

2.3 Why Systems Fail Survivors

Contrary to several landmark judicial pronouncements in the Indian context on rape and sexual assault, post Criminal Law (Amendment) Act, 2013, legal practitioners representing survivors have consistently argued that any act involving bodily invasion for the sexual gratification of the perpetrator must be recognised as rape. However, this interpretation has frequently been either rejected or diluted by Indian courts, often being treated as a matter of legal contention rather than a settled principle.

Two high-profile cases, the rape of a nun by Bishop Franco Mulakkal and the conspiracy involving the kidnapping and sexual assault of a prominent Indian actress, illustrate instances where the legal system has failed not only the survivors but also the broader jurisprudential understanding of sexual violence in the country. Such judicial outcomes risk establishing problematic precedents, potentially discouraging future survivors from seeking justice and undermining the progressive intent of sexual assault laws.

- **Understanding Consent from a Feminist Legal Standpoint**

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3968427

- **India: Investigating sexual abuse allegations in Kerala's film industry**

<https://youtu.be/8qkfK6EBsg8?si=VjKNxSTsNr-r6ui5>

- **Interview with Adv. Vrinda Grover on why Bishop Franco Judgement is flawed and constructs unethical ideals of an ideal victim**

<https://youtu.be/gCoMujqZgA?si=25XOEu1LXJytyoi>

- **Interview with Adv. TB Mini(Malayalam) on the actress kidnap and rape case, and comparison with previous cases in Kerala**

<https://www.youtube.com/watch?v=doT-zdauRS0&t=1614s>

- **Article on Rape Culture in India, looking at the act of rape in India, its causes and discourse around it** <https://ijlmh.com/wp-content/uploads/Rape-Culture-in-India.pdf>

- **Human Rights Watch: The stigma and blame attached to rape survivors in India**
<https://www.hrw.org/news/2013/01/08/stigma-and-blame-attached-rape-survivors-india>
- **Pushing feminism's frontiers in Kerala - On the Me Too wave in Kerala and how it is more than just an elite reactionary movement.** Author argues that we need to look at the 'non-feminist' space where women react in both social and digital spaces against male violence and patriarchal oppression. <https://frontline.thehindu.com/social-issues/gender/kerala-women-revolution-feminism-cinema-collective-state-feminism-patriarchy-social-change/article68625024.ece>
- **Interview with parents of Suryanelli Rape Survivor**
<https://www.youtube.com/watch?v=aDs9VB3wj04>
- **Interview with Suryanelli Rape Survivor** on PJ Kurien a prominent Congress leader and former Rajya Sabha MP being named as one of the perpetrators. Kurien was added as a defendant in the case, nor did this affect his political career.
<https://www.youtube.com/watch?v=wl8pa8BtMwg>
- **Interview with Adv. Subhalekshmi on Vithura Rape Survivor and denial of Justice**
https://www.youtube.com/watch?v=Qj_XbQ3SyJM

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