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Sexual Crimes against Women in Delhi, India: The Response of their Urban Government

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Sexual Crimes against Women in Delhi, India: The Response of their Urban Government

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Bachelor Urban Studies

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List of abbreviations

CCTV	Closed Circuit Television
CLA	Criminal Law (Amendment) Act
DCW	Delhi Commission for Women
DDC	Dialogue and Development Commission
DTC	Delhi Transport Corporation
ERSS	Emergency Response Support System
NCRB	National Crime Records Bureau
IPC	Indian Penal Code
MoHUA	Ministry of Housing and Urban Affairs
MWCD	Ministry of Women and Child Development
NCT	National Capital Territory
OSC	One Stop Centers
PIB	Press Information Bureau
SPUWAC	Special Police Unit for Women and Children
UN	United Nations

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1. Introduction

“Delhi saw over 40% jump in crimes against women in 2021, most unsafe: NCRB”, “India is the most dangerous country for women. It must face reality”.¹² These and other headlines concerning crime against women in India pop up in newspapers every single day. In 2021, the National Crime Records Bureau (NCRB) released that per hour 49 crimes were committed against women in India on average.³ Discussing rapes, India accounts for 86 rapes every day.⁴ With these shocking numbers, it may come as no surprise that India is proclaimed to be the “Rape Capital” of the world.⁵

Observing cities in India, Delhi is the one most commonly discussed in the news and is considered one of the most unsafe cities in the world and the worst in India to travel to for women.⁶ In 2021, Delhi accounted for 14,277 crimes against women. For the total rape offenses, NCRB published a total of 1,251 in 2021.⁷ Compared to 2020, this is an increase of 25%.⁸

With this in mind, a brutal case from December 2012 in India’s capital New Delhi may come to mind. Together with her friend, the 22-year-old student named Jyoti Singh took a bus home at night after seeing a movie. Inside the bus were six other men who began to beat her friend and moved on to assaulting, gang-raping, and torturing the young woman. After the crime, the victims were thrown out of the bus on the road and found nearly dead by a pedestrian. Sadly, a few days after the attack she died as a result of her injuries.⁹

Unfortunately, this case is not an exceptional case of this nature, but it was this case in particular that attracted a massive amount of media attention on both national and global

¹Lingamgunta Nirmitha Rao, “Delhi Saw over 40% Jump in Crimes against Women in 2021, Most Unsafe: NCRB,” *Hindustan Times*, August 29, 2022, <https://www.hindustantimes.com/india-news/delhi-saw-over-40-jump-in-crimes-against-women-in-2021-most-unsafe-ncrb-101661795561046.html>.

²Deepa Narayan, “India Is the Most Dangerous Country for Women. It Must Face Reality,” *The Guardian*, July 2, 2018, <https://www.theguardian.com/commentisfree/2018/jul/02/india-most-dangerous-country-women-survey>.

³“India Lodged Average 86 Rapes Daily, 49 Offences against Women per Hour in 2021: NCRB Data,” *The Hindu*, August 31, 2022, <https://www.thehindu.com/news/national/india-lodged-average-86-rapes-daily-49-offences-against-women-per-hour-in-2021-government-data/article65833488.ece>.

⁴ Ibid.

⁵Sneha Kadyan and N. Prabha Unnithan, “Extreme Cases and the Criminal Justice System: Responses to a Traumatic Sexual Assault in India,” *International Journal of Comparative and Applied Criminal Justice* 41, no. 1–2 (March 21, 2017): 31, <https://doi.org/10.1080/01924036.2017.1301238>.

⁶“Horrific Crime Reaffirms Delhi’s Status as India’s Most Unsafe City for Women,” *The Diplomat*, January 11, 2023, <https://thediplomat.com/2023/01/horrific-crime-reaffirms-delhis-status-as-indias-most-unsafe-city-for-women/>.

⁷ National Crime Records Bureau, “Crime in India: Statistics Volume-I,” *National Crime Records Bureau* (National Crime Records Bureau, 2021), 218, https://ncrb.gov.in/sites/default/files/CII-2021/CII_2021Volume%201.pdf.

⁸ National Crime Records Bureau, “Crime in India : Statistics Volume-I,” *National Crime Records Bureau* (New Delhi, India: National Crime Records Bureau, 2020), 206, <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>.

⁹ “What is Nirbhaya case?,” *The Times of India*, December 18, 2019, <https://timesofindia.indiatimes.com/india/what-is-nirbhaya-case/articleshow/72868430.cms>

levels.¹⁰ This finally shed a light on the alarming numbers of sexual assaults against women in India and opened the debate about the involvement of law enforcement and government, as they are the ones who should keep these women safe. The New York Times for example wrote about India's "male dominated power structure" and lack of response from the government.¹¹ In the days following this case, people were gathering around various places in India to protest. These gatherings were started by people who were furious at the police, the attackers, and the government who were supposed to keep women as Jyoti protected. They wanted to raise awareness of the conditions of women in India and rooted for change in Rape Laws.¹²

This event from 2012 helped form an idea whether the government and instances like the police got a wake-up call and started to make reforms to both prevent sexual assault and provide aid to the victims of sexual crimes. Therefore, my research question will be:

To what extent did the Urban Government of Delhi incorporate policies concerning Sexual Assault against women after the Nirbhaya Case in 2012?

Academic literature regarding sexual assault in India is quite extensive and has attracted a lot of attention following the Nirbhaya case of 2012 and the ongoing trend of crimes against women in India. This particular research calls for attention to realize law reform as extreme crimes like rape belong to a social and human rights issue. Scholars with feminist, economic, and sociologist backgrounds already debated on this topic:

For example, Sodita Menon discussed the topic from a feminist perspective. In her paper, she argued that some Indian feminists do not believe that changing the law will create change for Indian women, also keeping in mind that with more laws, the state will have more control.¹³ Contrastingly, protests and movements shed more light on the problems that women are facing in India. Another problem that was written about was that Indian laws are created with a patriarchal view and so is the view upon rape.¹⁴ This recent chapter touches upon legislative responses from the government, but does not cover initiatives regarding the built environment or aiding victims of sexual assault.

A more statistical and economical way of research in this area was conducted by Shrabanti Maity in 2019. In her paper, she investigated how the control of sexual assault and rape would translate back to the number of those crimes that were made available by the NCRB for the last two decades. Sadly, the findings concluded that in many states the crime control instruments were not linked to decreasing numbers of sexual assaults.¹⁵ A limitation of this study lies in the fact that studying the direct impact of changed law structures by examining statistics of sexual offenses could be too straightforward. From my perspective, many factors

¹⁰ "Global Media Focuses on 'alarming Trend' in India," *The Times of India*, December 30, 2012, <https://timesofindia.indiatimes.com/india/global-media-focuses-on-alarming-trend-in-india/articleshow/17813576.cms>.

¹¹ The Times of India, "Global Media Focuses on 'alarming Trend' in India,"

¹² Ibid.

¹³ Nivedita Menon, "Sexual Violence and the Law in India," in *Research Handbook on Feminist Jurisprudence*, by Cynthia Grant Bowman (Edward Elgar Publisher, 2019), 185, <https://doi.org/10.4337/9781786439697.00019>.

¹⁴ Menon, "Sexual Violence and the Law in India."

¹⁵ Shrabanti Maity, "Performance of Controlling Rape in India: Efficiency Estimate across States," *Journal of International Women's Studies* 20, no. 2 (February 8, 2019), 180, <https://paperity.org/p/191451226/performance-of-controlling-rape-in-india-efficiency-estimate-across-states>.

could be involved in committing such a crime, such as the socio-economic, biological, and psychological features of both attacker and victim.

For the International Journal of Comparative and Applied Criminal Justice, Kadyan et al. wrote an article that assesses the legislative responses following the Nirbhaya case and mentioned that the response to sexual assault is influenced by the socio-cultural foundation of that country.¹⁶ However, the study was conducted in 2016, which means that the author could not assess legislative responses in great detail and they therefore wondered how some initiatives would evolve in the following years. On that account, the article needs to be revisited.

Consequently, this research question contributes to an important area of research that will create awareness of the current conditions of Indian women and show the willingness of the urban government of Delhi in preventing more brutal cases like the Nirbhaya case. As mentioned before, feminist scholars have touched upon this topic, but either left out a descriptive background of Indian women and their status in a patriarchal culture or did not update their articles. Therefore, this paper will form an elaboration on their work while focusing on Delhi only in an attempt to continue the battle of feminists for gender equality and safety for Indian women.

Altogether, this paper first demonstrates a current representation of women their safety in India and provides the reader with some context. Then an extensive policy analysis focusing on rape laws and policies regarding women their safety within Delhi is conducted. Afterward, the concerning policies will be analyzed with the 'Capability', 'Credibility', and 'Communication' theory by Martin Schönteich.¹⁷ Despite this paper being foremost written from a humanities background, it certainly will also acknowledge disciplines belonging to social science and applied science.

Firstly, the paper will start with a literature review chapter including some of the most relevant literature and academic debates on the subject. This chapter will begin by introducing the concept of sexual assault and its debate by various scholars including the view of women in India. As the thesis will include an analysis of Governmental documents, which includes legal reforms, it is also important to give an impression of the workings of the justice system of India. To build on that, former changes in rape laws will illustrate the position of sexual assault control at the time of the Nirbhaya case in 2012

In chapter three the sub-question that will be answered is the following: What policies introduced by the government as of 2012 can support women who have been a victim of sexual assault? This differs from the former chapter since these researched implementations help women who have already been a victim of sexual assault whereas the former measures are implemented to counteract the existence of sexual assault in the first place. Governmental documents and publications will be reviewed and assessed to bring forth the attempts of the urban government in providing the right tools that help victims of sexual assault.

In the fourth chapter, the thesis will follow the following sub-question: What policies introduced by the urban government as of 2012 can prevent sexual crimes? In this chapter, I will use both primary and secondary sources to explain how the urban government responded

¹⁶ Kadyan and Unnithan, "Extreme Cases and the Criminal Justice System: Responses to a Traumatic Sexual Assault in India," 32.

¹⁷ MARTIN SCHÖNTEICH, "DOES CAPITAL PUNISHMENT DETER?," *African Security Review* 11, no. 2 (January 2002): 89–92, <https://doi.org/10.1080/10246029.2002.9628135>.

with legislative procedures to stop sexual assault from occurring. Primary research consists of governmental documents, -websites, and publications. These primary sources will be criticized with the support of scholarly debate fitting with the topic.

In the last chapter, my findings of this research are presented and an answer to my research question will be formulated.

1.1 Methodology

The analysis will focus on the urban government its response to the brutal gang rape case of Nirbhaya which happened in New Delhi in 2012. Given this specific event, a case study was used to answer the research question. The relevance of using a case study is that it can capture complex issues and requires an in-depth examination of the literature.¹⁸ In this manner, Delhi has been chosen as the subject of research. This city is not only the place where the Nirbhaya case took place, but additionally, this is the city with the highest sexual crime rates compared to the whole nation.¹⁹ In terms of method, this research will consist of a qualitative approach based on text, rather than interviews or focus groups.

In collecting data for this research, the collection will consist of both primary sources and secondary sources. In this research, a huge body of primary sources will be assessed. These include governmental documents relating to law changes involving sexual assault against women, crime statistics published by the NCRB, and press releases published by the Press Information Bureau India.

While examining these sources, attention is given to the reliability of the source by utilizing a secondary source, which is peer-reviewed to verify its information. Secondary sources will include articles from journals part of various disciplines like Humanities, Natural, and Applied sciences, and Social sciences mostly retrieved from Google Scholar. Online news articles also form an important secondary source for this study, as they will create an understanding of the relevance of topics like sexual assault against women and law reform in India in certain periods.

During analyzation of governmental publications, laws, and reports, a policy analysis will be applied. According to Kodithuwakku, “The main objective of policy analysis is to assess whether a given policy or set of policies has achieved its intended goals/objectives and, if not, why and how they can be fine-tuned for increased effectiveness”.²⁰ Assessing the research question shows that the objective of this paper is to identify certain policies to resolve a public matter followed by an evaluation of their implementations. In addition to scanning through the whole document, a focused search is conducted by using research-related words. Therefore, ‘Sexual Assault’, ‘Rape’, ‘Sexual offenses’, ‘Sexual Crimes’, and ‘Nirbhaya’ belong to the most significant words for this research. However, a limitation of policy analysis is that it can be challenging to theorize and simplify the complexities of a societal problem, such as sexual assault, as various stakeholders possess divergent values and interests.²¹

¹⁸ “Importance of a Case Study,” EssayMIN, August 1, 2018, <https://essaymin.com/blog/importance-of-a-case-study/>.

¹⁹ The Diplomat, “Horrible Crime Reaffirms Delhi’s Status as India’s Most Unsafe City for Women.”

²⁰ Sarath S. Kodithuwakku, “Qualitative Methods for Policy Analysis: Case Study Research Strategy,” *Agricultural Policy Analysis*, 2022, 180, https://doi.org/10.1007/978-981-16-3284-6_7.

²¹ Ram Prasad Ghimire, “The Limits of Analysis in Policy Making With Special Reference to the Developing Countries,” *ResearchGate*, January 2004, 4,

Governmental documents that will recur throughout this thesis are the Indian Penal Code (IPC) 1860, the Criminal Law (Amendment) Act from 2013, and the Criminal Law (Amendment) Act from 2018., which belong to important Government documents of the Indian government.

The IPC is a document enacted in 1860 by Thomas Babington Macaulay consisting the criminal law of whole India, which is amended throughout the years.²² The document is made available through the internet on the Ministry of Law and Justice website owned by the Indian government.

The CLA 2013 is a document that is “An Act further to amend the IPC, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012”.²³ This Act is passed by both the Lok Sabha and Rajya Sabha, which form the Indian Parliament, intending to adjust rape laws in the aftermath of the Delhi gang rape case of 2012.²⁴ Similar to the CLA of 2013 was the CLA made in 2018 which was also passed and initiated by the parliament of India after a rape case involving a minor.²⁵ Both documents are published on Indian governmental websites that are assumed to be authentic and reliable sources.

However, The analysis of documents retrieved from Indian Governmental websites can be considered as bias. Namely, governments tend to publish documents from a positive perspective, which makes it difficult to obtain information on the shortcomings of certain policies.²⁶ A way to reduce this is by including academic literature, media coverage, and studies done by a non-governmental institution to cross-check claims and statements made by the Indian Government. Further limitations

1.2 Case study

Since this research will explore the governmental response in the aftermath of the Nirbhaya case from 2012 that has played out in Delhi, it was a natural choice to take this city as a case study for this research. Before approaching the analysis of legislative responses in this area it is important to define this city its important demographical and political features.

In India, New Delhi officially is their capital, but it was situated in a union territory once called Union Territory Delhi.²⁷ In short, a Union Territory differs from a state as it is governed directly by the state government, whereas a state is controlled by a separate government with

<https://www.researchgate.net/publication/257142424> The Limits of Analysis in Policy Making With Special Reference to the Developing Countries.

²² Douglas M. Peers, “Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform, Edited by Wing-Cheong Chan, Barry Wright, and Stanley Yeo,” *Victorian Studies* 55, no. 4 (season-02 2013): 749, <https://doi.org/10.2979/victorianstudies.55.4.749>.

²³ Ministry of Law and Justice and P.K. Malhotra, “The Criminal Law (Amendment) Act, 2013,” <https://www.iitk.ac.in/wc/data/TheCriminalLaw.pdf>. (Delhi, India: Controller of Publications, Delhi, April 2, 2013): 1,

²⁴ Ministry of Law and Justice and Malhotra, “The Criminal Law (Amendment) Act, 2013.”

²⁵ Ministry of Law and Justice and G. Narayana Raju, “The Criminal Law (Amendment) Act, 2018,” *Ministry of Home Affairs* (Delhi, India: Controller of Publications, Delhi, August 11, 2018), https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_0.pdf.

²⁶ Arnaud Vaganay, “Outcome Reporting Bias in Government-Sponsored Policy Evaluations: A Qualitative Content Analysis of 13 Studies,” ed. Jelte M. Wicherts, *PLOS ONE* 11, no. 9 (September 30, 2016): 1, <https://doi.org/10.1371/journal.pone.0163702>.

²⁷ Vaibhav Chakraborty, “Is Delhi a State Union or Both,” *Maps of India*, July 13, 2018, <https://www.mapsofindia.com/my-india/education/is-delhi-a-state-union-territory-or-both>.

its own elected chief minister.²⁸ However, Delhi is an exception as the 69th constitutional amendment provided Delhi with a legislative assembly and the name National Capital Territory (NCT) Delhi. Therefore, NCT Delhi has an elected Lieutenant Governor and the right to create and amend laws for the area.²⁹

NCT Delhi (Hereafter named Delhi) is growing with an alarming trend and currently has a population of approximately 18 million spread out over an area of 1483 square kilometers.³⁰ Moreover, NCT Delhi is home to numerous cultures, traditions, and religions like Islam, Hinduism, and Christianity. This reflects itself in beautiful monuments, churches, and overall architecture within the city, making it a well-known spot among tourists.³¹

On the other hand, Delhi is also known for its slums, bad air quality, and poverty due to overcrowding and pollution of the city.^{32,33} By taking these facts into account it is safe to say that these factors create more criminal activity like Gupta researched in a spatial analysis of crime hotspots in Delhi.³⁴ As mentioned in the beginning, crime rates in Delhi involving women are rising year after year leaving female inhabitants feeling unsafe in their own city. A survey conducted by United Nations Women in Delhi in 2012 showed “95% of women and girls feel unsafe in public spaces” covering this city its ongoing societal issue.³⁵

²⁸ India Today Web Desk, “What Is the Difference between a State and a Union Territory?,” *India Today*, August 6, 2019, <https://www.indiatoday.in/education-today/gk-current-affairs/story/what-is-the-difference-between-a-state-and-an-union-territory-1577445-2019-08-05>.

²⁹ India Today Web Desk, “What Is the Difference between a State and a Union Territory?”

³⁰ India Growing, “Delhi Population 2022/2023 (Maps, Districts, Cities, Language),” 2023, <https://www.indiagrowing.com/Delhi>.

³¹ “Delhi - Delhi NCR Religion Hindu/Muslim Data - Census 2011,” Census 2011, 2011, <https://www.census2011.co.in/data/religion/state/7-delhi.html>.

³² “New Delhi Air Quality Index (AQI),” season-04 2023, <https://www.aqi.in/dashboard/india/delhi/new-delhi#:~:text=The%20current%20PM2.5hrs%20air%20quality%20guidelines%20value>.

³³ Data Processing & Analysis Unit, “Urban Slums in Delhi,” *Http://Des.Delhigovt.Nic.In/* (GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI, February 2015): 5, <http://des.delhigovt.nic.in/wps/wcm/connect/adcd1f0047a86473ab46ffbd775c0fb/pdf+report+69th+round+slum+final.pdf?MOD=AJPERES&lmod=-920695548&CACHEID=adcd1f0047a86473ab46ffbd775c0fb>.

³⁴ Rupesh Gupta, “Behavioural Mapping of Crime Hotspots in Delhi: A Spatial Analysis,” *Transactions of the Institute of Indian Geographers* 42, no. 2 (December 2020): 296, https://www.researchgate.net/publication/348931489_Behavioural_mapping_of_crime_hotspots_in_Delhi_a_spatial_analysis.

³⁵ “UN Women Supported Survey in Delhi Shows 95 per Cent of Women and Girls Feel Unsafe in Public Spaces,” *United Nations*, September 21, 2014, <https://www.un.org/youthenvoy/2013/09/un-women-supported-survey-in-delhi-shows-95-per-cent-of-women-and-girls-feel-unsafe-in-public-spaces/>.

2. Literature Review

2.1 Defining Sexual Assault

Since the thesis will analyze policies regarding Sexual assault, it is important to define the concepts of Sexual assault and rape. These terms are part of a complex set of acts and behaviors and its definition often differs between cultures and countries. The global organization United Nations (UN) has defined these concepts in the UN Glossary on Sexual Exploitation and Abuse to create a general understanding of this topic for all UN entities.³⁶ Sexual assault is described as acts with sexual intent with a person who has not given permission. Important to note is that these acts do not always include force or aggression and penetration is also not always the case.³⁷ UN Women, one of the UN entities, gives examples on their site of physical acts such as touching, hitting, or rubbing against someone in a sexual manner. Additionally, Non-physical acts could include “stalking”, “catcalling”, and showing genitals to another person.³⁸ Rape, however, always includes penetration “...of any body part of a person who does not consent with a sexual organ and/or the invasion of the genital or anal opening of a person who does not consent with any object or body part”.³⁹ This could occur in any marital status and does not exclude any person.⁴⁰

2.2 Women their status in India

Intertwined with culture, religion, and history, India is a place where women suffer from inequality when it comes to school, healthcare, and their socio-economic status.⁴¹ Batra and Reio Jr. examined this issue and concluded that a man his education is preferable, as women are prepared to be stay-at-home wives and moms.⁴² Investing in a girl’s future becomes irrelevant at that point since the husband already received an education and becomes the breadwinner for the household. They also argued that women that do hold a job, experience inequality towards men considering salary.⁴³ Taking all these factors into account, it can be concluded that India carries a “male-dominated culture” which translates to the view of Indian women being ‘less’ than Indian men.⁴⁴

According to scholars like Rajan et al., a “Rape Culture” exists in India. This concept was introduced in the 1970s and was introduced by various feminists.⁴⁵ It encompasses a culture where rape is normalized and makes women limit their behaviors in normal day-to-day life out

³⁶ Task Team United Nations, “Glossary on Sexual Exploitation and Abuse,” *United Nations* (United Nations, July 24, 2017), https://hr.un.org/sites/hr.un.org/files/SEA%20Glossary%20%20%5BSecond%20Edition%20-%202017%5D%20-%20English_0.pdf.

³⁷ Task Team United Nations, “Glossary on Sexual Exploitation and Abuse.”, 6.

³⁸ “Frequently Asked Questions: Types of Violence against Women and Girls,” UN Women Headquarters, n.d., <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence>.

³⁹ Task Team United Nations, “Glossary on Sexual Exploitation and Abuse.”, 6.

⁴⁰ UN Women, “Frequently Asked Questions: Types of Violence against Women and Girls.”

⁴¹ Renu Batra and Thomas G. Reio, “Gender Inequality Issues in India,” *Advances in Developing Human Resources* 18, no. 1 (February 2016): 92, <https://doi.org/10.1177/1523422316630651>.

⁴² Batra and Reio, “Gender Inequality Issues in India.”

⁴³ Ibid.

⁴⁴ Ibid., 89

⁴⁵ Benson Rajan, Devaleena Kundu, and Sahana Sarkar, “Rape, Popular Culture, and Nirbhaya: A Study of India’s Daughter and Delhi Crime,” *Journal of Communication Inquiry*, May 23, 2022, 5, <https://doi.org/10.1177/01968599221102527>.

of fear.⁴⁶ Accusations of rape in a rape culture are subjected to a social and cultural framework, where the woman needs to prove that she has in no way could have seduced the rapist.⁴⁷ In India, this patriarchal view of women was expressed when Cyriac Joseph, the Chief Justice of Karnataka, argued in 2008 that “*women wear such kind of dresses even in temples and churches that when we go to places of worship, instead of meditating on God, we end up meditating on the person before us*”.⁴⁸ Similarly, The Chairperson of the Karnataka State Human Rights Commission stated: “*Yes, men are bad ... But who asked them (the women) to venture out in the night ... Women should not have gone out in the night and when they do, there is no point in complaining that men touched them and hit them*”.⁴⁹ What this portrays is that even though, rape is mostly considered a heinous crime in society, there is no doubt that sexual hierarchy is intertwined in the mindset of the Indian judicial system.

Menon rightfully questioned if feminists like herself should attempt to create a shift in the law in the first place. Firstly, feminists will enhance “state control” by interfering too much with the legal system.⁵⁰ Moreover, they believe the law is intertwined with patriarchal decisions and gender discrimination.⁵¹ However, protests for law reforms initiated by the forming of women’s groups do create awareness and open up the debate around gender-specific matters.⁵²

To understand the view of women in India, the idea of marital rape could provide proper insight. Marital rape is highly contested in feminist studies and essentially means having sexual relations with one’s spouse where consent is not given by one person.⁵³ However, marital rape still is an exception in rape law in India. Section 375 in the Indian Penal Code (IPC) describes this as follows: “Exception 2.—Sexual intercourse or sexual acts by a man with his wife, the wife not being under fifteen years of age, is not rape”.⁵⁴ In other words, A man is legally allowed to have sexual relations with his wife, once over fifteen years old, even if the woman does not give consent. Referring back to the definition of sexual assault given by the United Nations in which was stated that no one was excluded from committing the act, the Indian law has not recognized this.⁵⁵ Moreover, this implies that an Indian husband is to do whatever he prefers with his wife without getting convicted for it, which adds to inequality for women under Indian law.

2.3 History of Rape Law in India

Rape was first considered a crime in the Indian Penal Code (IPC) in 1860, which is a law document including all crimes with the associated offenses a person will receive when

⁴⁶ Rajan, Kundu, and Sarkar, “Rape, Popular Culture, and Nirbhaya: A Study of *India’s Daughter* and *Delhi Crime*.”, 6

⁴⁷ Ibid.

⁴⁸ Menon, “Sexual Violence and the Law in India.”, 187.

⁴⁹ Ibid.

⁵⁰ Ibid. 185

⁵¹ Ibid.

⁵² Ibid.

⁵³ Abhayan, “Types of Marital Rape,” *Legal Service India* (blog), n.d.,

<https://www.legalserviceindia.com/legal/article-5571-types-of-marital-rape.html>.

⁵⁴ Ministry of Law and Justice and Government of India, “The Indian Penal Code,” *Legislative Department* (India: Ministry of Law and Justice, 1860), 85, <https://legislative.gov.in/sites/default/files/A1860-45.pdf>.

⁵⁵ UN Women, “Frequently Asked Questions: Types of Violence against Women and Girls.”

committing a crime.⁵⁶ Section 375 it is described that the act of rape is committed when a man has sexual relations with a woman in the following cases (as stated in the IPC 1860):

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

*Seventhly.—When she is unable to communicate consent.*⁵⁷

According to Menon, an Indian and feminist scholar, section 375 of the IPC only considered penetration of the male genitalia into the vagina as rape until 2013.⁵⁸ Offenses that we now consider sexual assault such as the use of objects or other body parts were thus seen as minor offenses and included a lower sentence.⁵⁹ In 1983, a legal reform was made employing The criminal law Act, 1983.⁶⁰ Unfortunately, This change was not without a battle. In the 1970s there was a rise in custodial rape cases, which entails rapes “committed by the public servant on the premises”.⁶¹

One of these cases belonged to the teenager Mathura, who was raped by two policemen after she had been questioned at the police station in March 1972.⁶² However, the final verdict cleared the accused of all charges, since there were no physical signs of rape ever happening. The supreme court thus indicated the sexual transaction as a “peaceful affair”.⁶³ This and other similar cases opened up the debate about the meaning of consent and various feminist groups insisted on rape law reforms.⁶⁴ This eventually led to The 84th report on Rape and Allied Offences: Some Questions of Substantive Law, Procedure and Evidence, 1980.⁶⁵ These kinds of reports consist of formal recommendations and can be considered by the Law Ministry to

⁵⁶ Ministry of Law and Justice and Government of India, “The Indian Penal Code,” *Legislative Department* (India: Ministry of Law and Justice, 1860), <https://legislative.gov.in/sites/default/files/A1860-45.pdf>.

⁵⁷ Ministry of Law and Justice and Government of India, “The Indian Penal Code.”, 84-85.

⁵⁸ Menon, “Sexual Violence and the Law in India.”, 188.

⁵⁹ *Ibid.*

⁶⁰ Geetanjali Gangoli, “Controlling Women’s Sexuality: Rape Law in India,” in *International Approaches to Rape*, by Nicole Westmarland (Bristol, United Kingdom of Great Britain and Northern Ireland: Policy Press, 2010), 104, <https://www.jstor.org/stable/j.ctt9qgkd6.9>.

⁶¹ <https://www.legalserviceindia.com/legal/article-6337-custodial-rapes.html>

⁶² Gangoli, “Controlling Women’s Sexuality: Rape Law in India.”, 105.

⁶³ *Ibid.*

⁶⁴ *Ibid.*, 104

⁶⁵ Shri P. Shiv Shankar, “Eighty-Fourth Report on Rape and Allied Offences: Some Questions of Substantive Law Procedure and Evidence,” *Indian Kanoon* (Ministry of Law, Justice and Company Affairs, 1980), <http://indiankanoon.org/doc/75407090/>.

become a new law or alter existing ones.⁶⁶ This particular Law Commission had the following recommendations and was researched by Sen where he examined multiple Law Commissions. Sen found that the 84th report included the following recommendations for the IPC (As stated in “Law Commission Reports on Rape “):

A man is said to have committed "rape"

- (1) without her *free and voluntary consent*,
- (2) with her consent when it was obtained by putting her in fear of death or of hurt *or any injury either to herself or to any other person or by criminal intimidation*,
- (3) with her consent *when her consent is given under misconception of fact when the man knows or has reason to believe that the consent was given in consequence of such misconception*,
- (4) *with her consent, if the consent is given by a woman who, from un soundness of mind or intoxication or by reason of the consumption or administration of any stupefying or unwholesome substance, is unable to understand the nature and consequences of that to which she gives consent, or is unable to offer effective resistance*,
- (5) with or without her consent, when she is under *eighteen years of age*⁶⁷

These recommendations should have added a whole new understanding of the meaning behind “consent”. However, as opposed to the many recommendations that were presented by feminists in the Law Commission, most were eventually ignored.⁶⁸ Nevertheless, The final Criminal law amendment presented in 1983 did make a change to section 376 of the IPC and added sections 376-B, 376-C, and 376-D which contains the act of custodial rape.⁶⁹ Moreover, an important change, but not recommended by the feminist groups was the change of the minimum jail sentencing.⁷⁰ Before the Criminal Law Amendment of 1983, there only existed a maximum jail sentence, but after 1983, the punishment for rape was given a minimum of seven years and ten years for special cases of rape, such as custodial rapes.⁷¹⁷² To rephrase, The former changes in rape law described above consist of a complex and slow battle of shifting India’s patriarchal framework that is waved into the mindset and legal system of India.

2.4 The Nirbhaya Case

The starting point of this paper is the event that happened on December 16th 2012. Many news outlets covered this story in great detail.⁷³ According to the Times of India, 23-year-old Jyoti Singh and her male friend were on their way home after seeing a movie in South Delhi.⁷⁴ Without their knowledge, they rode on a bus that had no duty. Besides them, there were six other men on the bus. The male friend suspected that something was wrong when the bus went in a different direction and noticed the men locking the doors. The friend got into an argument

⁶⁶ Rukmini Sen, “Law Commission Reports on Rape,” *Economic and Political Weekly* 45, no. 44/45 (2010): 81, <http://www.jstor.org/stable/20787533>.

⁶⁷ Sen, “Law Commission Reports on Rape.”, 84.

⁶⁸ Ibid.

⁶⁹ Ministry of Law and Justice and Government of India, “The Indian Penal Code,” *Legislative Department* (India: Ministry of Law and Justice, 1860): 85-87, <https://legislative.gov.in/sites/default/files/A1860-45.pdf>.

⁷⁰ Menon, “Sexual Violence and the Law in India.”, 188.

⁷¹ Ibid.

⁷² Ministry of Law and Justice and Government of India, “The Indian Penal Code.”, 85-87.

⁷³ The Times of India, “What Is Nirbhaya Case?”

⁷⁴ Ibid.

with the men and was then beaten, gagged, and hit unconscious with an iron rod. Jyoti was taken by the men to the back of the bus where she also was beaten and raped for over an hour by all men. After the attack, they were thrown out of the bus on the side of the road and were found by a passerby who contacted the police immediately. In the hospital, it became clear Jyoti had serious injuries which included bite marks and severe damage to her intestines as a result of molestation with an iron rod. Unfortunately, on December 29th, 2012 Jyoti Singh passed away after fighting for her life in the hospital.⁷⁵

A day after the attack, Delhi police found the bus and connected the bus to the driver Ram Singh.⁷⁶ The other five men who were arrested included Mukesh Singh, Vinay Sharma, Pawan Gupta, Mohammed Afroz, and Akshay Thakur.⁷⁷ Ram Singh, while incarcerated, committed suicide in his cell. Although, some believe that he was murdered as his three cellmates were present at the time of death.⁷⁸ The other four perpetrators were found guilty in September 2013 for the rape and murder of 'Fearless' Nirbhaya.⁷⁹ As a result, the four were sentenced to death by hanging which occurred on March 20th, 2020.⁸⁰ One of the defendants was 17 at the time of the crime which meant he was tried as a juvenile. On August 31st, 2013 he was found guilty of rape and murder and was given a maximum sentence of three years in a reform facility. He was released at the end of 2015.⁸¹

After the incident, the case was highly commented on by the media and started a rage among the public.⁸² Due to the existing rape law, Jyoti her name could not be published in the media, which led to newspapers and outlets giving her the name "Nirbhaya", which translates to 'Fearless'.⁸³ In the following weeks, the public started protests that were scattered throughout the county.⁸⁴ In New Delhi, thousands of people gathered in front of the presidential palace on December 22nd, 2012. Women belonging to women's organizations, students, and mothers and fathers expressed their enragement which gave the police no choice but to use water cannons, batons, and tear gas to restrain the protesters.⁸⁵ A more peaceful way of protesting was the occurrence of silent marches in which people walked in complete silence to pay respect to the lost life of Jyoti Singh and other rape victims.⁸⁶

⁷⁵ The Times of India, "What Is Nirbhaya Case?"

⁷⁶ "Profiles: Who Were the Delhi Gang Rape Convicts?," *BBC News*, March 20, 2020, <https://www.bbc.com/news/world-asia-india-23434888>.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ The Times of India, "What Is Nirbhaya Case?"

⁸⁰ Soibam Rocky Singh, "Four Nirbhaya Case Convicts Hanged to Death in Tihar Jail," *The Hindu*, December 3, 2021, <https://www.thehindu.com/news/national/nirbhaya-case-four-convicts-hanged-to-death-in-tihar-jail/article61960571.ece>.

⁸¹ BBC News, "Profiles: Who Were the Delhi Gang Rape Convicts?"

⁸² Alan Taylor, "Violent Protests in India Over Rape Case," *The Atlantic*, December 26, 2012, <https://www.theatlantic.com/photo/2012/12/violent-protests-in-india-over-rape-case/100429/>.

⁸³ The Times of India, "What Is Nirbhaya Case?"

⁸⁴ Taylor, "Violent Protests in India Over Rape Case."

⁸⁵ Ibid.

⁸⁶ Reza Noorani, "Nirbhaya's Parents March with Mumbaikars at Silent March for Rape Victims," *The Times of India*, April 24, 2018, https://timesofindia.indiatimes.com/city/mumbai/nirbhayas-parents-march-with-mumbaikars-at-silent-march-for-rape-victims/articleshow/63887665.cms?utm_source=contentofinterest.

3. Aid for Female Victims of Sexual Crimes

This chapter will provide an overview of initiatives by the urban government to aid women who fall victim to a sexual crime. Therefore, the sub-question will be: What policies introduced by the government as of 2012 can support women who have been a victim of sexual assault?

3.1 Nirbhaya Fund

In an attempt to combat sexual violence, the national government decided to create a fund under the name of Nirbhaya Fund.⁸⁷ This was a direct response to the crime against Jyoti Singh at the end of 2012. The Nirbhaya fund consisted of almost 10 billion Indian Rupees (in 2022, this amount converts to around 120 million dollars) and this budget was announced in the annual financial statement of 2013 by the Indian government with the purpose being to finance initiatives to ensure women their safety in the whole nation.⁸⁸ Such projects could vary from enhancing safety in the built environment (section 4.3) to the establishment of centers for victims of sexual assault (section 4.2).

The Department of Economic Affairs of the Ministry of Finance administrated the so-called non-lapsable fund, which is described as a fund that is utilized for various governmental schemes in a fiscal year in which the unspent money will not ‘expire’ and can be utilized in the following fiscal year.⁸⁹ In a governmental publication published by the Ministry of Women and Child Development called “Framework for Nirbhaya Fund”, the workings of the fund are explained.⁹⁰ The ministry responsible for project recommendations and monitoring project progression initiated by other Ministries and Departments is the Ministry of Women and Child Development (MWCD).⁹¹ When other Ministries/Departments would submit a proposal for a project relating to women’s safety, the proposal must be reviewed and accepted by the Empowered Committee, established on October 26th, 2015. Following this, The Budget Division (DEA) will approve the funding of any project.⁹² The MWCD will eventually be accountable for monitoring all project’s establishment and progress.⁹³ A national press release published that until now 35 projects have been appraised by the Empowered Committee.⁹⁴

For example, projects that are funded by the Nirbhaya Fund are the concepts of an Emergency Response Support System (ERSS), One Stop Centers (OSC), and “strengthening DNA analysis, cyber forensic & related facilities in SFSL’s in 24 States/UT’s”.⁹⁵ SFSL in this

⁸⁷ Ministry of Women & Child Development, “Framework for Nirbhaya Fund,” *Ministry of Women & Child Development* (Ministry of Women & Child Development, March 2015), https://wcd.nic.in/sites/default/files/Approved%20framework%20for%20Nirbhaya%20Fund_0.pdf.

⁸⁸ Kadyan and Unnithan, “Extreme Cases and the Criminal Justice System: Responses to a Traumatic Sexual Assault in India”, 35.

⁸⁹ Bandewar, Pitre, and Lingam, “Five Years Post Nirbhaya: Critical Insights into the Status of Response to Sexual Assault.”, 217.

⁹⁰ Ministry of Women & Child Development, “Framework for Nirbhaya Fund.”

⁹¹ Ibid.

⁹² Ibid., 3.

⁹³ Ibid., 5.

⁹⁴ Ministry of Women and Child Development and Press Information Bureau, “Proposals Appraised Under Nirbhaya Fund,” Press release, August 3, 2022, <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1847792>.

⁹⁵ Ministry of Women and Child Development and Press Information Bureau, “Proposals Appraised Under Nirbhaya Fund.”

case is shortened for State Forensic Science Laboratories. Moreover, in 2018, the Press Information Bureau (PIB) released that the Empowered Committee held its 14th meeting and discussed a safe city proposal regarding the city of Delhi.⁹⁶ In short, it entails a “Project worth ₹ 663.67 Cr. appraised to enhance the safety of women in public places like roads, schools, metro stations, etc. The project includes the use of the latest technology such as video monitoring, facial recognition analytics, person tracking, etc. for women’s safety. Dedicated women safety patrol vans to be added, equipped with GPS tracking, on-board video feed sharing, etc.”⁹⁷ Yet, the most recent press releases including word of this safe city project have not elaborated on further action into the establishment of this project.⁹⁸

The establishment of this fund sounded promising for the many feminists and women in India who were ready to see a change that would benefit their safety. But as already mentioned, in the years following the establishment of the Nirbhaya fund, its actual use raised questions with scholars and the media. For example, Bandewar et al. acknowledged the underutilization of the Nirbhaya Fund in 2018 and wondered how the utilization of the fund would develop over time.⁹⁹ The Hindustan Times published an article in 2017 questioning the transparency of the Indian government and the MWCD in stating which projects had been funded with the Nirbhaya Fund.¹⁰⁰ Their questions can be answered when observing a report from the non-profit organization Oxfam India on tracking union budgets from the Indian government.¹⁰¹ They found that the Nirbhaya Fund was unutilized in the starting years but finally was being used from 2016 mostly by the Ministry of Home Affairs and the MWCD. This meant other ministries concerning Health, Education, and Urban Development have reportedly not yet designed project proposals.¹⁰² In a report by the parliament of India on “Action Taken by the Government on the Recommendations of the Committee contained in its Three Hundred and Sixteenth Report on Issues Related to Safety of Women” the committee released that almost Rupees. 3000 Crore has been utilized out of Rupees. 9549 Crore in 2021 and acknowledged they must identify the reasons behind the underutilization.¹⁰³ In an interview

⁹⁶ Ministry of Women and Child Development and Press Information Bureau, “Empowered Committee under Nirbhaya Fund Holds Its 14th Meeting,” Press release, March 1, 2018, <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1522318>.

⁹⁷ Ministry of Women and Child Development and Press Information Bureau, “Empowered Committee under Nirbhaya Fund Holds Its 14th Meeting.”

⁹⁸ Ministry of Women and Child Development and Press Information Bureau, “Proposals Appraised Under Nirbhaya Fund,” Press release, August 3, 2022, <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1847792>.

⁹⁹ Bandewar, Pitre, and Lingam, “Five Years Post Nirbhaya: Critical Insights into the Status of Response to Sexual Assault.”, 218.

¹⁰⁰ “Delhi Gang Rape Case: Rs 3,000 Crore Nirbhaya Fund Remains under-Utilised,” *Hindustan Times*, May 5, 2017, <https://www.hindustantimes.com/india-news/delhi-gang-rape-case-rs-3-000-crore-nirbhaya-fund-remains-under-utilised/story-eVXZH3RFfVMmYnOlvIrxNM.html>.

¹⁰¹ Oxfam India and Dharmistha C, “Towards Violence Free Lives for Women Tracking of Union Budgets (2018-21) for Violence Services,” *Oxfam India* (Oxfam India, February 2021), <https://d1ns4ht6ytuzzo.cloudfront.net/oxfamdata/oxfamdatapublic/2021-02/Gender%20Budget%20and%20Financing%20for%20VAW%20-9.pdf?ZoJ4ukZCF1zMZrqtWwt2M7yagQyKAerv>.

¹⁰² Oxfam India and C, “Towards Violence Free Lives for Women Tracking of Union Budgets (2018-21) for Violence Services.”, 37.

¹⁰³ Rajya Sabha, “THREE HUNDRED AND THIRTY FOURTH REPORT ON Action Taken by the Government on the Recommendations of the Committee Contained in Its Three Hundred and Sixteenth Report on Issues Related to Safety of Women,” *Rajya Sabha*, February 2022, 37, https://rajyasabha.nic.in/rsnew/Committee_site/Committee_File/ReportFile/16/162/334_2022_2_17.pdf.

with economist Reetika Kehra, “one reason is that they create hurdles, through say, daunting paperwork” (with ‘they’ meaning the Indian government).¹⁰⁴ The Oxfam India report also stated that “schemes like Emergency Response Support Services, Forensic Laboratory Strengthening and setting up of vehicular tracking systems and CCTVs are more pro-women mainstream allocations rather than women-specific allocations which is a major mandate of the fund.”¹⁰⁵ This led to Oxfam recommending the government to focus more on “women-specific programmes”, like the OSC and helpline for women by increasing the amount of funding used for those specific programs.¹⁰⁶

3.1.1 One Stop Centers

One of the larger projects launched with financing by the Nirbhaya Fund belonged to the creation of One Stop Centers (OSC). OSC first were mentioned and recommended in the 12th Plan Working Group on Women’s Agency and Empowerment before the Nirbhaya case in 2012.¹⁰⁷ Subsequently, the Justice Usha Mehra Commission was appointed “to enquire into various aspects of the incident of rape dated 16th December 2012 to identify the lapse on the part of the police, any authority or the person and also to give suggestions to improve the safety and security of women” and mentioned the necessity of OSC in a report.¹⁰⁸¹⁰⁹ Since the scheme falls under the Nirbhaya Fund, the MWCD formulated a proposal including budget, locations, and information on services that OSC will provide.¹¹⁰ Essentially, women of all ages who seek support or treatment after falling a victim to crime are welcome to visit one of the OSC. Services in OSC include “Medical assistance”, “Police assistance”, Psycho-social support/counseling”, Legal aid”, “shelter” and a “Video Conferencing Facility”.¹¹¹ Location-wise, the MWCD required OSC to be situated inside or nearby hospitals or medical centers.¹¹² After the project came into effect, a press release from the MWCD dated 11 February 2022 implied that 704 facilities have been opened nationally to this day.¹¹³

When examining OSC in Delhi more closely, less promising statistics are revealed. In a table which tracks the funds for the OSC scheme, no data is found on the amount of funds that

¹⁰⁴ “Nirbhaya Fund: Where Did Millions Set aside after Delhi Gang Rape Go?,” *BBC News*, February 9, 2021, <https://www.bbc.com/news/world-asia-india-54434160>.

¹⁰⁵ Oxfam India and C, “Towards Violence Free Lives for Women Tracking of Union Budgets (2018-21) for Violence Services.”, 37.

¹⁰⁶ *Ibid.*, 50.

¹⁰⁷ Bandewar, Pitre, and Lingam, “Five Years Post Nirbhaya: Critical Insights into the Status of Response to Sexual Assault.”, 218.

¹⁰⁸ Government of India and Ministry of Women and Child Development, “ONE STOP CENTRE SCHEME: IMPLEMENTATION GUIDELINES FOR STATE GOVERNMENTS / UT ADMINISTRATIONS,” *Ministry of Women and Child Development* (New Delhi, India: Ministry of Women and Child Development, December 2017), https://wcd.nic.in/sites/default/files/OSC_G.pdf.

¹⁰⁹ Usha Mehra, “Report of Justice Usha Mehra (RETD.),” Ministry of Women and Child Development (New Delhi, India: Ministry of Home Affairs, February 22, 2013), 1, https://www.mha.gov.in/sites/default/files/UshaMehraReport_170913.pdf.

¹¹⁰ Government of India and Ministry of Women and Child Development, “ONE STOP CENTRE SCHEME: IMPLEMENTATION GUIDELINES FOR STATE GOVERNMENTS / UT ADMINISTRATIONS.”,

¹¹¹ *Ibid.*, 3-5.

¹¹² *Ibid.*, 2.

¹¹³ Ministry for Women and Children Department and Press Information Bureau, “One Stop Center,” Press release, February 11, 2022, <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1797709>.

was utilized from the Nirbhaya Fund for fiscal years from 2015 until 2019 for setting up OSC.¹¹⁴ In the fiscal year 2019-2020 Rupees 3.63 Crore and in the fiscal year 2020-2021 another Rupees 1.83 Crore were released to Delhi.¹¹⁵ However, data shows only Rupees 0.66 Crore has been utilized in the Fiscal year 2020-2021 for the OSC project.¹¹⁶ Whether the fund was utilized in the years prior is unclear. As Bandewar et al. also noted in their article on post-Nirbhaya governmental responses, available information about existing OSC is rather confusing and inaccessible to the public eye.¹¹⁷ In Delhi, a total of eleven OSC are registered to aid women who have been harmed, which may sound positive. However in reality, ten of these so-called “OSC” only consisted of one room inside a hospital without appointed staff.¹¹⁸

Comparing this to the One Stop Center Scheme Proposal, the facilities must meet the requirement of 300 square meters in total including rooms for doctors, counselors, and a room where women can seek shelter.¹¹⁹ More than four years after announcing the OSC project, Delhi finally realized its first facility meeting the requirements of the government.¹²⁰ Different from the other ten “OSC”, this building offered ten beds, well-trained personnel, and separate rooms for counseling and medical treatments.¹²¹ In the press release mentioned earlier, the MWCD published that until April 2021, 588 women have been aided in the existing OSC in Delhi (0,15% of all assisted women in India).¹²² Hence, given the large number of victimized women in Delhi, this number sounds quite unimpressive. Most probably, a reason for this can be discovered in the level of awareness around OSC among women in Delhi.

3.2 Special Police Unit for Women and Children

Apart from legislative responses, the inhabitants of Delhi sought active and physical change after the horrific events of 2012. In Delhi, there already existed a unit within the police department called Crime against Women Cell.¹²³ In 2008, the unit was renamed as Special Police Unit for Women and Children (SPUWAC).¹²⁴ The document “Standing Order NO.281” explained that SPUWAC “is to promote gender equality within as well as outside the force by focusing on issues like harassment including sexual harassment, cruelty, violence, discrimination, female foeticide; in order to create and ensure a safe environment for the women and children in Delhi and to promote community partnership through programs like

¹¹⁴ Open Budgets India, “One Stop Centre (OSC),” Schemes Dashboard, 2021, <https://schemes.openbudgetsindia.org/scheme/osc?indicator=total-funds-utilised>.

¹¹⁵ Open Budgets India, “One Stop Centre (OSC).”

¹¹⁶ Ibid.

¹¹⁷ Bandewar, Pitre, and Lingam, “Five Years Post Nirbhaya: Critical Insights into the Status of Response to Sexual Assault.”, 218.

¹¹⁸ “Photos: Delhi’s First ‘One-Stop’ Centre for Sexual Assault Victims at IHBAS,” *Hindustan Times*, November 29, 2019, <https://www.hindustantimes.com/photos/delhi-news/photos-delhi-s-first-one-stop-centre-for-sexual-assault-victims-at-ibhas/photo-qmxI2BBQY4sbgHgdjXRzSM.html>.

¹¹⁹ Government of India and Ministry of Women and Child Development, “ONE STOP CENTRE SCHEME: IMPLEMENTATION GUIDELINES FOR STATE GOVERNMENTS / UT ADMINISTRATIONS.”, 2.

¹²⁰ “Photos: Delhi’s First ‘One-Stop’ Centre for Sexual Assault Victims at IHBAS.”

¹²¹ Ibid.

¹²² Ministry for Women and Children Department and Press Information Bureau, “One Stop Center.”

¹²³ “The CAW Cell Has Been Continuously Making Efforts to Empower Women and to Address Their Grievances.,” *Nigrani 24*, January 7, 2019, <https://nigrani24news.wordpress.com/2019/01/07/the-caw-cell-has-been-continuously-making-efforts-to-empower-women-and-to-address-their-grievances/>.

¹²⁴ “The CAW Cell Has Been Continuously Making Efforts to Empower Women and to Address Their Grievances.”

PARIVARTAN in whole of Delhi”.¹²⁵ The unit is run by a “Joint Commissioner of Police, assisted by the Deputy Commissioner of Police, Assistant Commissioner of Police and other staff”.¹²⁶ Complaints and statements regarding crimes against women are thus handled by this unit.¹²⁷ Additionally, they offer services to women like mediation and counseling conducted by professionals.¹²⁸

Furthermore, with the thought of tackling crimes against women, the police unit created a project that offered self-defense training to women both on the police station as on schools and colleges.¹²⁹ According to an Indian blog post made in 2015, a total of 992 training programs have been given to girls and women in Delhi where they learned what to do in situations like an attack or a robbery.¹³⁰ The most recent headline regarding this topic was in June 2022 when Delhi Police organized the 18th summer camp where women of all ages and backgrounds would learn basic self-defense strategies.¹³¹

To ensure the best handling of cases, SPUWAC and the Delhi Commission for Women (DCW) started to collaborate in 2015.¹³² DCW is one of many departments inside the government of Delhi and exist since the 90s. Similar to the SPUWAC, The commission assists women who have complaints regarding their safety in Delhi. By working together on these cases, SPUWAC and DCW can speed up the process of resolving cases.¹³³ Researching their progress up until this day did not show any reports, thus it is not sure whether they still have joined their forces.

3.2.2 Women’s Helpline

On the website of the SPUWAC, they provided a list of helplines, including a special helpline for women.¹³⁴ This 24-hour women’s helpline with number 1091 has 20 dispatchers and is intended to close the gap between women in need of help and the police of Delhi.¹³⁵ By appointing a skilled female team this helpline should offer a more comfortable space for a victim to talk about a crime. 20 dispatchers may sound unimpressive when taking into account the total crimes against women in Delhi. However, Oxfam published in their report on the utilization of the Nirbhaya Fund that Delhi additionally owns a three-floor “Emergency Response Support Service” including a team of 1000 police officers inside the Ministry of

¹²⁵ Yudhbir Singh Dadwal, “STANDING ORDER NO. 281,” *National Legal Research Desk* (Commissioner of Police, August 25, 2008), 10, <http://nlrd.org/wp-content/uploads/2012/02/Special-Police-Unit-for-Women-and-Children.pdf>.

¹²⁶ Dadwal, “STANDING ORDER NO. 281.”, 1.

¹²⁷ Ibid.

¹²⁸ Ibid., 11.

¹²⁹ India Today Web Desk, “Delhi Police to Organise Self-Defence Summer Camp to Promote Women’s Safety | Details,” India Today, June 8, 2022, <https://www.indiatoday.in/cities/delhi/story/delhi-news-delhi-police-sashakti-self-defence-training-1959739-2022-06-08>.

¹³⁰ India Today Web Desk, “Delhi Police to Organise Self-Defence Summer Camp to Promote Women’s Safety | Details.”

¹³¹ Ibid.

¹³² “DCW to Work with Delhi Police’s Crimes against Women Cell,” *Indiatvnews*, September 1, 2015, <https://www.indiatvnews.com/news/india/dcw-to-work-with-delhi-police-s-crimes-against-women-cell-54189.html>.

¹³³ “DCW to Work with Delhi Police’s Crimes against Women Cell.”

¹³⁴ “Helplines,” SPUWAC, n.d., <https://spuwac.in/helplines.php>.

¹³⁵ SPUWAC, “Helplines.”

Home Affairs office.¹³⁶ This scheme was part of a larger project funded by the Nirbhaya Fund to create “a universal toll-free 24-hour helpline number for information and support during distress across the country”.¹³⁷ Nonetheless, Oxfam found that the response rate for this helpline is still scarce and suggests the helpline needs advancement and a stronger marketing strategy.¹³⁸

Taking these initiatives into account, an analysis based on Schönteich’s three C’s can be given.¹³⁹ Schönteich, a researcher in Security Studies, found that crime can be reduced when a government takes into account ‘Capability’, ‘Credibility’, and ‘Communication’ when incorporating certain policies.¹⁴⁰ Even though this analysis method is mostly focused on law reforms with the objective of intimidating possible criminals, it is also possible to link the three C’s to initiatives implemented by the government that supports victims of crimes. Firstly, the C of ‘Credibility’ comes to mind in analyzing the success of the Nirbhaya Fund. Schönteich refers to ‘Credibility’ as a tool to combat crime rates in a nation.¹⁴¹ In this, a government must be believable and appear to be determined to resolve the issue of criminality.¹⁴²

The announcement of the Nirbhaya Fund in 2013 indicated a swift response from the Indian Government to resolve the issue of crime against women and celebrated feminists in India that demanded change. However, the years of underutilization and vague statements about the progress of the projects under the Nirbhaya Fund, such as the safe city scheme, diminish the credibility of the institutes managing the Nirbhaya Fund to prioritize women their safety.

The C of ‘Communication’ comes into play when assessing the project of OSC and the women’s helpline. Comparing the aided women by OSC to the high number of female victims in Delhi, the awareness of such OSC among Indian women could be brought into question. Even though, Schönteich’s C of ‘Communication’ initially refers to the message of determination to convict possible offenders brought by the government, ‘communication’ about support systems for female victims could be considered equally important.¹⁴³ Since the response rate is so low for the existing OSC in Delhi, ‘communication’ must be enhanced to show the extent to which the urban government is willing to go, in terms of protecting women. Along the same lines, Oxfam acknowledged that Delhi needs more advertisement on the women’s helpline to become more recognized. In this, the government can play a part as a vital actor by communicating the importance of women-specific schemes, such as OSC and the women’s helpline.

On a positive note, the C of ‘Capability’, which relates to the amount and level of resources a government owns to accomplish an objective, can be considered achieved.¹⁴⁴ For example, the national government was able to acquit money to establish the Nirbhaya Fund,

¹³⁶ Oxfam India and C, “Towards Violence Free Lives for Women Tracking of Union Budgets (2018-21) for Violence Services.”, 40.

¹³⁷ Oxfam India and C, “Towards Violence Free Lives for Women Tracking of Union Budgets (2018-21) for Violence Services.”, 38.

¹³⁸ *Ibid.*, 40.

¹³⁹ SCHÖNTEICH, “DOES CAPITAL PUNISHMENT DETER?”, 90.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

with which OSC could be established throughout the city. In terms of law enforcement, the urban government of Delhi managed to appoint specific agents to work for the SPUWAC and for the women's helpline situated at the Ministry of Home Affairs building.

4. Preventing Sexual Crimes against Women

This chapter will provide an overview of legislative actions made by the urban government to strengthen their rape laws as well as law enforcement. For this section the following questions will be answered: What policies introduced by the urban government as of 2012 can prevent sexual crimes?

4.1 The Criminal Amendment Act, 2013

In the aftermath of the Nirbhaya case which led to numerous protests across the country, people plead for an immediate response from the government. As a result, the government set up the Justice Verma Committee on December 23rd, 2012.¹⁴⁵ Their task was to create a report in a month in which they reviewed possible alterations to the criminal law.¹⁴⁶ The chairman of the committee was Justice J.S Verma and Justice Leila Seth and Gopal Subramaniam are the names of the other two members. Together they created the document ‘report of the Committee on Amendments To Criminal Law’.¹⁴⁷ The report included 631 pages was finalized on January 23, 2013.¹⁴⁸ In the preface, it was mentioned this report is the result of “the failure of governance to provide a safe and dignified environment for the women of India, who are constantly exposed to sexual violence”.¹⁴⁹ Varsha, a writer at B&B Associates LLP, analyzed the report in an online article and focused on the recommendations regarding sexual offenses.¹⁵⁰ Firstly, the report recommended changes belonging to the existing rape laws in India. So should marital rape become a criminal offense and thus must be removed as an exception to rape.¹⁵¹ They also recognized that the definitions rape and sexual assault exist in a much broader framework than before and thus needed to be expanded.¹⁵² They did recognize that the crime of rape should be considered a distinct act, but it needed an expansion of the meaning since the law only considered vaginal penetration to be regarded as rape.¹⁵³ Furthermore, they commented on topics such as “Acid Attack”, “Eve Teasing” and “Sexual Harassment in the Workplace”.¹⁵⁴

In a response to the ‘report of the Committee on Amendments to Criminal Law’ the Criminal Law (Amendment) Act (CLA) 2013 passed in the parliament which implied that some alterations were made to the IPC 1860.¹⁵⁵ The CLA 2013 is regarded as a milestone for India

¹⁴⁵ Tejashwini Mallick, “An Extensive Study of Rape Laws in India,” *Manupatra*, December 27, 2021, 6, <https://articles.manupatra.com/article-details/An-Extensive-study-of-Rape-Laws-in-India>.

¹⁴⁶ J.S Verma, “Report of the Committee on Amendments To Criminal Law,” *NYU Libraries* (New Delhi, India: Government of India, Committee on Amendments to Criminal Law, January 23, 2013).

¹⁴⁷ Verma, “Report of the Committee on Amendments To Criminal Law.”

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*, I.

¹⁵⁰ Varsha, “Analysis of Justice J.S. Verma Committee Report on Amendment to Criminal Law with Special Reference to Sexual Assault against Women,” *Bnblegal*, September 23, 2022,

<https://bnblegal.com/article/analysis-of-justice-j-s-verma-committee-report-on-amendment-to-criminal-law-with-special-reference-to-sexual-assault-against-women/>.

¹⁵¹ Varsha, “Analysis of Justice J.S. Verma Committee Report on Amendment to Criminal Law with Special Reference to Sexual Assault against Women”.

¹⁵² Mallick, “An Extensive Study of Rape Laws in India.”, 7.

¹⁵³ *Ibid.*, 7.

¹⁵⁴ Varsha, “Analysis of Justice J.S. Verma Committee Report on Amendment to Criminal Law with Special Reference to Sexual Assault against Women”.

¹⁵⁵ Ministry of Law and Justice and Government of India, “The Indian Penal Code.”

in changing rape law in the contemporary world that battles for gender equality. The most important change is that of the definition of rape. before the CLA 2013, vaginal penetration only was considered rape.¹⁵⁶ After the alterations, section 375 of the IPC 1860 included the following section on what is considered rape by a man:

*“there is penetration of his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or making her to do so with him or any other person; or insertion, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or making her to do so with him or any other person; or manipulating any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or making her to do so with him or any other person; or applying his mouth to the vagina, anus, urethra of a woman or making her to do so with him or any other person.”*¹⁵⁷

Not only did the definition of rape change in the IPC 1860, but recommendations regarding punishments for criminal acts such as rape were also recognized. Whereas the punishment for gang rape was ten years to life imprisonment and a fine, this was now made more severe leading to a punishment of twenty years to life imprisonment and a fine.¹⁵⁸ A rape that results in death was now implied as a specific offense with twenty years imprisonment or death instead of separating rape and murder in a separate trial.¹⁵⁹ The question raised on the age of consent for sexual relations of any kind was also reviewed and resulted in increasing the age from 16 to 18 years.¹⁶⁰ The crime of marital rape and the efforts to eliminate that exception from the IPC 1860 had been great but had not been revisited entirely.¹⁶¹ Instead of removing the section on marital rape and considering it just as severe as regular acts of rape, the CLA 2013 broadened the definition of marital rape.¹⁶² As of today, the IPC 1860 states that marital rape can only exist when the couple is separated or live separately.¹⁶³ The sentencing for this crime is extended from a maximum of two years imprisonment to a minimum of two years imprisonment with the possibility to serve seven years behind bars.¹⁶⁴

4.2 Criminal Amendment Act, 2018

Despite the efforts to combat rape in India, a disturbing case again shook the public in 2018. In a region of India called Jammu and Kashmir, an eight-year-old girl belonging to the nomadic Bakerwals community was abducted by six men who had premeditated the crime in hope of intimidating the tribal group.¹⁶⁵ Six men have been accused of abducting, drugging, molesting,

¹⁵⁶ Menon, “Sexual Violence and the Law in India.”, 188.

¹⁵⁷ Ministry of Law and Justice and Malhotra, “The Criminal Law (Amendment) Act, 2013.”, 5.

¹⁵⁸ Menon, “Sexual Violence and the Law in India.”, 191.

¹⁵⁹ Ministry of Law and Justice and Malhotra, “The Criminal Law (Amendment) Act, 2013.”, 7-8.

¹⁶⁰ Mallick, “An Extensive Study of Rape Laws in India.”, 7.

¹⁶¹ Menon, “Sexual Violence and the Law in India.”, 191.

¹⁶² Ministry of Law and Justice and Malhotra, “The Criminal Law (Amendment) Act, 2013.”, 7.

¹⁶³ Ministry of Law and Justice and Government of India, “The Indian Penal Code.”, 86-87.

¹⁶⁴ Ministry of Law and Justice and Malhotra, “The Criminal Law (Amendment) Act, 2013.”, 7.

¹⁶⁵ Amrita Nayak Dutta, “‘Inside Story’ of How One of the Most Horrific Rape-Murders of J&K Was Planned & Executed,” *ThePrint*, June 14, 2019, <https://theprint.in/india/governance/inside-story-of-how-one-of-the-most-horrific-rape-murders-of-jk-was-planned-executed/48129/>.

raping, and murdering the girl in a span of a week in a temple. Given the reasoning for this plan, it was soon to be considered a crime with a political and religious background.¹⁶⁶

Considering the heinous crimes committed against such a young girl left the public with no choice but to demand for stricter laws. Soon after, the government passed the Criminal Law Act, 2018 (CLA 2018).¹⁶⁷ Similar to the CLA 2013, this report also entailed amendments to the IPC. This time, the government focused namely on amending punishment when committed rape in relation to the age of the victim. As a result, the government added a sub-section that entailed a minimum of twenty years with the possibility of life imprisonment and a fine for rape of a woman below sixteen years old and when a victim is below twelve years old there even is a chance to get the death penalty.¹⁶⁸ The sentence for gang rapes also has been revisited and when the victim is to be sixteen years or younger the accused will receive imprisonment for life and a fine.¹⁶⁹ When a girl of twelve years or younger is raped by multiple people the accused will receive life imprisonment and a fine or the death penalty.¹⁷⁰ Whereas the punishment for rape, apart from the exceptional cases described in the second sub-section of section 376, first was seven years of imprisonment with the possibility of life imprisonment and a fine, it was now substituted to ten years with the possibility of life imprisonment and a fine.¹⁷¹

Having analyzed these important legislative reforms, The Criminal Law Act of 2013 and 2018 proved that the government did make progress on paper. Hence, only putting it down in black and white does not essentially mean sexual assault is combatted altogether. Even after law amendments, brutal cases similar to the Nirbhaya case were recorded and women kept experiencing discrimination in trials where patriarchy dominated the courtroom.

Firstly, rape cases in Delhi kept piling up even after CLA 2013 came into effect. The latest statistics revealed a number of 1251 rape cases in the year 2021 which accounts for over three cases each day.¹⁷² When comparing these numbers to statistics from 2012, where rape accounted for 706 cases, it is doubtful whether CLA 2013 and CLA 2018 made a difference in actually preventing sexual crimes.¹⁷³

Similar to the previous chapter, Schönteich his three C's theory can be applied to this first part of this chapter. He acknowledges that the prevention of crimes only succeeds when considering "Capability, Credibility, and Communication".¹⁷⁴ A government "must be capable of identifying, arresting, prosecuting, convicting and punishing the majority of serious offenders".¹⁷⁵ Then, a government must be credible in forming a threat to possible convicts. Lastly, a government should convey this message to the public to show they have control over

¹⁶⁶ Dutta, "'Inside Story' of How One of the Most Horrific Rape-Murders of J&K Was Planned & Executed."

¹⁶⁷ Ministry of Law and Justice and G. Narayana Raju, "The Criminal Law (Amendment) Act, 2018," *Ministry of Home Affairs* (Delhi, India: Controller of Publications, Delhi, August 11, 2018), https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_0.pdf.

¹⁶⁸ Ministry of Law and Justice and Raju, "The Criminal Law (Amendment) Act, 2018.", 2-3

¹⁶⁹ *Ibid.*, 2.

¹⁷⁰ *Ibid.*, 3.

¹⁷¹ Ministry of Law and Justice and Government of India, "The Indian Penal Code.", 85.

¹⁷² National Crime Records Bureau, "Crime in India: Statistics Volume-I.", 218.

¹⁷³ Ministry of Home Affairs, "Crime in India 2012," *National Crime Records Bureau* (India, 2011), 397, https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%205.3.pdf.

¹⁷⁴ SCHÖNTEICH, "DOES CAPITAL PUNISHMENT DETER?", 90.

¹⁷⁵ *Ibid.*, 90.

offenders.¹⁷⁶ In the case of Delhi, the urban government fails in all three. The failure of ‘Capability’ can be concluded when assessing Preeti Pratishruti Dash her research on the influence of the CLA 2013 by examining 1635 judgments in the years 2013-2018 from Delhi court including rape.¹⁷⁷ She found that the percentage of convictions made in a trial before the CLA 2013 was 16,11% and after the CLA 2013, this percentage was only 5,72%.¹⁷⁸ She concluded that “the failure of the CLA 2013 in realizing the feminist dream of ridding rape law of sexist biases and presumptions raises concerns about using criminal law as a site for feminist reform”.¹⁷⁹

‘Credibility’ of the Delhi government to prioritize women their safety by fighting offenders in the courtroom wears off when describing the following instances. In many rape trials, claims had been made inside a courtroom about women their wardrobe choices, their sexual history, or being in a public place alone at the time of the assault.¹⁸⁰ This victim blaming shows that a perpetrator cannot be convicted with the new law if, from the start of the trial, the victim already experiences gender inequality. By not taking women seriously as a victim and acquitting possible offenders the government communicates a message to future offenders that it will not be likely that they will be convicted let alone arrested.

Nevertheless, feminists did win ground and made a revolutionary statement. Legally criminals could not anymore be convicted of rape and get a lesser sentence than seven years incarcerated. Even though, it cannot go unnoticed that possible offenders are most likely unimpressed with these law reforms, when considering the still increasing (gang)rape reports. ‘Communication’ about this particular law reform to these possible criminals then becomes irrelevant considering sexual crimes are often crimes of passion in which possible offenders do not take into account the severity of a sentence they could be convicted within that moment.¹⁸¹

4.3 Bus marshals

The fact that the attack on Jyoti Singh occurred in what she thought was a public bus revealed the troubling state of safety in Delhi’s public transportation system. In an attempt to increase safety in the main public transport company in Delhi, the urban government set up the Bus Marshal Scheme in 2015, in which Home Guards are appointed to be active in assistance to the local police to guard Delhi Transport Corporation (DTC) busses.¹⁸² Commissioned by the Dialogue and Development Commission (DDC) of Delhi a Task Force for Safety of Women in Public Transport was constituted to assess this initiative in 2019 in order to further improve it.

¹⁷⁶ SCHÖNTEICH, “DOES CAPITAL PUNISHMENT DETER?”, 90.

¹⁷⁷ Preeti Pratishruti Dash, “Rape Adjudication in India in the Aftermath of Criminal Law Amendment Act, 2013: Findings from Trial Courts of Delhi,” *Indian Law Review* 4, no. 2 (May 3, 2020): 1-23, <https://doi.org/10.1080/24730580.2020.1768774>.

¹⁷⁸ Dash, “Rape Adjudication in India in the Aftermath of Criminal Law Amendment Act, 2013: Findings from Trial Courts of Delhi.”, 5.

¹⁷⁹ *Ibid.*, 23.

¹⁸⁰ Bandewar, Pitre, and Lingam, “Five Years Post Nirbhaya: Critical Insights into the Status of Response to Sexual Assault.”, 216.

¹⁸¹ SCHÖNTEICH, “DOES CAPITAL PUNISHMENT DETER?”, 90.

¹⁸² Dialogue and Development Commission, “Action Plan to Strengthen the Bus Marshals Scheme in the NCT of Delhi- Draft Report,” *Dialogue & Development Commission of Delhi* (Delhi, India: Dialogue & Development Commission of Delhi, July 2019): 4, https://ddc.delhi.gov.in/sites/default/files/reports/action_plan_to_strengthen_the_bus_marshall_scheme_in_delhi.pdf.

In the “Action Plan to strengthen the bus marshals Scheme in the NCT of Delhi- Draft report” they evaluated the success of the Bus Marshal Scheme by conducting a survey in DTC busses with their focus group being women.¹⁸³ The report stated that in July 2019, a total of 3356 marshals were active in safeguarding women’s experience in public transport.¹⁸⁴ Hence, Their findings showed that only 7% of the respondents were positive about the program, as Bus Marshals are not present on every bus and are mostly absent in the morning.¹⁸⁵ Moreover, respondents requested more woman marshals as they are more capable to understand women’s requirements in certain situations.¹⁸⁶ Suggestions to strengthen the future of the Bus Marshal scheme were for example creating a quicker response for backup from the police unit when needed, hiring more female marshals, and improving the marshal training program conducted before deployment by including instructions on women their rights and needs in society.¹⁸⁷

The question that comes to mind as to whether these recommendations have been brought to life was answered by Delhi its chief minister Arvind Kejriwal at the end of October 2019 when he announced that the number of bus marshals would increase to 13.000 guards.¹⁸⁸ Since then, numerous articles have been published showcasing the relevance of DTC marshals in combatting violence against women in public transport. The most recent one was published by The Times of India with the following headline: “Delhi: DTC marshal catches man ‘masturbating’ in front of girl in bus”.¹⁸⁹

4.4 Technical measures

Economic Times published an article in 2019 discussing technical measures that were taken after the Nirbhaya case.¹⁹⁰ The first and most forehand measure from the government was the installation of more CCTV cameras around the city. It was said that by 2019, 130.000 CCTV cameras were installed and the idea is to install 170.000 more.¹⁹¹ This project is funded with the help of the Nirbhaya fund mentioned in the previous chapter. However, according to The Diplomat, only 5000 CCTV cameras were installed from the years 2010 to 2018 without coverage of the Nirbhaya Fund.¹⁹² Despite this gap in installation statistics, Delhi has been proclaimed as the most surveilled city in the world when considering cameras per square mile

¹⁸³ Dialogue and Development Commission, “Action Plan to Strengthen the Bus Marshals Scheme in the NCT of Delhi- Draft Report.”

¹⁸⁴ Ibid., 14.

¹⁸⁵ Ibid., 11.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid., 17.

¹⁸⁸ Rahul Jaswal, “Bus Marshal Strength Raised To 13,000 Says Chief Minister Arvind Kejriwal,” *Drive Spark*, October 30, 2019, <https://www.drivespark.com/four-wheelers/2019/bus-marshals-strength-raised-to-13000-says-chief-minister-arvind-kejriwal-029760.html>.

¹⁸⁹ “Delhi: DTC Marshal Catches Man ‘Masturbating’ in Front of Girl in Bus,” *The Times of India*, January 6, 2023, <https://timesofindia.indiatimes.com/videos/city/delhi/delhi-dtc-marshal-catches-man-masturbating-in-front-of-girl-in-bus/videoshow/96782910.cms>.

¹⁹⁰ “What Delhi Is Doing to Keep Women Safe after Nirbhaya Case,” *The Economic Times*, December 15, 2019, <https://economictimes.indiatimes.com/news/politics-and-nation/what-delhi-is-doing-to-keep-women-safe-after-nirbhaya-case/installation-of-cctv-cameras/slideshow/72678012.cms>.

¹⁹¹ The Economic Times, “What Delhi Is Doing to Keep Women Safe after Nirbhaya Case.”

¹⁹² Sarah Khan, “Is Delhi’s Heavy Surveillance Making Women Safer?,” *The Diplomat*, October 16, 2021, <https://thediplomat.com/2021/10/is-delhis-heavy-surveillance-making-women-safer/>.

(as stated in a report written by tech writer Paul Bischoff).¹⁹³ Delhi is on top of the list with 1446,03 cameras per square mile.¹⁹⁴ The thought of enhancing safety by installing CCTV cameras is counteracted when Bischoff compared the amount of CCTV cameras with the city's crime index of 2022.¹⁹⁵ The graph showed little correlation between the two which indicates that more CCTV cameras does not directly reduce crime rates in that place.¹⁹⁶ A female inhabitant of Delhi rightfully stated: "CCTV cameras have helped in collecting evidence after a crime has occurred, not prevented it. There are multiple instances wherein the cameras weren't even monitored properly".¹⁹⁷ Solutions that do help according to women from Delhi who had spoken to senior police officer Ambika Tandon are well-lit areas and an increase in police patrols.¹⁹⁸

On a different note, A proposal regarding placing CCTV cameras and panic buttons in buses was denied by the MWCD, which manages the fund.¹⁹⁹ This was because the state government did not yet report on certain security issues after installing these technical devices inside public buses. Until today not a single bus from the existing 5541 is provided with CCTV cameras and panic buttons.²⁰⁰

A project with a green light is that of the installation of 210,000 street lights in unlit places in Delhi.²⁰¹ These spaces were mapped out by NGO Safetipin who conducted a survey in the city. The scheme will be funded by the Ministry of Housing and Urban Affairs (MoHUA) which exists of Rupees 11 Crore (one Crore Indian Rupees converts to 125,000 euros). Concerning the maintenance of these future street lights, the MoHUA thought of a smart city solution. The poles will have an ID and QR code that people can scan to have the light get fixed by the municipality.²⁰² This project is still in the designing phase and will probably be carried out in the first months of 2023.²⁰³

Lastly, a lesser-known initiative is the launch of an app for women their safety by Delhi Police in 2015.²⁰⁴ In the app called Himmat Plus, women must register with personal information and allow police to track their location. With the mobile application, women can push the SOS button to immediately send an alert to the police in an emergency which allows them to track their location.²⁰⁵ However, in 2018, a ministry of Home Affairs committee

¹⁹³ Paul Bischoff, "Surveillance Camera Statistics: Which Cities Have the Most CCTV Cameras?," *Comparitech*, July 12, 2022, <https://www.comparitech.com/vpn-privacy/the-worlds-most-surveilled-cities/>.

¹⁹⁴ Bischoff, "Surveillance Camera Statistics: Which Cities Have the Most CCTV Cameras?"

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ Khan, "Is Delhi's Heavy Surveillance Making Women Safer?"

¹⁹⁹ DH Web Desk, "Promises Made and Measures Taken by Govt to Make Delhi Safer after Nirbhaya Gang-Rape Case," *Deccan Herald*, December 15, 2022, <https://www.deccanherald.com/national/north-and-central/promises-made-and-measures-taken-by-govt-to-make-delhi-safer-after-nirbhaya-gang-rape-case-1172076.html>.

²⁰⁰ DH Web Desk, "Promises Made and Measures Taken by Govt to Make Delhi Safer after Nirbhaya Gang-Rape Case."

²⁰¹ Ibid.

²⁰² Atul Mathur, "Delhi: Over 1,000 Dark Spots to Get a Shot at Safety," *The Times of India*, July 16, 2022, <https://timesofindia.indiatimes.com/city/delhi/over-1000-dark-spots-to-get-a-shot-at-safety/articleshow/92908757.cms>.

²⁰³ Mathur, "Delhi: Over 1,000 Dark Spots to Get a Shot at Safety."

²⁰⁴ Delhi Police, "Emergency Response Team Portal | Delhi Police," n.d., <http://himmat.delhipolice.nic.in/>.

²⁰⁵ Delhi Police, "Emergency Response Team Portal | Delhi Police."

discovered that only 30.821 women had registered for the app and considered it a non-successful initiative.²⁰⁶ Reasons for this low registration rate could lie in the amount of advertisement before and after the launch and it has to be taken into account that in a city with many slums, not every woman has the resources to download a mobile application.²⁰⁷

In analyzing these last inventions, the theory on ‘Capability’, ‘Credibility’, and ‘Communication’ by Schönteich is yet again applied.²⁰⁸

‘Capability’, in relation to a government its capital and manpower, is found in the Bus marshal Scheme and in terms of technical measures. With the deployment of thousands of bus marshals in DTC buses, the government showed that it is capable of tackling the problem of crime against women in public transport. Additionally, the urban government of Delhi implemented measures to enhance safety for women in the built environment by installing CCTV cameras and more street lights.

‘Credibility’ may as well be granted to projects that are put into operation, such as the installation of CCTV cameras and street lights throughout Delhi. However, it must be noted that having CCTV cameras does not essentially link to decreasing the crime rate, as it is regarded as a source to detect crime.²⁰⁹ Convicting offenders with the help of CCTV cameras will eventually enhance the ‘credibility’ of the government in combatting sexual assault. Moreover, with the Bus Marshal scheme, it may have taken longer until one could experience benefits, but recent news articles had praised its relevance, which adds to the credibility of its accomplishments and advantages since its implementation.

‘Communication’, referring to creating awareness among the public about the measures a government has taken, is in this case also accomplished. By taking in the fact that bus marshals are present in DTC buses, CCTV cameras can record evidence and street lights light up dark spots, it can be concluded that a message is sent to possible offenders that they are in danger of getting caught when an attempt of sexual assault is made. On the other hand, the establishment of mobile apps has not yet shown advantages in arresting convicts. Similar to the OSC and helpline for women, mobile apps need a marketing campaign initiated by the government to create awareness among women in Delhi.

²⁰⁶ “Delhi Police’s Himmat App for Women Safety Failed to Serve Purpose: Parliamentary Panel,” *The Economic Times*, March 11, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/delhi-polices-himmat-app-for-women-safety-failed-to-serve-purpose-parliamentary-panel/articleshow/63254248.cms?from=mdr>.

²⁰⁷ Data Processing & Analysis Unit, “Urban Slums in Delhi.”

²⁰⁸ SCHÖNTEICH, “DOES CAPITAL PUNISHMENT DETER?”

²⁰⁹ Bischoff, “Surveillance Camera Statistics: Which Cities Have the Most CCTV Cameras?”

5. Conclusion

This paper has shown that women fight an endless battle against patriarchy embedded in Indian culture and politics. Inequality for Indian women is fixed in Indian cultural norms and values, education, and their socio-economic status. Considering women as people who should not earn the same rights leaves them in the middle of a male-dominated structure. With rape cases rocketing in the nation and Delhi being considered the 'Rape Capital' of the world, scholars found that India possesses a "rape culture". In sum, women are limited in their daily activities out of fear of being raped and victims of rape are confronted with the patriarchal mindset of the judicial system.

After a brutal gangrape case in New Delhi, later called 'Fearless' Nirbhaya, where 22-year-old Jyoti Singh lost her fight and passed away on the 29th of December 2012 the public - both nationally and internationally - was enraged. In protests following this event, people demanded active change from the national government.

While having focused on governmental policies situated in Delhi, several legislative responses were uncovered and assessed. Firstly, the Criminal Law Amendment Act 2013 was a great milestone in sentencing rape offenders. Alterations to the Indian Penal Code 1860 included elaboration on the definition of rape, where insertion with an object now also was regarded rape. Moreover, the minimum sentence of rape, gang rape, and rape resulting in death was increased. Even though suggestions to remove the exception of marital rape in the IPC 1860 was not adopted entirely, marital rape was now leading to a conviction when a married couple had separated before the incident. Additionally, after another shocking gang rape case involving a little girl, a second Criminal Law Amendment Act was created in 2018 which as result made alterations to the severity of rape sentences of girls below sixteen and twelve.

Secondly, the Nirbhaya Fund has established in the aftermath of the 2012 Nirbhaya case to fund initiatives and projects regarding women their safety. Firstly, proposals for such schemes must be appraised by the administrator, the Ministry of Women and Child Development. Schemes that are currently being funded by the Nirbhaya Fund are the creation of One Stop Centers in Delhi and a 24-hour helpline for women who are victims of a crime.

Other important implementations are the Bus Marshals scheme, self-defense training camps, and the strengthening of the Special Police Unit for Women and Children in Delhi police stations. Initiatives involving technical aspects that enhanced safety in the built environment are the implementation of CCTV cameras and thousands of street lights to brighten up dark spots in Delhi.

By having examined legislative responses that have been implemented to prevent Sexual assault and initiatives that will aid women who fall victim to a sexual crime, the overall research question being: *To what extent did the Urban Government of Delhi incorporated policies concerning Sexual Assault against women after the Nirbhaya Case from 2012?* can be answered. Important in the analysis after having conducted a qualitative policy analysis was the utilization of Schönsteich's theory on 'Capability', 'Credibility', and 'Communication' which measures the ability of a government to deter crime.

Assessing the ‘Capability’ of the urban government to alter sexual crimes, it can be concluded that they are in the possession of enough recourses to safeguard women. These include human recourses like bus marshals and police officers, capital linked to the Nirbhaya Fund and technical measures like CCTV cameras and street lights.

However, the ‘Credibility’ of the urban and national government remains a difficult matter. Reason for this is that policies may look promising on paper but still require the drive of the government to implement and maintain these projects. In terms of Law reforms, The urban government must take action to convey a message to possible offenders that they will be taken into custody. However, rape trials often consist of victim blaming or ending up being acquitted, leaving many rapists clean-handed. ‘Credibility’ also plays a role in the Nirbhaya Fund. The many years of underutilization and lack of reporting by the government of Delhi showcases that even when funding has been made available, the government is still slow to respond in effecting projects that protect women from sexual crimes.

Also in terms of ‘Communication’, the analysis showed that the One Stop Centers, women’s helpline, and mobile apps did not receive the estimated response and need more advertisement and awareness. The urban government thus is encouraged to create a marketing strategy to push these projects in the right direction. However, It should not go unnoticed that the bus marshal scheme, street lights, and CCTV cameras are great accomplishments that are visible in the streets of Delhi. Nevertheless, the urban government must keep in mind to maintain these projects over time, to prevent deterioration.

On a final note, this paper has shown that policies and law reform concerning sexual assault, a decade after the Nirbhaya case shocked the whole nation, have come a long way in both India and Delhi. However, There is still a long way to go for the Indian female society to fight against sexual crimes in Delhi until justice really can be served, not only for Jyoti Singh but for every victim of sexual assault.

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