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EDITORIAL ANALYSIS

# The Road to Women's Safety Runs Through Judicial Impartiality

THE HINDU

12 May 2026

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# The Road to Women's Safety Runs Through Judicial Impartiality

 The Hindu

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## INTERVIEW ANGLE

*"Does India's prosecutorial architecture systematically protect the politically connected -- and what would genuine institutional autonomy require?"*

## EDITORIAL SUMMARY:

The Hindu, drawing on a high-profile POCSO case in Telangana, argues that the safety of women and children depends less on legislative additions than on judicial impartiality and swift prosecution untouched by political connections. India's statute book is among the world's most progressive on sexual violence; what fails the survivor is the prosecutorial chain. The editorial calls for fast-track courts, witness protection and structural insulation of investigation and prosecution from political interference.

## THE STATUTES ARE NOT THE PROBLEM

Since the December 2012 Delhi gang-rape, India's legislative architecture on sexual violence has been substantially rebuilt. The Justice J.S. Verma Committee Report of January 2013 produced the Criminal Law (Amendment) Act, 2013, which redefined sexual assault, introduced the offence of stalking and voyeurism and raised punishments. The Protection of Children from Sexual Offences Act, 2012 (POCSO) created child-friendly procedures and special courts. The Bharatiya Nyaya Sanhita, 2023 carries forward these substantive offences under Sections 63 to 69, with continued provisions for fast-track trials.

In 2018, the Witness Protection Scheme was notified by the Supreme Court in *Mahender Chawla v. Union of India*. The Nirbhaya Fund finances fast-track special courts (FTSCs) and POCSO designated courts, of which over 700 are now operational.

The statute book is not the bottleneck. The chain of investigation, prosecution and trial is.

## THE POLITICAL-CONNECTION FILTER

A recurring pattern across high-profile sexual-violence cases is the political-connection filter: where the accused or their family hold party office or proximate influence, the prosecutorial machinery slows, witnesses are pressured, complainants are coerced into compromise, and trial timelines stretch into years. The most recent Telangana case is only the latest in a sequence that includes Unnao, Hathras, Kathua and Kuldeep Sengar.

The reasons are structural rather than personal:

- State police remain under operational control of the home department, which is a political portfolio.
- Public prosecutors are appointed under the Criminal Procedure Code (now the Bharatiya Nagarik Suraksha Sanhita) by state governments, with tenure and continuation often subject to political clearance.
- Section 197 CrPC – carried into the BNSS – requires prior sanction to prosecute public servants, creating a delay-and-shield mechanism in politically inconvenient cases.

## WHAT GENUINE REFORM REQUIRES

The editorial sketches a four-point reform agenda:

- ❶ **Insulation of investigation:** time-bound investigation in POCSO and serious sexual-offence cases under court-supervised SIT mode, with senior women officers in lead roles.
- ❷ **Prosecutorial autonomy:** state directorates of prosecution must be statutorily independent of the home department, with selection through merit panels and tenure-protected appointments.
- ❸ **Witness protection in practice:** 2018 Scheme funding must reach district level; identity-protection, relocation and stipend mechanisms must be operationalised, not merely notified.
- ❹ **Fast-track delivery, not fast-track creation:** setting up FTSCs is not enough; case-pendency data show many FTSCs run with the same delays as regular courts because of poor prosecution attendance and witness turnover.

## THE ARTICLE 21 FRAME

The Supreme Court in *State of Punjab v. Gurmit Singh* (1996) and *Lalita Kumari v. Government of Uttar Pradesh* (2014) read mandatory FIR registration and dignified prosecution into Article 21. The right to life with dignity is meaningless for a survivor if she is forced to relive the assault through hostile cross-examination, witness intimidation and decade-long pendency.

India's CEDAW commitments and the 2017 UN Sustainable Development Goal 5.2 (eliminate violence against women and girls) place obligations that cannot be discharged by legislation alone.

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#### Key arguments:

- India's substantive criminal law on sexual violence is robust; the failure is in investigation, prosecution and trial delivery.
- Political connections of the accused systematically slow the prosecutorial chain; structural reform of police and prosecution autonomy is the necessary fix.
- Fast-track courts are necessary but insufficient – without dedicated prosecution and witness protection, FTSC timelines collapse.
- Article 21, CEDAW and SDG 5.2 require not just laws but institutional delivery.

#### Counterarguments:

- Insulating prosecution from political authority raises accountability questions in a parliamentary democracy where the executive answers to the legislature.
- Court-supervised investigation can be criticised as **judicial overreach** into executive functions.
- Witness protection at scale is fiscally heavy; states with constrained budgets cannot deliver uniformly.

**Keywords:** POCSO Act 2012, Justice Verma Committee 2013, Criminal Law (Amendment) Act 2013, BNS Sections 63-69, fast-track special courts, Nirbhaya Fund, Witness Protection Scheme 2018, *Mahender Chawla*, Section 197 CrPC/BNSS, Article 21, *Lalita Kumari*, CEDAW, SDG 5.2.

*The Hindu's view is that the next decade of women's safety reform will not be won in Parliament; it will be won in district courts, police stations and prosecutor's chambers. India's challenge is not that its laws are weak. It is that its institutions are politically permeable. Until the prosecutorial chain is insulated from the influence of the powerful, every new statute will be only as strong as the political will to enforce it against political friends.*

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