later. They also fail to express themselves as there happens to be no enforced law to punish the culprit and the history as itself denotes that the suffering may never end but the pain these trials make the victim go through is even more horrifying and everlasting.

II. The NCRB Report 2022

As per the report of NCRB, most of the cases have been seen in UP and Madhya Pradesh in 2022, which was the latest report published so far. UP has an area of 240,928 sq./km which has the highest number of cases, 22,665 per year. On the other hand, Madhya Pradesh has an area of 308,252 sq./km which has 17,467 cases per year.

KEYWORDS: Rape, The Mahabharata, NCRB Reports.

I. INTRODUCTION

I. Our culture speaks of such pain and elongated revenge in the times as far as it goes back to the epics that represent our culture. Bringing forth one such incident is the disrobing of Draupadi in Mahabharata, where she questioned Bhishm Pitamah, why he was not there to help her or save her, how could he stand there when one of the females of his family was being harassed and disrobed and he replied by mentioning he was bound by Dharma.

In recent times, the contemporary world brought about a major presentation of such scenarios through their report. The National Crime Records Bureau

State s	Are a squ are km	Mu rde r	C. H to Mu rde r	Do wr y De ath s	Att em pt to mu rde r	Kidn apin g	R ap e	Ass ault inte nde d to ou trage her mo dest y	To tal
UTT AR PRA DES H	240,928 sq./km	10562	397	366	1443	680	3880	139	17467
MA DH YA PRA DES	308,252 sq./km	13779	1336	2091	1292	713	3313	139	22665



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(NCRB REPORT, 2022)

The prevalence of rape in India is affected by mainly two factors that are socio-cultural and patriarchal norms that shape the perceptions and mindsets of the surrounding gender and creates violence situations. Gender inequality stems from patriarchal systems that prioritize male authority, undermining women’s autonomy in areas like decision-making and personal freedoms. Economic dependency, Social Dynamics and teaching girls to be submissive are a few compliant measures that provokes inequality. To add to the given factors, wage gaps, limited education, and unpaid labour also lead to the submissive and abusive situations for women. Addressing these issues requires enforcing gender-equal laws, promoting education, and providing economic opportunities for women. A holistic approach involving policy reforms, cultural shifts, and community support is essential to fostering equality and empowerment.

III. Sexual violence in India is addressed through a robust legal framework comprising key laws like the Indian Penal Code (IPC), the Protection of Women from Domestic Violence Act (PWDVA), and the Sexual Harassment of Women at Workplace Act. The PWDVA, came in 2005, addresses domestic violence comprehensively by recognizing physical, emotional, sexual, and economic abuse. It empowers women to seek protection orders, residence rights, and financial compensation, offering immediate relief and legal safeguards against abuse in domestic settings. Meanwhile, the 2013 Sexual Harassment of Women at Workplace Act focuses on creating safe work environments by mandating Internal Complaints

III. The Mahabharata

The humiliation of Draupadi in the Mahabharata is a powerful depiction of societal injustice and the mistreatment of women. During a game of dice, Yudhishtira loses everything, including his wife Draupadi, to the Kauravas. Duryodhana commands that Draupadi be brought into the assembly, where she is publicly disrobed. Despite her desperate plea for justice, the court remains silent, with no leader stepping forward to protect her.

Committees (ICCs) in organizations with more than ten employees.

To guarantee that these laws result in significant change and promote a society where women can live and work with dignity and safety, effective implementation, public awareness initiatives, and removing the stigma associated with survivors are essential. The Criminal Law Amendment Act of 2013 was enacted in response to widespread public outcry over sexual violence, particularly following the Nirbhaya gang rape case of 2012. It introduced significant reforms to the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act to strengthen laws against sexual offenses. The definition of rape under Section 375 of the IPC was expanded to include a wider range of acts, with provisions addressing acid attacks, stalking etc. The Act also introduced new offenses, such as sexual harassment and trafficking, while increasing the minimum punishment for rape to seven years, extendable to life imprisonment, and prescribing stricter penalties for gang rape. While these changes marked a critical step toward justice and accountability, challenges persist, including underreporting of cases, societal stigma, and delays in the judicial system. The 2013 amendment was crucial in creating a stronger legal framework and starting a wider change in public perceptions of sexual violence in spite of these obstacles.

Survivors often fear stigma, victim-blaming, or retribution, leading to unreported cases that undermine justice. Judicial backlogs result in prolonged trials, exacerbating trauma and discouraging survivors from pursuing justice. Inadequate victim protection leaves many vulnerable to threats or harassment, deterring testimonies. Deep-rooted patriarchal norms and societal biases further hinder convictions, often leading to leniency or acquittals. These issues demand comprehensive reforms, enhanced training, and societal accountability.

Bhishma's Dialogue:

"O Draupadi, though I am a protector of dharma, I stood silent when your dignity was stripped away. I failed to uphold the principles of justice and righteousness. I could have spoken out against this injustice, yet I remained a bystander, bound by my vows and duties. For this, I am deeply remorseful. Your honour should have been defended, and it pains me that I did not act."



Draupadi's humiliation reflects modern issues like domestic violence and sexual harassment, where women face disrespect and objectification. Legal protections emphasize consent and bodily autonomy, but societal biases often undermine enforcement. The silence of bystander's parallels complicity in contemporary abuse cases. Draupadi's resilience inspires empowerment, while her story highlights the need to shift cultural narratives, fostering respect and justice for women. The Mahabharata offers a complex reflection of societal attitudes toward women and violence, presenting themes that resonate deeply with contemporary issues. Women in the epic are idealized as virtuous mothers and wives yet objectified, as seen in Draupadi's humiliation, highlighting their dual role as revered figures and possessions. While characters like Draupadi exhibit agency and resilience, their autonomy is often undermined by a patriarchal framework. Male figures, expected to protect women, frequently fail in their duties, as seen in Bhishma and Yudhishtira's inaction, underscoring societal complicity in perpetuating injustice. However, Draupadi's defiance challenges male authority and serves as a powerful symbol of resistance, emphasizing the importance of women's voices in questions of morality and justice. The epic also reflects cultural norms that link women's honour to male behaviour, perpetuating cycles of violence, while offering moral lessons on the consequences of failing to protect the vulnerable. Its narratives remain relevant today, urging reflection on gender equality, justice, and the need for societal change to address enduring patterns of oppression and violence. Following is the table that shows the major aspect differences between both the eras: -

Aspect	Mahabharata	Contemporary text
Public humiliation and shame	Draupadi is humiliated in the Kaurava's court, highlighting the disregard for women's dignity in male-dominated spaces	Women face public shaming through online harassment and victim-blaming after assaults

Silence of bystanders	Key figures like Bhishma and Drona remain silent during Draupadi's disrobing, failing to intervene.	By-stander apathy persists with individuals often choosing not to act when witnessing gender-based violence.
Cultural justifications for violence	Violence is portrayed as a means to restore honour, often involving women as pawns in male conflicts	Violence against women is sometimes justified in the name of family honor or societal expectations
Victim blaming	Draupadi faces questions about her role in the court, reflecting early instances of victim blaming	Victim-blaming remains prevalent with women scrutinized for their behaviour, clothing and choices.
Women's agency and Resistance	Draupadi resist oppression by asserting her dignity and refusing to be silenced.	Modern movements like #metoo showcases women reclaiming narratives and resisting gender-based violence.
Role of Authority figures	Protectors like Yudhishtira fail to react, reflecting a major breakdown in moral protective responsibilities.	Authority figures and systems, like law enforcement, often fail to adequately protect and support their victims.



Moral lessons and accountability	This epic emphasizes justice, duty, and the consequences of inaction, advocating reflection and accountability.	Legal reforms and advocacy highlight the need for systemic change to ensure justice and prevent violence.
Marital Consent	Draupadi wonders how Yudhishtira is able to speculate on her even if he has no right over him after losing the game.	If the wife does not give her permission, the husband is not allowed to engage in physical contact with her. Without both individuals' consent, no act of physical intimacy is permitted.

As we saw in the above table, Mahabharata and the contemporary world, both have different views on different aspects. As we saw from The Mahabharata's episode of Draupadi's humiliation in the Kauravas's court finds striking parallels in modern society, where women face public shaming through online harassment and victim-blaming after

IV. Analyzing Law and Culture

The Mahabharata, with its complex narratives and moral dilemmas, deeply influences cultural perceptions in India, shaping attitudes that impact the implementation of laws. At the centre of the epic, it is the concept of dharma, which establishes a moral foundation emphasizing justice, ethical conduct, and societal harmony. The epic's portrayal of gender roles also profoundly affects societal attitudes, as women like Draupadi are depicted both as revered figures and subjects of conflict. This duality influences laws related to women's rights, where enforcement can be inconsistent due to traditional views that perpetuate gender bias. Furthermore, the Mahabharata underscores the significance of honor and shame, particularly regarding family and community reputation. This cultural emphasis often leads to victims of crimes like gender-based violence facing societal stigma, deterring them from seeking justice and influencing the framing of laws that prioritize public honor over individual freedoms. Another key influence is the narrative's focus on conflict

assaults. In both contexts, bystander apathy plays a crucial role—figures like Bhishmapitamaha and Drona in the epic, and passive witnesses today, often fail to act against such injustices, enabling systemic oppression. The cycle of violence against females is further continued by cultural justifications which might have arisen from the idea of the Mahabharata or via the male-oriented society. Moreover, victim-blaming persists across eras, with Draupadi questioned for her role in her plight and modern survivors scrutinized for their behavior, clothing, or choices, reflecting deeply ingrained patriarchal attitudes.

However, the resilience and agency of women shine through as a common thread. Draupadi's refusal to be silenced mirrors contemporary movements like #MeToo, where women reclaim their narratives and resist systemic oppression. Both contexts have highlighted the failure of authority, as protectors like Yudhishtira and on the other hand, modern institutions often fail to uphold justice and support victims. The epic's moral lessons on dharma, justice, and accountability resonate with today's advocacy for systemic change, emphasizing the need for reflection and action. Additionally, Draupadi's questioning of marital consent aligns with modern principles of mutual respect and autonomy in relationships, underscoring the timeless relevance of consent and equality.

resolution. This preference for dialogue is reflected in contemporary legal systems through the incorporative mechanisms like mediation and arbitration, which align with cultural inclinations for amicable settlements before taking any legal actions.

The epic also delves into the complexities of victim and perpetrator dynamics, highlighting the fluid nature of these roles and fostering empathy for human motivations. Legal systems often mirror this complexity by maintaining a balance between victim protection with fair treatment of the accused, though cultural biases can sometimes skew outcomes, particularly for marginalized groups. The failures of authority figures in the Mahabharata, such as Dhritarashtra and Duryodhana, further emphasize the importance of accountability and leadership. Lastly, the moral lessons derived from the Mahabharata serve as ethical cornerstones, influencing how laws are crafted and interpreted to align with societal values. However, while the



Mahabharata provides a rich moral and cultural framework, challenges persist in reconciling these ideals. Overall, the Mahabharata's enduring influence fosters a unique legal culture in India, where ancient moral principles are interwoven with

contemporary legal frameworks, striving to balance tradition with the demands of justice and equality.

V. Conclusion

We got to know about the latest records of NCRB and the state which has the highest number of cases. Through this intense study on rape and its role in the Mahabharata and the contemporary world, I got to know about various legal laws such as PWDVA, i.e. Protection of Women and Domestic Violence Act, Indian Penal Code [IPC], Code of Criminal Procedure [CrPC] and Indian Evidence Act. These are the main acts that we have learned in this paper. Further if we see, our main topic of research is the humiliation of Draupadi in the epic, Mahabharata.

The humiliation and representation of a woman as a commodity is the worst mistreatment of women in public. We saw that violence is being normalized throughout the narrative, and is frequently justified in the name of honour, territory, or dharma, with women often victimized and used as pawns in power struggles as we saw in a game of dice. How women are being used as a commodity when Yudhishtar lost everything and kept his wife on stake and then Duryodhan commands the disrobing of Draupadi and that point of time no one from the assembly came in front to help her which means that during that time women used to feel a lot of sexual harassment and were objectified. Last but not the least, there are many aspects which affect the modern and contemporary world laws and their implementations. Now those parallel aspects which we have studied calls for a society that learns from its past to address present injustices and foster meaningful change in the upcoming times.

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