

CHAPTER – 5

OVERVIEW OF INVESTIGATIONS, CHARGE SHEETING, TRIALS AND CONVICTIONS TRENDS

This chapter aims to analyze the existing data on the investigations, charge sheeting, trials and convictions trends. Based on this analysis it is possible to discern the quantitative and qualitative lacunas in the criminal justice system. The Tables 5.1, 5.2, 5.3 provides an overview of the cases wherein FIR has been filed, investigations were completed, charge sheets were filed, trials were completed and convictions were made. The Tables 5.1, 5.2 and 5.3 have been compiled by the researchers based on the NCRB data and it provides vital insights into the inadequacies of the processes of the criminal justice system.

In the rape cases major cause of concern was the pending trials and low convictions. In the cases of cruelty by husband or relatives (498A) which is highest number of recorded crimes only 2.1 percent of the cases there were convictions. In the cases of dowry harassment the convictions rates are extremely low. It is clear that crimes against women in private domain are more difficult to address in the criminal justice centers. The setting up of alternative dispute settlement mechanisms such as mediation centers in the police stations and courts for the resolution of marital disputes along with NGO initiatives for addressing marital disputes might have had influence on addressing crimes against women. Most importantly, actual power relations are tilted in the favor of men who still dominate in the economic and political realms.

In a study undertaken in New Delhi by the newspaper *The Hindu* found that in 123 of the 583 cases ruled on in 2013, the complainants could not be found, stopped attending the trial, turned fully hostile, insisted that they had never alleged rape or admitted in court that they had filed a false complaint.. The cases that were fully tried, over 40 percent dealt with consensual sex, usually involving the elopement of a young couple and the girl's parents subsequently charging the boy with rape. Another 25 percent dealt with "breach of promise to marry". Of the 162 remaining cases, men preying on young children in slums were the most common type of offence. For a greater insight into the nature of sexual assault cases, the newspaper *Hindu* looked at all 583 cases decided by Delhi's district courts – the first level at which rape cases are tried in India – in 2013 and categorized them by the details that emerged in the case, the time the entire process took, medical evidence, the age of the complainant and accused, observations made by judges and the outcome. While it is likely that some of this is on account of the pressure exerted on women to withdraw complaints - in two cases, the complainants referred to "community members" intervening in their depositions - in several others, the complainant said that she had filed a false case for money or as a result of a property dispute. Naturally, all of these resulted in acquittals (Rukmini, 2014). Even while activists often use the low conviction rate in rape cases (27 percent for India in 2013) to make the point that the police and judicial system are stacked against victims of rape, the judges *The Hindu* interviewed were equally insistent that the conviction rate be highlighted because it showed how poor the quality of evidence coming before them was. "The acquittal rate clearly shows that most of the cases coming before us are not rape cases as you might imagine them like the Nirbhaya case," one judge said. The police and judges were cynical of cases in which the complainant and the accused are romantically involved. (Rukmini, 2014a). This study again reaffirms the missing linkages between women's poor status and access to formal justice system.

TABLE-5.1

**OVERVIEW OF FIR FIELD, INVESTIGATIONS COMPLETED, CHARGE SHEETS FILED,
TRIALS COMPLETED AND CONVICTIONS MADE YEAR 2011**

CRIME	No. of FIRs filed *	Investigation Completed		No. of Charge-sheets filed	Trial Completed		Conviction in cases	
		Nos.	% **		Nos.	% ***	Nos.	% ****
Rape	24206	22903	63.3	19785	15423	16.2	4072	4.3
Kidnapping and Abduction of women	35565	32958	59.8	18631	11284	13.7	3174	3.8
Dowry Deaths	8618	8880	65.1	7694	6050	16.9	2163	6.0
Assault for outraging the modesty of women	42968	42610	78.4	38526	25143	13.0	6969	3.6
Insult to the modesty of women	8570	8420	80.6	7746	8034	23.2	3676	10.6
Cruelty by husband or relatives (498A)	99135	92610	69.3	77786	40338	10.4	8167	2.1
Importation of girls from foreign countries	80	92	72.4	75	64	17.9	5	1.4
Immortal traffic (Prevention) Act.	2435	2330	61.2	2280	1995	16.5	918	7.6
Dowry Prevention Act.	6619	6680	63.7	5884	3608	16.6	750	3.5
Indecent representation Prevention Act	453	459	91.3	442	429	29.9	372	25.9
Commission of Sati Prevention Act.	0	0	0	0	0	0	0	0

Source: National Crimes Records Bureau, 2013

TABLE 5.2

**OVERVIEW OF FIR FIELD, INVESTIGATIONS COMPLETED, CHARGE SHEETS FILED, TRIALS COMPLETED
AND CONVICTIONS MADE YEAR 2012**

CRIME	No. of FIRs filed *	Investigation Completed		No. of Charge-sheets filed	Trial Completed		Conviction in cases	
		Nos.	% **		Nos.	% ***	Nos.	% ****
Rape	24923	24389	63.9	21565	14717	14.6	3563	3.5
Kidnapping and Abduction of women	38262	35759	59.4	20754	10927	11.9	2317	2.5
Dowry Deaths	8233	8567	66.0	7537	5216	14.0	1684	4.5
Assault for outraging the modesty of women	45351	43504	76.2	39243	25319	12.6	6082	3.0
Insult to the modesty of women	9173	8601	76.8	7937	6956	21.1	2566	7.8
Cruelty by husband or relatives (498A)	106527	103848	70.5	87633	46054	10.8	6916	1.6
Importation of girls from foreign countries	59	33	35.1	27	62	19.3	10	3.1
Immortal traffic (Prevention) Act.	2563	2235	55.4	2210	1817	14.7	746	6.1
Dowry Prevention Act.	9038	8022	62.5	6993	4225	17.3	677	2.8
Indecent representation Prevention Act	141	131	70.8	122	131	11.6	79	7.0
Commission of Sati Prevention Act.	0	0	0	0	0	0	0	0

Source: National Crime Records Bureau, 2013

TABLE-5.3

**OVERVIEW OF FIR FIELD, INVESTIGATIONS COMPLETED, CHARGE SHEETS FILED, TRIALS COMPLETED
AND CONVICTIONS MADE YEAR 2013**

CRIME	No. of FIRs filed *	Investigation Completed		No. of Charge-sheets filed	Trial Completed		Conviction in cases	
		Nos.	% **		Nos.	% ***	Nos.	% ****
Rape	33707	32505	68.5	28755	18833	16.4	5101	4.4
Kidnapping and Abduction of women	51881	45229	59.3	24240	12551	12.0	2646	2.5
Dowry Deaths	8083	7864	62.9	7013	5284	13.6	1708	4.4
Assault for outraging the modesty of women	70739	64996	77.1	58256	27528	12.0	7073	3.1
Insult to the modesty of women	12589	11869	78.2	10946	6604	18.5	2112	5.9
Cruelty by husband or relatives (498A)	118866	11208	69.1	93386	45423	9.7	7258	1.6
Importation of girls from foreign countries	31	74	80.4	26	26	9.4	5	1.8
Immortal traffic (Prevention) Act.	2579	2487	56.8	2446	1632	12.6	673	5.2
Dowry Prevention Act.	10709	9454	61.0	8352	4205	15.0	620	2.2
Indecent representation Prevention Act	362	357	85.8	351	342	25.4	280	20.8
Commission of Sati Prevention Act.	0	0	0	0	0	0	0	0

Note1: “” includes IPC + SLL**

Note2: “*” Percentage of cases in which investigation is completed out of total cases sent for investigation (include previous year pending cases).**

Note3: “**” Percentage of cases in which Trial is completed out of total cases sent for Trial (include previous year pending cases).**

Note4: “***” Percentage of cases in which conviction is completed out of total cases sent for conviction (include previous year pending cases).**

Source: National Crimes Records Bureau, 2013

5.1 INVESTIGATIONS

The crime head-wise analysis of IPC cases pending for police investigation in 2013 shows that the rate of investigation of cases relating to crimes against women was better than that of other offences. The percentage of cases investigated to total cases for investigation was reported as 100 percent for custodial rape followed by 80.4% for Importation of girls from foreign country, insult to the modesty of women (78.2%), assault on the woman to outrage her modesty (77.1%) and cruelty by husband or his relative (69.1%). Percentage wise disposal of cases by Police is given above: 68.5% rape cases disposed of by Police; 77.1% and 78.2% of molestation and sexual harassment cases respectively disposed of by Police; Under domestic violence cases the disposal of cases Police was good accounting for 61.0% in Dowry Prohibition Act, 69.1% in cruelty by husband or relatives and 62.9% in dowry deaths; Disposal of rape cases by police have increased during last three years by reporting 63.3% in 2011, 63.9% in 2012 and 68.5% in 2013.

5.2 TRIALS

Analysis of NCRB data shows that the percentage of cases tried to total cases for trial and percentage of cases convicted to total cases tried showed a declining trend over the years. These percentages were 28.8% and 62.0/5 respectively in the year 1973 which went down in 2013 to 13.2 % and 40.2% respectively. There were 97, 81,426 total cases for trials (including cases pending from previous years) during the year 2013 as compared to 93,28,085 cases during the previous year 2012. In percent terms, 84.8% of cases remained pending for trial at the end of the year in various criminal courts of the country. These figures are for total cases and include crime against women. In year 2013, only 16.6 % of rape cases were disposed by courts leaving pendency of 83.4 %. In cases of kidnapping and abduction, disposal was 12.2 %, in dowry death , disposal at 14 % , in cases of assault on woman with intent to outrage her modesty disposal at 14.3 % and in cases of cruelty by husband or his relatives, disposal was 11.5 % and pendency stood at 88.5 %. Details of cases of crime against women pending trials in 2013 are in table 4. This data speaks loud and clear about huge delays and pendency.

TABLE-5.4**NUMBER OF CRIME AGAINST WOMEN CASES PENDING
TRIAL AT THE YEAR 2013**

	Crime Head	Cases pending trial at the year end 2012
1.	Rape (Sec. 376 IPC)	95731
2.	Kidnapping & Abduction (Sec. 363-373 IPC)	91925
3.	Dowry Death (Sec. 302/304 IPC)	33468
4.	Cruelty by husband and relatives (Sec. 498A of IPC)	412438
5.	Assault on women with intent to outrage her modesty (Sec. 354 of IPC)	197039
6.	Insult to modesty of women (Sec. 509 of IPC)	27476
7.	Importation of Girls from foreign country (Sec. 366B of IPC)	250
8.	Sati Prevention Act, 1987	1
9.	Immoral Traffic (Prevention) Act, 1956	11308
10.	Indecent Representation of Women (Prohibition) Act, 1986	999
11	Dowry Prohibition Act	23054
12	Total	893689

Each year there is pendency in trials in every year data. As per one of background paper submitted to Committee of Secretaries by Home Ministry after Nirbhaya case, it was stated during the year 2011, only 16 percent of the rape cases pending for trial could be completed and at the end of the year about 79,468 cases were still pending for trial at various courts. It is the

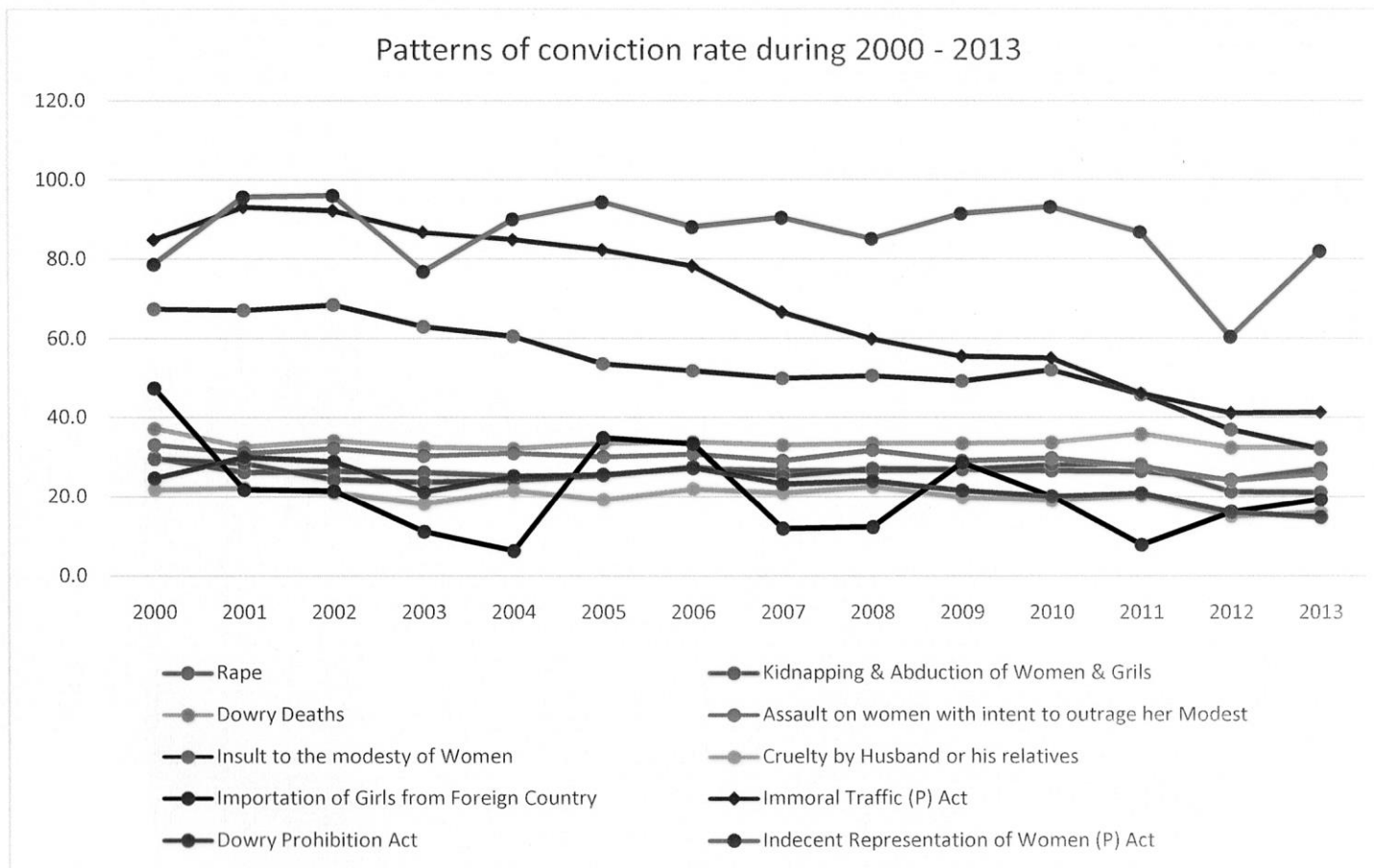
same story in respect of other crimes viz. 13% disposal rate in cases of kidnapping and abduction of women and children, 16% in dowry deaths, 10% in cases relating to cruelty by husband and relatives etc. There is huge backlog of cases in various categories. For e.g., 29,669 pending cases in respect of dowry deaths; 3,39,902 cases in cases of cruelty by husband and relatives, 17,468 cases under Dowry Prohibition Act etc.

The statistics quoted above for year 2013 and 2011 regarding delays and pendency in disposal of cases are highly disturbing and raise a very disturbing question about justice delivery for victims. What wherewithal victims have to cope such delays. Reasons for such delays are fewer women judges, fewer fast track courts for crime against women, adjournments, overburden courts etc. whereas disposal of such cases by courts has shown a mixed trend accounting for 16.2% in 2011, 14.6 in 2012 and 16.4% in 2013). Disposal of cases reported under molestation have shown a declining trends by both Police and Courts during last three years. Disposal of cases reported under cruelty by husband or relatives and the Immoral Trafficking (Prevention) Act have shown a mixed trends by both Police and Courts during last three years.

5.3 CONVICTIONS

The analysis of conviction rates for different crimes against women is shown in Figure 5.1. Conviction rate in cases of insult to modesty of women have declined from 70 % to somewhere around 35 %. Conviction rate in rape cases has been consistently low. In 2013 conviction rate has declined for many crime with slight increase in rape and kidnapping. As per NCRB record in 2013 it is seen that the conviction rate was highest in cases relating to counterfeiting (37.8%), murder (36.5%) and culpable homicide not amounting to murder (34.2%) whereas the lowest conviction rate was observed under crime head Dowry deaths (32.3%), Insult to modesty of women (32.0%), rape (27.1%), Assault on women with intent to outrage her modesty (25.7%), Importation of girls from foreign countries (19.2%) and cruelty by husband or his relatives (16.0 %).

FIGURE 5.1
PATTERNS OF CONVICTION RATES 2000-13



5.4 INVESTIGATION, TRIALS AND CONVICTION IN RAPE CASES

The Table 5.5 depicts the investigation in rape cases based on data collected from NCRB for years 2011-2013. Each successive year there is an increase in the number of cases that are under investigations which is also marked by an increase in the cases that are pending under trial.

TABLE-5.5

TOTAL NUMBER OF RAPE CASES INVESTIGATED AND CASES PENDING FOR TRIAL

	Total cases for Investigation during the year	Cases not Investigated	Cases in which Investigation were completed	Charge sheet Submitted	Cases found False / Mistake of fact or law etc.	Cases pending trial at the end of the year
2011	36156	32	22903	19785	1810	13231
2012	38144	60	24384	21565	1833	13695
2013	47456	12	32504	28755	2375	14940

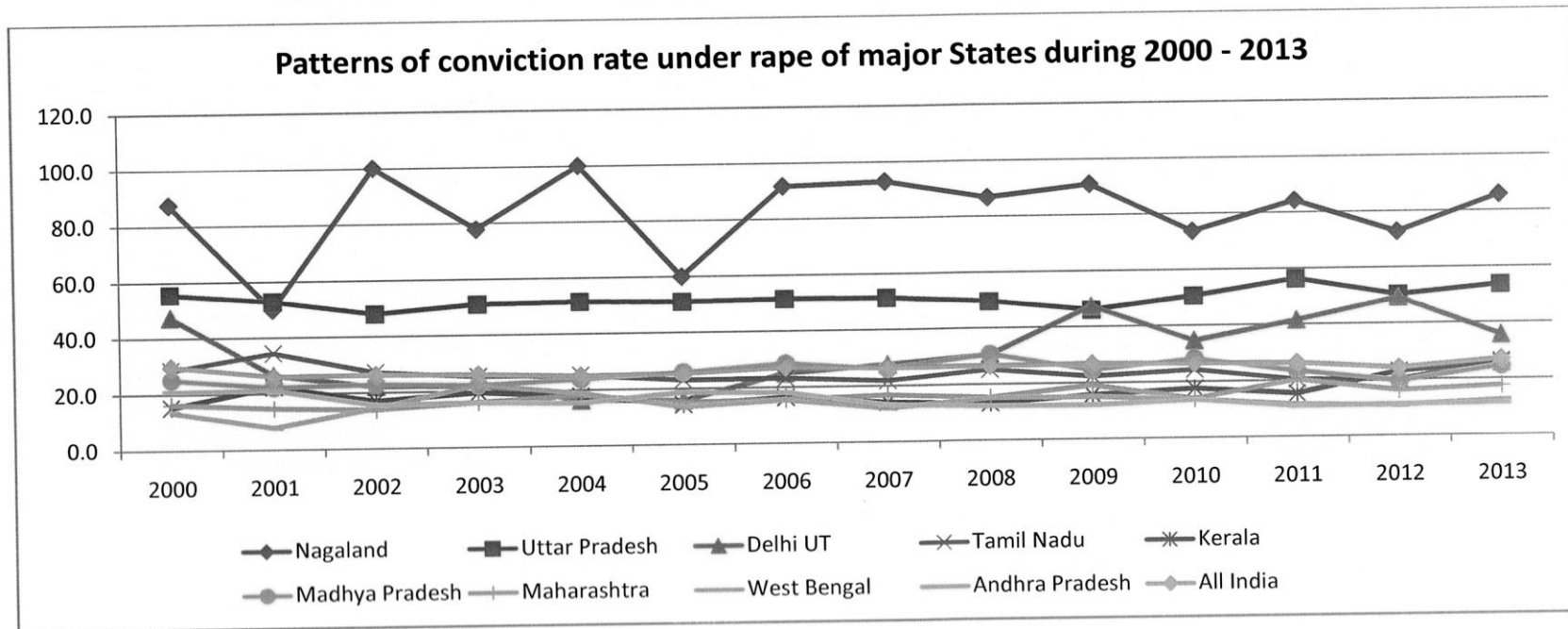
TABLE 5.6

TOTAL NUMBER OF RAPE CASES UNDER-TRIAL

	Total cases for Trial during the year	Cases Compounded or Withdrawn	Cases in which Trials were completed	Cases Convicted	Cases Acquitted or discharged	Cases pending trial at the end of the year
2011	95065	166	15423 (16.22%)	4072	11351 (73.6%)	79476
2012	101041	292	14717 (14.52%)	3563	11154 (75.79%)	86032
2013	114777	221	18833 (16.41%)	5101	13732 (72.91%)	95731

In addition, in terms of convictions of the 1,01,041 rape cases were under trial in 2012 which increased by almost 12% in 2013 to 1,14,785. In 2012, trial was completed in 14,717 cases whereas in 2013, this figure rose by a little less than 22% to 18,833. While 3,563 persons were convicted for rape in 2012, 6,892 culprits were convicted in 2013, indicating an increase by a little more than 30%. The number of acquittals rose by 18.79% in 2013 when 13,735 accused persons were pronounced not guilty as compared to 11,154 persons in 2012 Table 5.5. The pattern of cases reported, charge sheeted and convicted for the years 2011, 2012 and 2013 are depicted in Table 5.6 and pattern of conviction rate in major States is shown in Fig 5.2. Notably, only one in every four rape cases in India leads to conviction of the accused, and that too after a prolonged judicial process. The agony of victims, often extended by systemic insensitivity, cannot be overstated.

FIGURE-5.2
PATTERNS OF CONVICTION RATES FOR RAPE IN INDIAN STATES



In conclusions, the improvements in reporting are an encouraging sign however poor conviction rates require a more detailed qualitative research. The general analysis is the absolute number of cases of reported crimes against women has increased. However, serious concerns should be addressed on why convictions rates remain low. Does it point out to the lacunas in the judicial procedures? Or simply as some sociologists such as Pratiksha Bakshi have noted the phenomenon of *samjuht* that is usually an out of court settlement is worked out between conflicting parties to avert the economic and social costs of long term legal battles (Baxi, 2014). Shalini Grover's *Marriage, Love, Caste and Kinship Support: Lived Experiences of the Urban Poor in India* (Grover, 2011) highlights the involvement of non-governmental organizations in addressing issues of marital conflicts and also concerns have been raised on the quality of justice meted out in these *mahila panchayats*. We also need to examine the role of family counseling centres in the police stations in resolving the cases under 498A which are dealing with cruelty by husbands and family members. In light of the emerging sociological evidence it is important to understand that the essence of written law changes in the context of social-cultural realities of India.