
PROVISIONS FOR CRIMES AGAINST WOMEN IN INDIA: A SOCIO-LEGAL AND COMPARATIVE STUDY WITH REFERENCE TO NEW CRIMINAL LAWS

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ABSTRACT

The ongoing issue of crimes against women in India needs a close examination of the changing legal protections. This research paper, titled "Provisions for Crimes Against Women in India: A Socio-Legal and Comparative Study with Reference to New Criminal Laws," provides a thorough analysis of gender-based violence from both sociological and legal perspectives. It explores how recent laws, especially the Bharatiya Nyaya Sanhita (BNS) 2023, address long-standing problems like rape, domestic violence, sexual harassment, dowry deaths, and acid attacks, in comparison to the Indian Penal Code (IPC).

This study uses a doctrinal and analytical approach to review relevant laws, key court rulings, and existing data. It places these legal changes within a broader social context, examining how law, patriarchy, and cultural norms interact. A comparative analysis checks whether the BNS 2023 offers better protection, quicker justice, and a more victim-centered approach than the IPC. The paper also assesses how these reforms align with international agreements, like the UN Declaration on the Elimination of Violence against Women and CEDAW.

Additionally, the paper discusses the role of technology, the establishment of fast-track courts, and the need for a supportive legal environment for survivors. It emphasizes the importance of a complete strategy that includes social and cultural shifts along with legal reforms to create a safer space for women. By examining the social and legal effects of moving from the IPC to the BNS, this research aims to influence policy-making, improve legal understanding, and promote stronger protections for women's rights and dignity in India. The paper concludes by outlining how India can foster a fairer and more just society through thoughtful and proactive legal reforms,

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ensuring that women's rights and dignity are respected in both law and practice.

Keywords: Women's protection, Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), Bharatiya Sakshya Adhinyam (BSA), Offences against women.

Introduction

India's commitment to gender equality is embedded in its Constitution, particularly in Articles 14, 15, and 16³, which guarantee equality under the law and ban discrimination based on sex. Article 15(3) allows the State to create special provisions for women and children, recognizing the need for protection against social biases. Nonetheless, despite these constitutional protections and numerous gender-specific laws, crimes against women continue to be alarmingly common, revealing a persistent gap in legal safety and enforcement.

The Indian Penal Code (IPC), which took effect on January 1, 1862, includes provisions that address offenses against women. However, these provisions are scattered across various sections of the IPC, resulting in fragmented legal protections and difficulties in enforcement and public awareness. The lack of a single chapter focused solely on crimes against women has limited the effectiveness of legal remedies and the overall pursuit of justice for women.

In response to the growing concerns about women's safety, the Indian government plans to introduce major changes to the criminal justice system with three landmark laws: the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA). Set to take effect on July 1, 2024, these laws will replace the colonial-era IPC, the Code of Criminal Procedure (CrPC), and the Indian Evidence Act. Notably, the BNS introduces a specific chapter addressing crimes against women and children, bringing together provisions for gender-based violence into a unified framework aimed at improving justice delivery and accountability⁴.

Recent data from the National Crime Records Bureau (NCRB)⁵ highlights the alarming rise in violence against women in India. According to the NCRB's Crime in India report for 2022,

³ Indian Constitution

⁴ Provisions in BNS and BNSS regarding Offences against Women: An Analysis, International Journal of Integrated Studies and Research, Volume 3 Issue I

⁵ Available on -

<https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>

there were 4,45,256 cases of crime against women reported, which equals about 51 FIRs every hour. This represents a notable increase from 2021, which recorded 4,28,278 cases, and an even more concerning jump from 2020, when 3,71,503 cases were reported. The report shows a crime rate of 66.4 per lakh population, a number that is strikingly high considering India's large population.

The NCRB data also breaks down the types of reported crimes. A significant 31.4% of the cases fell into the category of cruelty by the husband or his relatives, highlighting the ongoing issue of domestic violence. Other major crime categories against women include kidnapping and abduction (19.2%), assault with intent to outrage modesty (18.7%), and rape (7.1%)⁶. The increase in these categories points to deeply rooted social issues, such as domestic violence, human trafficking, and sexual assault.

These figures emphasize the urgent need for comprehensive reforms in India's criminal law system. The introduction of the new laws under the Bharatiya Nyaya Sanhita, along with related reforms, aims to address some of these systemic gaps. This paper explores the changes in criminal laws regarding crimes against women in India, critically analyzing the social and legal implications of the new laws, and comparing them with existing frameworks to evaluate their effectiveness in dealing with the growing issue of violence against women.

Comparative Analysis of IPC and BNS: Offenses Against Women in Light of Legal Reforms and Judicial Interpretation

The Indian Penal Code, 1860 (IPC), has been the main criminal statute in India for more than a century and a half. Although it was progressive for its time, it was shaped by colonial views and did not fully address gender-based violence from a victim-centered perspective⁷. Over the years, India has seen a rise in crimes against women, including domestic violence, dowry deaths, rape, sexual harassment, and newer cyber-related offenses. This trend required not only changes to the IPC but also judicial involvement. However, the reform efforts were often partial, leaving the law fragmented. The introduction of the Bhartiya Nyaya Sanhita, 2023 (BNS) marks a major change. It consolidates and updates the legal framework with a new

⁶ Ibid

⁷ The Indian Penal Code by Ratanlal & Dhirajlal 35th Edition

chapter on crimes against women and children⁸, promoting clarity, speed, and sensitivity in delivering justice⁹.

One key area of reform is the definition of rape. Under Sections 375 and 376 of the IPC, rape was narrowly defined and required physical penetration for prosecution. It did not consider other forms of sexual violence or non-penetrative assaults. After the *Nirbhaya case*¹⁰ in 2012, public outrage led to the Criminal Law Amendment Act, 2013. This act broadened the definition of rape to include oral and digital penetration, added stalking and voyeurism as offenses, and increased penalties. The BNS Sections 63 to 70 expand on these changes, making the definition of rape more inclusive. It includes specific categories such as rape by public servants, gang rape, and rape involving murder, acknowledging the seriousness of these crimes. The BNS reflects the influence of *Independent Thought v. Union of India (2017)*¹¹ by stating that sexual activity with a wife under 18 years is rape, underscoring the importance of bodily autonomy and informed consent in marriage.

Dowry deaths remain a serious issue in Indian society. Section 304-B of the IPC criminalized the unnatural death of a woman within seven years of marriage if it occurred under suspicious circumstances related to dowry. According to NCRB data from 2022, there were 6,450 dowry deaths, with Uttar Pradesh (2,218 cases) and Bihar (1,057 cases) leading the statistics. The BNS Section 80 keeps this provision but provides clearer definitions and stricter accountability for family members. The aim is not just to punish, but also to deter, as seen in the law's language and tougher sentencing guidelines.

Another significant provision is the criminalization of domestic violence and cruelty. Section 498-A of the IPC, introduced in 1983, was a groundbreaking law that tackled both physical and emotional cruelty from the husband or his relatives. Despite its progressive goals, it faced criticism over misuse. However, *State of Punjab v. Ramdev Singh (2004)*¹² highlighted the serious psychological harm that domestic cruelty can cause, supporting the need for this law. The BNS Section 85 continues this provision while emphasizing the protection of survivors through faster justice, victim support services, and rehabilitation.

⁸ Bharatiya Nyaya Sanhita 2023, Chapter V, Section 63-99

⁹ Bharatiya Nyaya Sanhita, 2023. by K D Gaur. Edition: 9th Edition, 2024

¹⁰ Mukesh & Anr vs State for Nct of Delhi & Ors, AIR 2017 SC 2161

¹¹ Independent Thought vs Union of India AIR 2017 SC 4904

¹² State of Punjab v. Ramdev Singh AIR 2004 SC 1290

Sexual harassment, especially in workplaces, initially received legal recognition in the *Vishaka v. State of Rajasthan* (1997)¹³ ruling. The Supreme Court established the Vishaka Guidelines, which later led to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The BNS incorporates workplace and public space harassment into its legal framework, reinforcing women's right to safety and dignity in various settings. NCRB data from 2022 shows high rates of workplace sexual harassment in states like Himachal Pradesh (97 cases) and Kerala (83 cases), indicating the need for stronger legal protections like those in the BNS.

The BNS also addresses crimes that the IPC previously overlooked, such as acid attacks and cybercrimes. The Supreme Court in *Laxmi v. Union of India* (2014)¹⁴ required stricter regulation of acid sales and better support for victims. The BNS includes harsher penalties for acid attacks (Section 78) and provisions for medical treatment and compensation. Additionally, it recognizes the rise in technology-related abuse by adding specific offenses for cyberstalking, online bullying, and unauthorized sharing of private content. It also allows electronic evidence to be used in court, which was not sufficiently covered before in the IPC.

Finally, the BNS aims to improve judicial efficiency by establishing fast-track courts for crimes against women, addressing the common problem of judicial delays. This move aligns with recommendations from both the Justice Verma Committee after the Nirbhaya incident and public calls for timely trials.

Comparative Analysis of Criminal Procedure Code (CrPC) and Bhartiya Nagarik Suraksha Sanhita (BNSS) with Reference to Crimes Against Women

The Criminal Procedure Code (CrPC), 1973, laid the groundwork for India's criminal justice system. The Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 introduces several modern reforms to protect women victims of crime. While the CrPC offers basic procedures, the BNSS greatly expands and updates these provisions, making the justice system more focused on victims and sensitive to women's needs.

A major reform in the BNSS is its broader definition of 'victim' under Section 2(1)(y). This change removes the requirement for the accused to be formally charged for someone to be

¹³ *Vishaka v. State of Rajasthan* AIR 1997 SUPREME COURT 3011

¹⁴ *Laxmi v. Union of India*, AIR 2015 SC 3662

recognized as a victim. This is different from Section 2(1)(wa) of the CrPC, which limits the term “victim” to those harmed by actions for which the accused has already been charged. The wider definition in the BNSS speeds up victims’ access to compensation and legal remedies, which is crucial for women affected by crimes like sexual assault and domestic violence.

The BNSS introduces several victim-centered safeguards to ensure dignity and reduce trauma during investigations and trials. Section 176(1) Second Proviso states that police must record statements from rape victims using audio and video, increasing transparency and reducing coercion. Section 183(6)(a) Proviso 1 requires that statements from victims of certain offenses be recorded by a female magistrate whenever possible, or by a male magistrate in the presence of a woman. Section 183(6)(a) Proviso 2 states that a magistrate must record witness statements for offenses with penalties of ten years or more, including life imprisonment or death. This highlights the seriousness of crimes against women.

To better support victims, Section 184(6) mandates that medical practitioners send medical reports of rape victims to investigating officers within seven days. This ensures prompt collection of medical evidence. Sections 179(1) and 195(1) create exemptions from police station attendance for vulnerable groups, including women, children under 15, and elderly persons over 60. These individuals may still attend voluntarily, allowing for their autonomy during the investigation.

Technological integration is crucial in BNSS reforms aimed at improving access and efficiency. Section 173(1) introduces Zero FIR, which allows police to register FIRs regardless of jurisdiction if an offense is revealed. The BNSS also allows for electronic FIRs (e-FIRs), requiring the complainant to provide a signature within three days, making it easier for women to report crimes. Section 173(2) ensures that victims receive a free copy of the FIR immediately, promoting transparency.

Police must regularly update investigation progress under Section 193(3)(ii). Officers must inform the victim or informant about the progress within 90 days using appropriate technology. These reforms build trust and keep victims engaged in the justice process. Additionally, Section 66 replaces “adult male member” with “some adult member” for service summons, reflecting a shift toward gender-neutral language and recognizing women as legal actors within families.

The BNSS tackles delays in justice by mandating special courts for swift trials in crimes against

women. Under Section 392, courts must issue judgments within 45 days of completing the trial and upload copies on their portals within 7 days. The law also allows accused persons in custody to listen to the judgment via audio-video means, making the process more accessible.

Victims' rights to participate in legal proceedings have been enhanced. Section 360 mandates that courts allow victims a chance to be heard before any withdrawal of prosecution, ensuring victims have a say in prosecutorial decisions. The BNSS also introduces Section 398, requiring state governments to create and notify a witness protection scheme. This provision protects witnesses, including women who might face intimidation or threats, fostering an environment where witnesses can testify without fear—a need emphasized by the Supreme Court in *Mahendra Chawla v. Union of India*¹⁵.

Judicial cases like *Shakti Vahini v. Union of India* (protection against honor killings)¹⁶, *Jagdish v. State of Haryana* (dowry-related violence)¹⁷, and *Rupan Deol Bajaj v. K.P.S. Gill* (sexual harassment)¹⁸ have shaped these reforms. They reflect a connection between judicial activism and legislative updates focused on women's safety.

In conclusion, while the CrPC serves as the procedural foundation, the BNSS represents a major advancement through its focus on victims, technological integration, procedural updates, and gender-sensitive provisions. Together, these laws are transforming India's criminal justice system to better protect women, ensure swift trials, and maintain dignity throughout the legal process.

Comparative Analysis of the Indian Evidence Act, 1872 and Bhartiya Sakshya Adhiniyam, 2023

The Indian Evidence Act (IEA), 1872, has long been the foundation of evidentiary law in India. However, changing social realities, especially regarding crimes against women, have exposed significant gaps in victim protection and witness sensitivity. The Bhartiya Sakshya Adhiniyam (BSA), 2023 addresses these issues by introducing progressive, victim-focused reforms that improve witness protection, incorporate technology, and promote survivor dignity throughout

¹⁵ *Mahendra Chawla v. Union of India* AIR ONLINE 2018 SC 829

¹⁶ *Shakti Vahini v. Union of India* AIR 2018 SC 1601

¹⁷ *Jagdish v. State of Haryana* AIR 2019 SC 3696

¹⁸ *Rupan Deol Bajaj v. K.P.S. Gill* AIR 1996 SCC (6) 194

the legal process¹⁹.

A notable feature of the BSA is the introduction of special presumptions in cases involving women, acknowledging the vulnerabilities victims face. Under Section 117, if a woman commits suicide within seven years of marriage and has faced cruelty from her husband or his relatives, the court may presume abetment of suicide. However, this presumption is discretionary and requires proof of cruelty, as established in cases like *Lakhjit Singh v. State of Punjab* (1994)²⁰ and *Pawan Kumar v. State of Haryana* (1998)²¹. Similarly, Section 118 presumes a person's guilt in dowry deaths if it is shown that the woman faced dowry-related harassment shortly before her death. This interpretation is clarified by the Supreme Court in *Shanti v. State of Haryana*²² (1990) and *Satbir Singh v. State of Haryana* (2021)²³.

In sexual offense cases, Section 120 of the BSA makes a significant advancement by presuming lack of consent if sexual intercourse is proved and the victim claims non-consent. This shifts the burden of proof to the accused, in line with the Supreme Court's conclusion in *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* (1983)²⁴, which acknowledged the unlikelihood of false rape accusations in India's social context. Moreover, Section 48 explicitly states that the victim's past sexual behavior or character cannot be considered as relevant evidence, highlighting the importance of protecting the victim's dignity—an improvement over earlier practices.

Compared to the IEA, the BSA goes beyond procedural formalities. It aims to create a supportive environment for witnesses, especially women. The Act includes provisions for closed-door hearings and intermediary support during cross-examination, reducing trauma and intimidation for survivors. These measures reflect a more compassionate approach than what the older statute provided. The use of video conferencing for witness testimony further protects survivors from the stress of appearing in court physically, a modern advancement lacking in the IEA.

¹⁹ Textbook On Bharatiya Sakshya Adhinyam | BSA | New Evidence Act by K. Swamyraj Published by Central Law Publications 2024 Edition

²⁰ *Lakhjit Singh v. State of Punjab* 1994 SCC, SUPL. (1) 173

²¹ *Pawan Kumar v. State of Haryana*, AIR 1998 SC 958

²² *Shanti v. State of Haryana* AIR 1991 SC 1226

²³ *Satbir Singh v. State of Haryana* AIR 2021 SC 2627

²⁴ *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* AIR 1983 SC 753

The BSA strengthens protections against harassment during cross-examination. Section 146 restricts questions about the victim's sexual history, preventing irrelevant and damaging queries about credibility, as upheld by the Supreme Court in *State of Punjab v. Gurmit Singh*²⁵. Also, Section 53A prohibits evidence regarding the victim's past sexual conduct, a principle confirmed in the important *Mukesh & Anr v. State for NCT of Delhi (Nirbhaya case)*²⁶. These protections demonstrate a significant shift toward respecting survivor dignity and ensuring fair trials.

Further, the BSA requires better treatment of medico-legal evidence. It prohibits invasive and humiliating practices like the "two-finger test," as noted in *Lillu v. State of Haryana*²⁷. The act also expands the use of dying declarations in cases of domestic violence and dowry harassment, acknowledging their important evidentiary value, supported by cases such as *Satpal v. State of Haryana*²⁸.

Witness protection receives a significant boost under the BSA. The Witness Protection Scheme, 2018, includes measures like identity protection and relocation for at-risk witnesses. The Supreme Court's support in *Mahender Chawla v. Union of India*²⁹ highlights the scheme's role in protecting women who face threats or intimidation.

The BSA's inclusion of technology also meets current judicial needs. Following the Supreme Court's decision in *K.S. Puttaswamy v. Union of India*³⁰ on privacy rights, the BSA shields digital evidence and allows for electronic testimony and evidence presentation. This ensures that the law keeps up with technological changes.

In summary, while the Indian Evidence Act laid the groundwork for evidence law, the *Bhartiya Sakshya Adhiniyam, 2023*, improves it by creating a victim-sensitive, technology-friendly, and witness-protective system, especially for crimes against women. Its forward-thinking assumptions, protective measures against harassment, and focus on dignity mark a significant step toward a fair and compassionate legal process in India.

²⁵ *State of Punjab v. Gurmit Singh*, AIR 1996 SC 1393

²⁶ *Mukesh & Anr vs State for Nct of Delhi & Ors*, AIR 2017 SC 2161

²⁷ *Lillu v. State of Haryana* (2013) 2 SCR 774

²⁸ *Satpal v. State of Haryana* AIR 1999 SC 1476

²⁹ *Mahendra Chawla v. Union of India* AIR ONLINE 2018 SC 829

³⁰ *K.S. Puttaswamy v. Union of India* AIR 2018 SC (SUPP) 1841

Conclusion

This research explored the social and legal environment surrounding crimes against women in India, focusing on the shift from colonial-era laws to the newly enacted Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA). The comparison shows that while the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act (IEA) formed the basic legal framework, they lacked the victim focus, clarity, and modern relevance needed to effectively address gender-based violence in today's society.

The new legal system, starting July 1, 2024, represents a major change in India's approach to gender justice. The BNS gathers offenses against women into a dedicated section, broadening definitions, increasing penalties, and recognizing new crimes like cyber harassment and acid attacks. The BNSS brings in victim-friendly procedural updates, including video recording of statements, fast-track trials, and an expanded definition of "victim," which promotes women's involvement in the justice process. The BSA also upholds survivor dignity through specific assumptions, limits on irrelevant character evidence, and improved witness protection measures. Furthermore, these reforms align with international human rights commitments, like CEDAW and the UN Declaration on the Elimination of Violence against Women, reflecting India's growing legal awareness.

However, laws alone cannot lead to real change. Effective implementation, public legal education, institutional training, and cultural shifts are crucial to breaking down deep-seated patriarchy and societal biases.

In conclusion, the new criminal laws offer a comprehensive, rights-based, and progressive way to tackle crimes against women. By adding sensitivity, speed, and support to the legal system, India moves closer to achieving not just legal protection but also true justice, dignity, and equality for its women.