

# **Urban-Rural Incidence of Rape in India:**

## **Myths and Social Science Evidence**

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The gangrape of a Delhi physiotherapy student in December 2012 has sparked a national debate<sup>1</sup> on the incidence and causes of rape and other sexual offences in India. One strand of this debate is the assertion that acts of rape and sexual violence occur with greater frequency and intensity in urban rather than rural India. Mohan Bhagwat, Sarsanghachalak (Supreme Chief) of the Hindu-nationalist Rashtriya Swayamsevak Sangh (RSS) observed that: “Where Bharat becomes India with the influence of western culture, these type of incidents happen. The actual Indian values and culture should be established at every stratum of society where women are treated as mother”<sup>2</sup> Statements like this rest on two distinct claims: first; the empirical claim that the incidence of rape in urban India is higher than rural India, second; the sociological claim that culture best explains the differential rate of incidence of such crimes. The second claim that culture best explains higher rates of rape and that ‘westernisation’ displaces the morals and values of rural India<sup>3</sup> results in a divisive political debate<sup>4</sup>. While both these claims deserve intense critical scrutiny, the response so far has been modest and misleading.

A useful beginning can be made by noting that the second claim of the causal influence of culture depends on whether we can establish that there exists a higher rate of rape incidence in urban rather than rural areas. The *Times of India* ran a campaign seeking to establish that rapes in India were in fact, a predominantly rural phenomenon. It appears that these reports were based on research into the rates of conviction in cases of rape and gang-rape reported in the Criminal Law Journal from the High Courts and the Supreme Court.<sup>5</sup> In this essay, we show that both these arguments adopt an unsatisfactory approach to the empirical question on the rates of rape incidence in India.

We argue that the claim of a higher rate of rape incidence in urban areas is not sustainable on three grounds. First, an analysis of data provided by the National Crime Records Bureau (NCRB) and the Census of India at the district level does not show any positive correlation between urbanisation and rates of reported rape incidence. Second, we cannot use data on appellate court outcomes such as that from the Criminal Law Journal to establish rates of incidence of crime. Third, accurate claims of crime incidence cannot be made in the absence of crime victimisation surveys. The paper addresses each these grounds in turn below.

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<sup>1</sup> See Chaudhury, Shoma, *Why Did It Need An Incident So Unspeakably Brutal To Trigger Our Outrage?* Tehelka, Issue 52, Volume 9, January 9, 2013

<sup>2</sup> *Rapes occur in urban India, not rural Bharat, says Bhagwat; BJP defends him*, The Indian Express, Friday, January 04, 2013 retrieved from <http://www.indianexpress.com/news/rapes-occur-in-urban-india-not-rural-bharat-says-bhagwat--bjp-defends-him/1054615/> last accessed at 1228 Hrs on 18-Jan-2013

<sup>3</sup> See *Amid rape fiasco, India's leaders keep up insensitive remarks*, The Washington Post, January 04, 2013 retrieved from <http://www.washingtonpost.com/blogs/worldviews/wp/2013/01/04/amid-rape-fiasco-indias-leaders-keep-up-insensitive-remarks/> last accessed at 1454 Hrs on 18-Jan-2013, and *Bedi livid over Mohan Bhagwat's 'rapes hardly take place in Bharat' remark*, The Indian Express, Tuesday, January 08, 2013 retrieved from <http://www.indianexpress.com/news/kiran-bedi-livid-over-mohan-bhagwats-rapes-hardly-take-place-in-bharat-remark/1054507> last accessed at 1214 Hrs on 20-Jan- 2013

<sup>4</sup> *Indian culture war breaks out over Delhi gang rape*, The Guardian, Tuesday, January 15, 2013 retrieved from <http://www.guardian.co.uk/world/2013/jan/15/india-gang-rape-women-attitudes> last accessed at 1400 Hrs on 18-Jan-2013

<sup>5</sup> *25 years' court data proves RSS chief wrong; 75% of rape convicts from 'Bharat'*, The Times of India, January 05, 2013 retrieved from [http://articles.timesofindia.indiatimes.com/2013-01-05/india/36161087\\_1\\_rural-areas-mohan-bhagwat-cases-in-high-courts](http://articles.timesofindia.indiatimes.com/2013-01-05/india/36161087_1_rural-areas-mohan-bhagwat-cases-in-high-courts) last accessed at 1221 Hrs on 20-Jan-2013

## The National Crime Records Bureau

The National Crime Records Bureau (NCRB) under the Ministry of Home Affairs is the only source of macro-level crime-data in the country. The flagship publication of the NCRB is the annual report, titled 'Crime in India', which gives a break-down of the number of police recorded crimes in the country under different heads. It is important to note that police recorded crime statistics count only those instances where the police have registered First Information Reports on receipt of complaints. The perception that there is a marked differential between the urban and rural incidence of rape rests partly on reports provided by the NCRB, where rape rates are shown as higher in 'Mega-cities'.<sup>6</sup> These reports are amplified by the news media, encouraging the impression that rates of crime against women are higher in urban areas in India.<sup>7</sup>

A major drawback of data provided by the NCRB is that it does not classify data according to its urban or rural origin. As mentioned above, a separate classification is only provided when talking about crime in 'Mega-cities', which are defined as the 53 cities with a population of 10 lakh and above.<sup>8</sup> The NCRB itself acknowledges that this classification does not give an accurate picture of the rural or urban incidence of crime<sup>9</sup>. The short reason for this is that these Mega-Cities account only for 13.3 per cent of the population of the Country, whereas on the Census definition of 'urban areas', the urban population of the Country is closer to 31.1 per cent of the national population. The inadequacy of the NCRB classification of Mega-cities has been anticipated in earlier academic work.<sup>10</sup> An accurate view of crime incidence may only be obtained by using a more robust method of classification of urban and rural settlements. The most robust method in India is that provided by the Census of India, using multiple criteria such as population, population density, predominant occupation and form of government.<sup>11</sup>

This approach to making urban-rural classifications of crime data is in line with that in the United Kingdom, where definitions of rural and urban areas are harmonised across the range of government statistics collected in that country. Effectively, the same definitions of such areas as used in the

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<sup>6</sup> *Crime in India 2011*, Ministry of Home Affairs, Government of India, New Delhi, pp 88

<sup>7</sup> *Delhi remains rape capital*, The Times of India, Oct. 28, 2011 retrieved from [http://articles.timesofindia.indiatimes.com/2011-10-28/delhi/30332107\\_1\\_crime-rate-violent-crimes-crime-incidents](http://articles.timesofindia.indiatimes.com/2011-10-28/delhi/30332107_1_crime-rate-violent-crimes-crime-incidents) last accessed at 1219 hours on 6-Jan-2013; *In tally of 35 cities, most rapes in Capital*, The Daily Pioneer, Oct. 28, 2011 retrieved from <http://www.dailypioneer.com/city/16156-in-tally-of-35-cities-most-rapes-in-capital.html> last accessed at 1220 hours on 6-Jan-2013

<sup>8</sup> *Supra* 6 at pp 43; the number of such cities in the country in 2011 was 53.

<sup>9</sup> "The present analysis does not aim at complete urban crime pattern in the country but restricts to only 53 mega cities having urban population of only 1611.07 lakh as per 2011 census)" at *Ibid*

<sup>10</sup> See Dhanagare, D.N., *Urbanism and Crime*, Economic and Political Weekly, Vol. 4, No. 28/30 (July 1969), pp. 1239-1242

<sup>11</sup> The Census of India defines 'urban areas' as the following:

"(a) All statutory places with a municipality, corporation, cantonment board or notified town area committee, etc.

(b) A place satisfying the following three criteria simultaneously:

- i) a minimum population of 5,000;
- ii) at least 75 per cent of male working population engaged in non-agricultural pursuits; and
- iii) a density of population of at least 400 per sq. km. (1,000 per sq. mile)."

See *Census Terms*, Census of India, Ministry of Home Affairs, Government of India, New Delhi, retrieved from [http://censusindia.gov.in/Data\\_Products/Library/Indian\\_perceptive\\_link/Census\\_Terms\\_link/censusterm.htm](http://censusindia.gov.in/Data_Products/Library/Indian_perceptive_link/Census_Terms_link/censusterm.htm) last accessed at 1143 hours on 30-Jan-2013

Census in the United Kingdom, are also used to classify the sources of crime data.<sup>12</sup> This results in a fair level of detail in the rural-urban categorisation of such data<sup>13</sup> and it is essential that this is adopted in the Indian debate. In the rest of this section, we apply this method to enquire into whether there is a differential rate of rape incidence in India. We compare district level crime data provided by the NCRB with Census data on urbanisation for each district to enquire as to whether this reveals any correlation between the degree of urbanisation<sup>14</sup> and the rate of rape<sup>15</sup>. We use crime data provided by the NCRB for the year 2011<sup>16</sup>, and population data from the Census 2011 Provisional Totals<sup>17</sup>. The results of this analysis are discussed below.

A scatter plot of the aggregated national picture shows that the rate of rape seems to *decrease* with an increase in urbanisation, as is evident from the graph below. The single exception to this trend appears to be the district of Aizawl, Mizoram (urbanisation just below 80%, rate of rape above 8). This district has a relatively small population (404,054) and may therefore be safely considered to be an outlier.

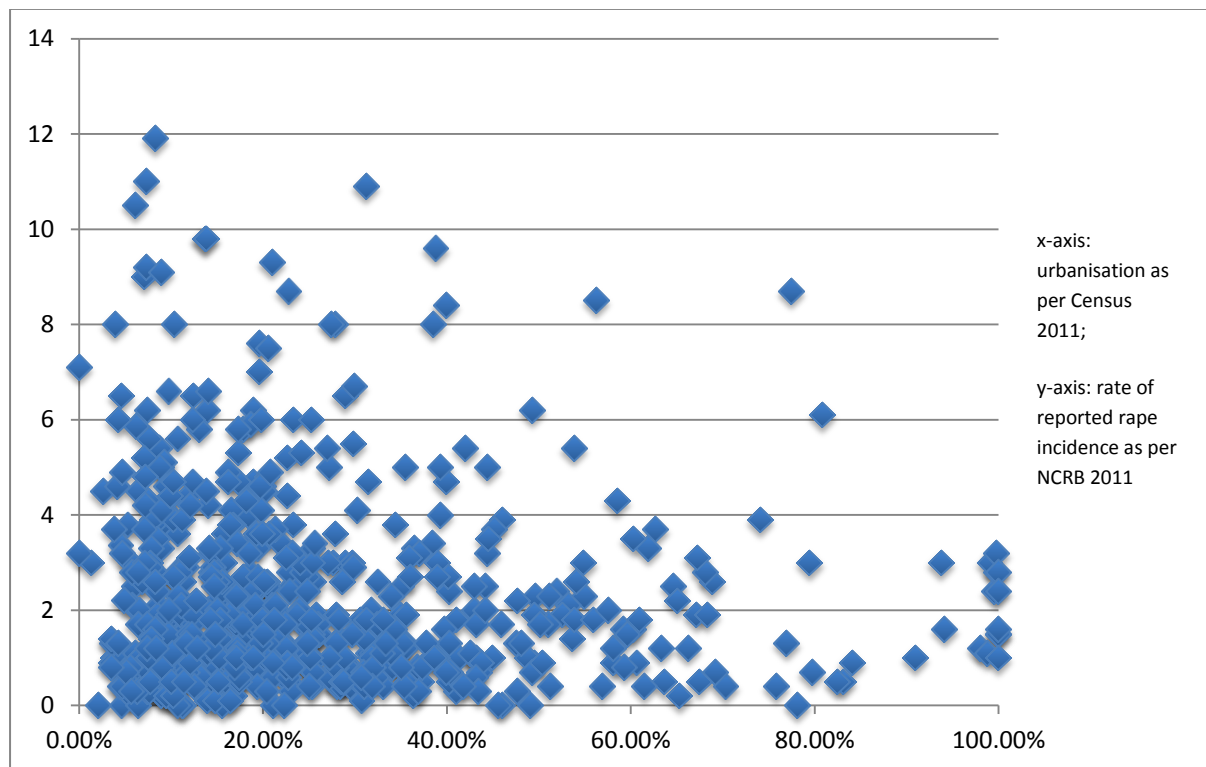


Figure 1 - India<sup>18</sup>

<sup>12</sup> For an explanation of the rural-urban distinction in the UK crime data regime, see *User Guide to Home Office Crime Statistics*, The Home Office, last updated October 2011 retrieved from <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/user-guide-crime-statistics/> last accessed at 0944 Hrs on 22-Jan-2013

<sup>13</sup> For instance, there are six different types of rural areas in this classification, while there are two different types of urban areas. See *Ibid*

<sup>14</sup> We take 'urbanisation' to be the percentage of urban areas in each district.

<sup>15</sup> Following the methodology of the NCRB, we take 'rate of rape' to be the number of reported instances of rape per lakh of population.

<sup>16</sup> *Crime in India 2011 Statistics*, Ministry of Home Affairs, Government of India, New Delhi, pp 248-298

<sup>17</sup> Available at <http://censusindia.gov.in> last accessed at 1524 Hrs on 2-Feb-2013

<sup>18</sup> Some notes on the data used for this graph are the following:

A more nuanced view is possible by looking at a few significant state results. We have analysed the relationship between urbanisation and the rate of reported rape incidence for the 26 states of the Country. Of these we have excerpted the results of 6 states below to indicate the diversity of results witnessed.

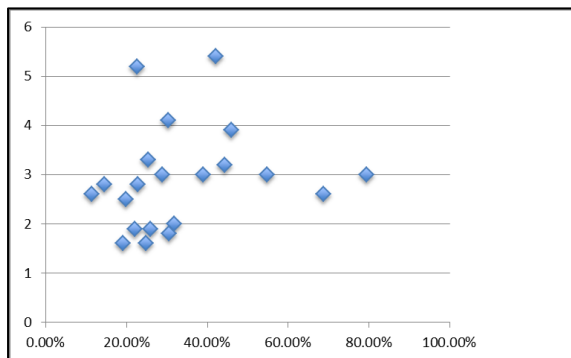


Figure 2 – Haryana

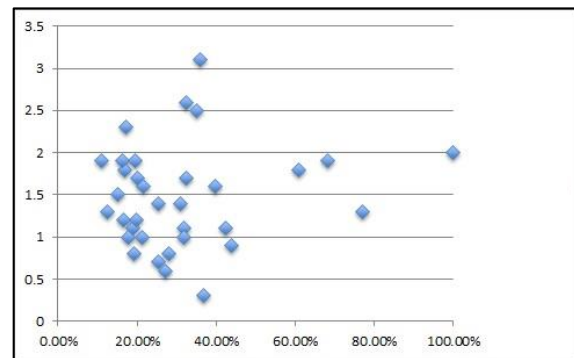


Figure 3 – Maharashtra

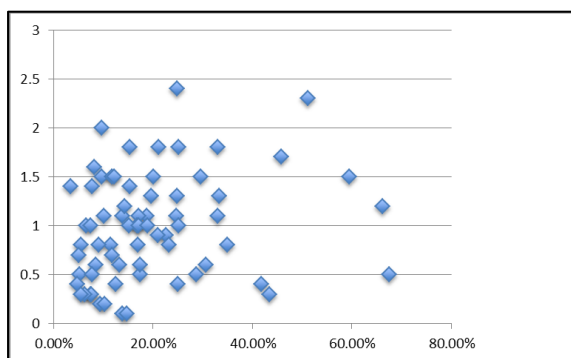


Figure 4 – Uttar Pradesh

The graphs of 3 states above show a relationship between the two variables whereby districts with higher urbanisation appear to report higher levels of rape incidence; however this does not happen across all levels of urbanisation. In all three states the rate of reported rape incidence drops off in the districts beyond a certain level of urbanisation. In Figures 2, 3 & 4 this occurs at around 40, 40

- a) The national level graph is based on data from 610 districts for the year 2011. Some have been excluded on account of difficulty in matching the listing of districts in the NCRB and Census data.
- b) A few predominantly urban districts (Delhi, Ahmadabad, Surat, Vadodara Rajkot, Indore, Bhopal, Mumbai, Thane, Pune, Nashik, Nagpur, Ludhiana, Amritsar, Jalandhar, Jaipur, Jodhpur, Kota, Salem, Coimbatore, Howrah) have been represented differently in the two reports. Whereas the Census data lists them as single entities (eg. Ahmadabad Dist.), the NCRB contains two entries under these names- one commercial/urban and one rural [eg. Ahmedabad (Comm.) and (Ahmedabad (Rur.))]. In our calculation of rate of rape, the incidences from these separately listed items have been amalgamated.
- c) The NCRB gives us only one entry for incidence of rape in the Andaman Islands (13), whereas the Census separate the Andamans in to two distinct districts (South Andaman and North & Middle Andaman). Due to this asymmetry, this district has also been excluded from the graphical representation.
- d) The district of Dibang Valley in Arunachal Pradesh has been excluded from the graph on account of being a significant outlier. The rate of rape in this district (42.8) is over three times that of the next highest district, and is an artefact of its small population (7,948).

and 60 per cent respectively. In Mumbai<sup>19</sup> (urbanisation 100 per cent, rate of rape 2; represented by the farthest point to the right in Figure 3 above) the high rate of urbanisation is not accompanied by a *proportionally* lower rate of reported rape incidence. However, Mumbai is clearly an exception to the general trend in the State where districts with urbanisation over 40 per cent report progressively lower rates of rape incidence.

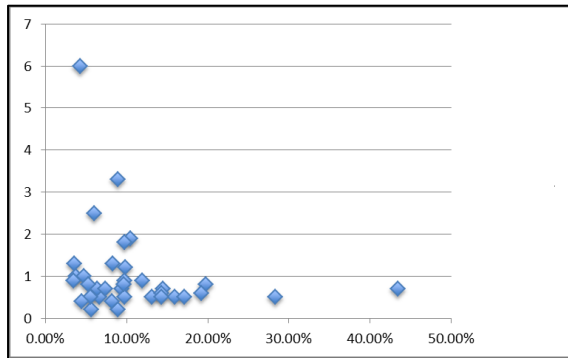


Figure 5 – Bihar

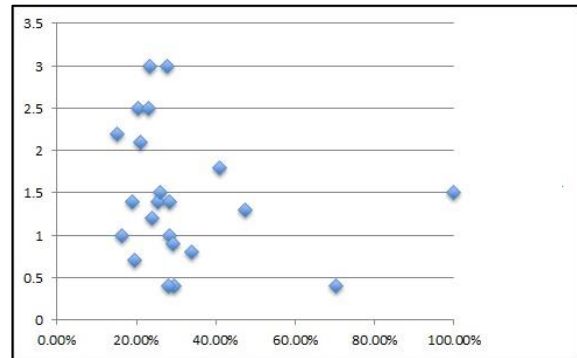


Figure 6 – Andhra Pradesh

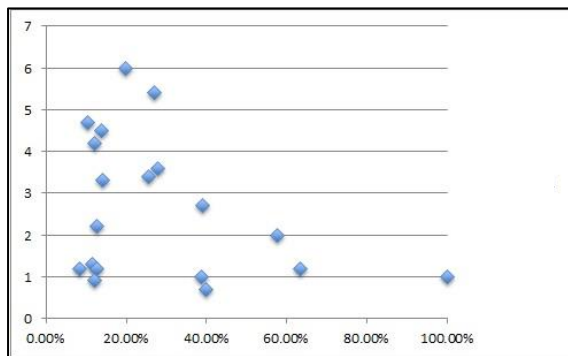


Figure 7 – West Bengal

Figures 5, 6 and 7 above show three states in which there appears to in fact be a largely inverse relationship between urbanisation and the rate of reported rape incidence. These states still follow the pattern in Figures 2, 3 and 4 of an *initial* increase in the rate of reported rape incidence; however the highest rates of rape are noted at much lower urbanisation levels of around 5, 20 and 20 per cent respectively. Thereafter, the rate of reported rape incidence appears to drop significantly in districts with higher levels of urbanisation.

From the above figures, it is apparent that there is *no clear trend* of a direct relationship between the rate of urbanisation and the rate of reported rape incidence in any of these states. If anything, these results suggest a far more complex relationship between urbanisation and rape incidence than is currently claimed, and also that urbanisation does not appear to be a sufficient criterion to explain an increase in rape incidence on a cross-national basis. The lack of correlation between urbanisation

<sup>19</sup> To avoid difficulty caused by the difference in nomenclature adopted by the NCRB and the Census, we have counted the census districts Mumbai City and Mumbai Suburban together, along with crime data for the NCRB areas Mumbai Commr., Mumbai Rly., and Navi Mumbai. This does not appear to be a problem as the two census districts form a contiguous area with 100 per cent urbanisation, while all the above NCRB areas are subsumed under these census districts.

and the rate of reported rape incidence is better illustrated by comparing heat maps which highlight density of urbanisation and the rate of reported rape incidence in the districts of India.<sup>20</sup>

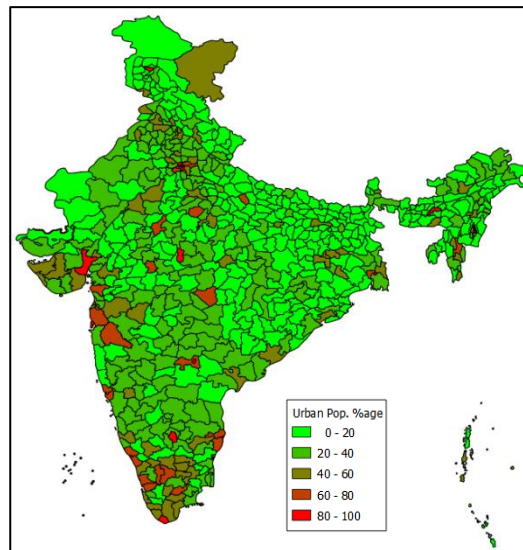


Figure 8 – India (urbanisation)

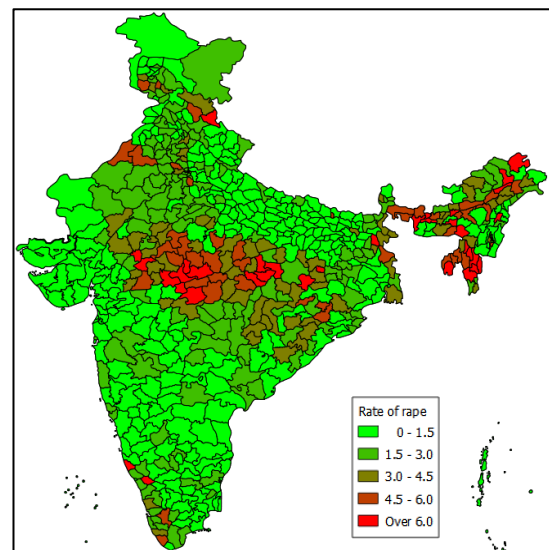


Figure 9 – India (rate of rape)

Figure 8 above represents a map of India with districts with high urbanisation shaded red, while in Figure 9 districts with a high rate of reported rape incidence are shaded red. A close scrutiny of these figures reveals that in no region of the country does there appear to be a pattern of coincidence of districts with a high rate of urbanisation and those with a high rate of reported rape incidence. Aside from this, and perhaps more saliently, districts with a high rate of reported rape appear to cluster in particular regions, specifically in the centre of the country covering the states of Rajasthan, Madhya Pradesh and Chhattisgarh, and also in the North-East in the states of Assam, Meghalaya and Mizoram. This regional clustering is fairly marked as seen from Figure 9, and has also been noted in earlier academic work on data from the NCRB.<sup>21</sup> Therefore while both the scatter plot and heat-map analyses do not support a strong claim as to a direct correlation between urbanisation and the rate of rape incidence, the heat-maps instead illustrate a *regional* pattern in the reported incidence of rape which is in need of greater critical scrutiny.

It may be noted that this data set is sensitive to the influence of statistical outliers, which are observed in various states in the country. We have however included them for the purposes of our analysis<sup>22</sup> as their presence is not thought to seriously impair the illustrative effect of the national level figures. Further, on account of the data collection practices of the Census and the NCRB, the data provided by them even for the same year (2011) may not represent data for an identical time period. However we have used provisional population totals and rates of urbanisation provided by the Census 2011 as they are more likely to be relevant to NCRB data from 2010/2011 than data from the 2001 census. Further, provisional population totals from the Census 2011 have also been used

<sup>20</sup> The following districts are omitted from the heat-map analysis: Dibang Valley and Lower Dibang Valley (Arunachal Pradesh), Dima Hasao and Kamrup Metropolitan (Assam), Pashchim Champaran and Purbi Champaran (Bihar), Bastar (Chhattisgarh), Banaskantha and Sabarkantha (Gujarat), Purbi Singhbhum and Pashchimi Singhbhum (Jharkhand), East Nimar and West Nimar (Madhya Pradesh), Moradabad (Uttar Pradesh)

<sup>21</sup> Mukherjee, Chandan, Preet Rustagi and N. Krishnaji, *Crimes against women in India; Analysis of Official Statistics*, Economic and Political Weekly, Vol. 36, No. 43 (Oct. 27 - Nov. 2, 2001), pp. 4070-4080

<sup>22</sup> The only outlier we have omitted is 'Dibang valley'. See *Supra* 18 (d).

by the NCRB in calculating rates of crime for the *Crime in India 2011* report.<sup>23</sup> Hence, we conclude that the dominant perception of a differential incidence of rape in urban and rural areas caused by the NCRB classification of crime from 'Mega-cities' is unsupported by a careful examination of NCRB data itself. Also, there appears to be a clear regional clustering of districts reporting a high rate of rape incidence. These conclusions potentially unmake a central pillar of the public discourse on the incidence of rape in India, and suggest that any serious analysis of the geographical distribution of rape rates in India must explain the regional clustering rather than focus unduly on urbanisation.

Next we assess whether appellate court outcomes in rape cases are capable of supporting a claim of a differential rate of rape incidence in urban and rural areas.

### **Appellate Court outcomes**

Recent news reports have highlighted one other source of data that may potentially establish the relative prevalence of urban and rural crime against women.<sup>24</sup> These reports appear to be based on an as yet unpublished study conducted by Mrinal Satish, an Associate Professor of Law at the National Law University, Delhi, of decisions reported in the *Criminal Law Journal* in cases of rape and gang-rape. On the basis of this study, these media reports claim that 75 per cent of rape cases leading to conviction and reported in that journal in the last 25 years were from rural India<sup>25</sup>. It is suggested that this data potentially demonstrates that rape occurs more frequently in rural rather than urban areas. Here, we examine the suitability of such data to an analysis of the urban and rural incidence of rape.

The *Criminal Law Journal* is a law report that publishes decisions of the Higher Judiciary, i.e. the High Courts and the Supreme Court, in criminal cases. In order to understand what conviction rates in these courts represent, we need to develop a fuller picture of the criminal justice court system<sup>26</sup> and the process by which a criminal case progresses through such a system.

Starting from the reporting of a crime to the police, the various stages of this system include investigation, filing of charge, trial in the Trial Court<sup>27</sup>, appeal to the High Court<sup>28</sup>, and subsequently appeal to the Supreme Court<sup>29</sup>. If we map the progress of rape cases through the criminal justice system in India, the picture that emerges is in the shape of an inverted pyramid as set out below.

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<sup>23</sup> *Crime in India 2011*, Ministry of Home Affairs, Government of India, New Delhi

<sup>24</sup> *Supra* 5

<sup>25</sup> *Ibid*

<sup>26</sup> See Pillai, K.N. Chandrasekharan, *R.V. Kelkar's Lectures on Criminal Procedure*, 4th Revised edition, Eastern Book Co; 2009

<sup>27</sup> The lowest Court in which a case of rape may be tried under the Code of Criminal Procedure, 1973 is the Court of the Additional Sessions Judge. See Sections 28, 29 CrPC read with Section 375 IPC.

<sup>28</sup> See Section 374 CrPC for appeals against convictions. Appeals against acquittals in the Trial Court are appealable to the High Court only on grant of leave to appeal by the High Court; see Section 378 CrPC.

<sup>29</sup> Appeals in criminal cases may be made to the Supreme Court in certain specified circumstances; see Sections 374, 379 CrPC. These are in addition to the power granted to the Supreme Court under Article 136 the Constitution of India to hear appeals against the orders of any court or tribunal in India through the grant of Special Leave.



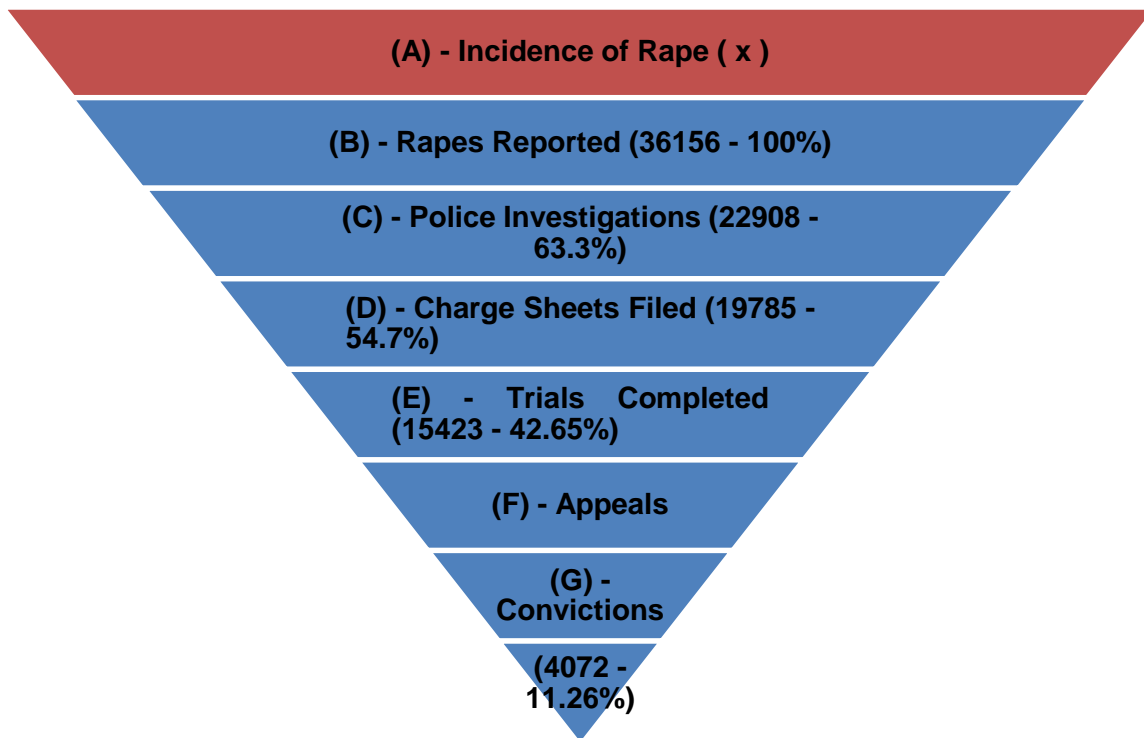


Figure 8 – Number of rape cases from filing to conviction<sup>30 31</sup> [not to scale]

In Figure 8 above, we have represented data on disposal rates of rape cases at the various stages of the Criminal Justice system obtained from the NCRB for the year 2011<sup>32</sup>. As is evident, each successive stage of the criminal justice system represents a smaller subset of cases. Charge-sheets were filed in less than 55 per cent of cases, trials were completed in less than 43 per cent of cases, and finally, convictions were obtained in less than 12 per cent of cases reported to police. This small percentage of cases leading to conviction is reflected in data from other years as well and is not exceptional to 2011.<sup>33</sup>

The current debate is ostensibly centred around the *incidence* of rape, represented by category ‘A’ in the above figure, while data on convictions reported in the Criminal Law Journal falls under category ‘G’ above. Here we illustrate three reasons as to why data from category ‘G’ is not appropriate to an examination of the phenomenon in category ‘A’.

First, data on court outcomes is acutely affected by the presence of the dark figure of crime, which is represented in the above chart as the difference between category ‘A’ and category ‘B’. In our earlier section we have analysed police recorded crime data from the NCRB, which is represented by category ‘B’ in the above figure. As will be noted in more detail below, the problem with such data is that it does not give a *true* picture of the incidence of crime because of the problem of

<sup>30</sup> The actual incidence of rape and the number of reported instances necessarily differ, on account of the under-reporting of this crime. This will be dealt with in more detail below.

<sup>31</sup> The NCRB data does not tell us the specific number of convictions that were appealed, hence arriving at a figure for that particular stage is not possible on the basis of such data.

<sup>32</sup> See *Supra* 16 at pp 345-359

<sup>33</sup> For instance, these are 11.64 per cent and 11.32 per cent for the years 2009 and 2010 respectively. (See Crime in India 2009 Statistics and Crime in India 2010 Statistics, National Crime Records Bureau, Ministry of Home Affairs, Government of India)

underreporting of crimes, especially rape, to the police. Data on convictions obtained in the High Courts and Supreme Court reported in the Criminal Law Journal, instead of taking us closer to an examination of category 'A' above, focuses on the *opposite* end of the criminal justice system, thereby reducing the size of the sample considerably as is evident from the small percentage of cases contained in category 'G' above.

Second, it is important to note that convictions in category 'G' are counted across the judicial system as the NCRB does not provide data separately for each stage of the appeal process, and therefore this figure also includes un-appealed convictions secured at the Trial Court level. As the Criminal Law Journal only publishes decisions from the High Courts and the Supreme Court, it does not take into account such convictions at the Trial Court level. Further, commercial law reports such as the Criminal Law Journal do not publish *all* the decisions rendered by the High Courts or the Supreme Court, as a number of these decisions are 'unreported'<sup>34</sup>. For these two reasons, the number of convictions reported in the Criminal Law Journal forms a sample substantially smaller than that reported by the NCRB [Category G]. For a given year, such as 2011, a sample size of even *less* than 4,072 cases may be seen as far too small to draw any reliable inferences as to the relative incidence of rape in urban and rural areas *across the country*.

Third, notwithstanding problems with sample size as mentioned above, data on convictions reported in the Criminal Law Journal may still be useful in an analysis of the distribution of rape incidence [Category A/B] if it is seen to be a perfectly representative sample of the latter, however there is no evidence to show that that is indeed the case. The passage of a rape case through each of the steps in the criminal process is contingent on various factors such as the choices of the victim, the availability of competent legal representation to the accused, the proficiency of the prosecution and so on. Recent studies have revealed the extent to which "compromises" are sought from the prosecution in rape cases, such that these cases do not even make it past the trial stage.<sup>35</sup> The operation of each of these factors distorts the number and type of cases that make it through the stages of the criminal process so that data obtained from one end of this process, such as data on convictions at appellate court level, are not necessarily representative of the level or distribution of the cases at the other end. The measured outcomes (registered cases of rape, in which conviction is secured, at the Higher Court level, and are reported in the Criminal Law Journal) are simply too remote from the phenomenon that is to be measured (rape incidence) to form the basis of any meaningful debate on the subject. Hence, the reliance by news-media reports<sup>36</sup> on Appellate Court data to suggest differential rates of rape incidence is without any reasonable empirical basis; this data casts the spotlight on an area of the Criminal Justice System that gives no indication of the actual incidence of rape.

We now turn our attention to the urgent need for crime victimisation surveys to resolve the questions raised by debates on the incidence of crime in the country.

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<sup>34</sup> It is the prerogative of the bench of judges in each given case to decide whether the decision rendered by it shall be reportable in a commercial law report or not.

<sup>35</sup> These outcomes stem from the culture of secrecy surrounding cases of violence against women, the same reason for the under-reporting of such cases. For an examination of this question see Baxi, Pratiksha, *Justice is a Secret: Compromise in rape trials*, Contributions to Indian Sociology, Vol. 44, No. 3 (2010), pp. 207-233

<sup>36</sup> *Supra* 5

## Victimisation Surveys

In this section we deal with one of the most significant impediments to accurate estimations of the levels of crime incidence in India; which is that the NCRB, the sole provider of aggregate crime data in India, only collects data on police recorded crime. The concern with data collection systems of this nature the world over is that of the existence and size of the 'dark figure', which is the difference between the number of crimes actually committed, and those reported to, or recorded by the police.<sup>37</sup>

The Police Commission in its 8<sup>th</sup> report<sup>38</sup> (1983) took note of the perverse incentives created by the existing system of crime data collection such that fewer cases are registered intentionally so as to keep crime statistics low, particularly on the instruction of members of the political class. These concerns were reiterated in a Human Rights Watch study of the Police system<sup>39</sup> (2009), where special mention was made of the failure to record cases of violence against women. The under-reporting of crimes against women in India has been noted in earlier academic work,<sup>40</sup> while the Supreme Court of India has also observed the various factors leading women to avoid reporting crimes of a sexual nature against them.<sup>41</sup> Finally, there is the significant possibility of large-scale underreporting of caste based violence against women in rural areas.<sup>42</sup> These considerations make it difficult to base any strong claims as to the incidence of rape in urban or rural areas on the basis of police recorded data available through the NCRB.

Problems of underreporting in police recorded crime data are greatly remedied by the introduction of crime victimisation surveys, which are typically face-to-face surveys in which residents of households are asked about their experiences of crime during the relevant period. The introduction of such surveys was notably one of the recommendations made by the Committee on Crime Statistics, under the Ministry of Statistics and Programme Implementation, with these surveys seen as especially important in the analysis of crimes against women.<sup>43</sup> The National Sample Survey Organisation already collects data on various indices such as consumer expenditure at the household

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<sup>37</sup> See Grunhut, Max; *Statistics in Criminology*, Journal of the Royal Statistical Society. Series A (General), Vol. 114, No. 2 (1951), pp.139-162; Walker, Monica; *Some Problems in Interpreting Statistics Relating to Crime*, Journal of the Royal Statistical Society. Series A (General), Vol. 146, No. 3 (1983), pp.281-293;

<sup>38</sup> Government of India (1983) *Report of National Police Commission (NPC)*, Volume 8, at paragraph 61.37.

<sup>39</sup> *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, Human Rights Watch Report, August 2009, at pages 41-57

<sup>40</sup> Mukherjee, Chandan, Preet Rustagi and N. Krishnaji, *Crimes against women in India; Analysis of Official Statistics*, Economic and Political Weekly, Vol. 36, No. 43 (Oct. 27 - Nov. 2, 2001), pp. 4070-4080, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*, Human Rights Watch Report, August 2009, at pages 41-57

<sup>41</sup> *Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat* AIR 1983 SC 573 at paragraphs 10-11

<sup>42</sup> See Kannabiran, Vasanth and Kalpana Kannabiran, *Caste and Gender: Understanding Dynamics of Power and Violence*, Economic and Political Weekly, Vol. 26, No. 37 (Sep. 14, 1991), pp. 2130-2133. See also Simon Denyer, *In rural India rapes are common, justice for victims is not*, The Washington Post, January 08, 2013 retrieved from [http://articles.washingtonpost.com/2013-01-08/world/36232786\\_1\\_rapes-haryana-town-rural-areas](http://articles.washingtonpost.com/2013-01-08/world/36232786_1_rapes-haryana-town-rural-areas) last accessed at 0131 Hrs on 22-Jan-2013. For an examination of this practice particular to the state of Haryana, see Teltumbde, Anand, *Haryana's Rapist Regime*, Economic and Political Weekly, Vol. 47, No. 44 (Nov. 03, 2012), pp. 10-11. See also *Supra* 39 at pages 49-57.

<sup>43</sup> *Report of the Committee on Crime Statistics*, Social Statistics Division, Central Statistics Office, Ministry of Statistics and Programme Implementation, New Delhi, 2011 paragraphs 8.2, 8.3

level, and therefore may conceivably be tasked with the collection of crime victimisation data at the same level.

Countries where these surveys are conducted reveal high levels of under-reporting of violence against women; for instance the rate of under-reporting of rape is around 54 per cent in the USA<sup>44</sup>, while it may be as high as 85 per cent in the United Kingdom for cases of serious sexual assault<sup>45</sup>. It is unclear what such a survey might reveal in the Indian context; especially regarding potential variations in the reporting of rape in urban and rural areas. Any serious engagement with the issue of rape and other crimes against women in India must be founded on a true picture of the incidence of acts of this nature. Victimisation surveys have the potential to hold up a mirror to unveil the harsh truths about crime and violence in India today.

### **Concluding remarks**

The Justice JS Verma Committee set up to look into the law relating to sexual violence in the country submitted its report on the 23<sup>rd</sup> of January this year. This report mirrors the official bureaucratic discourse and promotes legislative reform<sup>46</sup> as a panacea for serious lacunae in our empirical understanding of the nature of crime and the criminal process in India. In this paper we show that a rigorous analytical and empirical approach to understanding the incidence of rape in India dislodges the myths and cultural prejudices that currently frame the debate on the subject. A sincere approach to the problem of law reform is one that makes the best attempt to study existing social science evidence, while also improving the quality of the available evidence.

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<sup>44</sup> See 'Reporting Rates', Rape and Incest National Network; retrieved from <http://www.rainn.org/get-information/statistics/reporting-rates> last accessed at 1800 hours on 25-Feb-2013

<sup>45</sup> Data from the Crime Survey of England and Wales for the years 2009/10, 2010/11 and 2011/12 reveals that only 15 per cent of females who were victims of the most serious sexual offences told the police about the incident. See *An Overview of Sexual Offending in England and Wales*, Statistical Bulletin, Ministry of Justice, Home Office & the Office for National Statistics, January 10, 2013 retrieved from <http://www.justice.gov.uk/downloads/statistics/criminal-justice-stats/sexual-offending/sexual-offending-overview-jan-2013.pdf> last accessed at 1357 hours on 9-Apr-2013.

<sup>46</sup> Gupta, Shekhar, *Lawlipop politics*, The Financial Express, March 18, 2013 retrieved from <http://www.financialexpress.com/news/lawlipop-politics/1089457/0> last accessed at 1415 Hours on 18-Mar-2013