

---

# INTERPRETATION OF THE CRIMINAL LAW (AMENDMENT) ACTS: A CRITICAL ANALYSIS WITH SPECIFIC EMPHASIS ON THE INDIAN JUDICIAL SYSTEM

---

Madhumita Choudhury, Assistant Professor of Law,  
Sureswar Dutta Law College, West Bengal, India.

## ABSTRACT

The Criminal Law (Amendment) Acts are essential amendments to the law that are aimed to make India's criminal justice system better. It was crucial that they be put into place since the need for victim protection, accountability, and justice was expanding, and people's worries were changing. This article provides a critical legal analysis of the interpretation and application of significant Criminal Law (Amendment) Acts, concentrating on the function of the Indian court. It talks about how judicial interpretation impacts things and how effectively these changes operate, how they are employed, and how far they go when it comes to sexual offences, victims' rights, procedural protections, and standards of evidence. The study emphasises the importance of doctrinal clarity and uniform guidelines by examining judicial trends and interpretive methodologies to guarantee the consistent application of criminal law changes. The study concludes by proposing legal and institutional reforms that are designed to enhance the efficacy of the criminal justice system in India by aligning legislative objectives with judicial practice.

**Keywords:** Criminal Law Amendment, Judicial Interpretation, Indian Criminal Justice System, Legal Reforms, Access to Justice, Criminal Justice Administration.

## **Introduction**

India's Criminal Law (Amendment) Acts are a set of laws that were developed to keep up with changes in society and the law, especially when it comes to police misconduct, violence against women, and the rights of victims. There were problems in the Indian Penal Code of 1860,<sup>1</sup> the Code of Criminal Procedure of 1973<sup>2</sup>, and the Indian Evidence Act of 1872<sup>3</sup> that needed to be corrected. The changes made in 1983, 2013, and 2018 were all meant to do this. This article looks at these changes from a legal point of view, emphasising on how far they go, what problems they might cause when they are put into action, and how its follow the Constitution.

The 2013 update changed the definitions of certain previous sexual offences and added new ones, such as stalking, voyeurism, and acid attacks. The 2018 modification made punishments longer, especially for crimes against children. It also set a deadline for when trials and investigations were to be over. But enforcing these changes isn't always fair, and it can be especially harder when the legal process takes too long, institutions don't know about them, and victims don't have enough protection.

The Bharatiya Nyaya Sanhita, 2023<sup>4</sup> and the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>5</sup> are important steps ahead for Indian criminal law. They replace the IPC and CrPC. These new standards keep a lot of the same values as the old ones, but they also raise important issues about how much has actually changed, especially when it comes to being gender-neutral, restorative justice, and getting used to the digital world.

This paper looks into whether these changes to the law really change the Indian criminal justice system. It intends to find problems with the laws, suggest changes to them, and how to make India's criminal justice system more open, effective, and constitutional from both a doctrinal and a comparative point of view.

## **Interpretation of the Criminal Law (Amendment) Acts for the Evolution of Criminal Law**

The Criminal Law (Amendment) Acts have had a big impact on how criminal law has changed in India. These reforms were made because there were weaknesses in the current laws that

---

<sup>1</sup> The Indian Penal Code, 1860 (Act 45 of 1860).

<sup>2</sup> The Code of Criminal Procedure 1973 (Act 2 of 1974).

<sup>3</sup> The Indian Evidence Act of 1872 (Act 1 of 1872).

<sup>4</sup> The Bharatiya Nyaya Sanhita, 2023 (BNS) (Act 45 of 2023).

<sup>5</sup> The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, (Act 46 of 2023).

made it hard to deal with offences including sexual assault of minors, acid attacks, sexual harassment, and custodial rape. Each alteration reveals how our ideas about crime, justice, and the role of the state have changed throughout time. The way the courts have interpreted these norms has had a huge effect on actual life and how they dealt with the main issues in criminal law.

A lot of people are criticized judicial decisions that the power imbalance in sexual assault cases in custody, therefore the 1983 amendment was passed. The Indian Evidence Act of 1872 made it simpler to prove some cases of custodial rape by putting the burden of proof on the accused and adding statutory presumptions.<sup>6</sup> This was a huge stride forward in procedural law that fixed some of the issues with the prior rules for evidence. The Criminal Law (Amendment) Act, 2013, on the other hand, modified Section 375 IPC<sup>7</sup> to say that rape includes penetration that is not penile. This was a much-needed move towards a definition of sexual violence that is more accurate and includes more people. It also made stalking and voyeurism.<sup>8</sup> The 2013 *Justice Verma Committee Report* indicates that these modifications were needed to make sure that laws are in keeping with constitutional objectives and reflect what victims go through in real-life situations.<sup>9</sup>

Even though laws are growing better all the time in other cases, courts have expanded the meaning of "consent," stressed the need of protecting victims' dignity, and used wide definitions that are in line with constitutional morality. The Supreme Court said that the statement of a rape victim should not be questioned and does not need to be backed up unless there are good reasons to do so.<sup>10</sup> The Court said that the "two-finger test" is against the law since it violates the victim's right to dignity and physical freedom under Article 21 of the Constitution.<sup>11</sup> These decisions show that the law is paying more attention to victims. But in some cases, firmly held patriarchal beliefs and slow legal processes have made changes to the law less effective. Courts have sometimes put too much weight on considerations like the victim's sexual history, the fact that they didn't file a FIR soon away, or the fact that they didn't have any physical injuries. The Supreme Court for not taking into account the power dynamics

---

<sup>6</sup> Law Commission of India, *84th Report on Rape and Allied Offences* (1980), Government of India, New Delhi.

<sup>7</sup> The Indian Penal Code, 1860, (Act No. 45 of 1860) s. 375.

<sup>8</sup> The Criminal Law (Amendment) Act, 2013, (Act 13 of 2013).

<sup>9</sup> Government of India "*Report of the Committee on Amendments to Criminal Law*" (Ministry of Home Affairs, 2013).

<sup>10</sup> *State of Punjab v. Gurmit Singh*, AIR 1996 SC 1393.

<sup>11</sup> *Lillu v. State of Haryana*, (2013) 14 SCC 643.

and custodial setting, which led to the 1983 Criminal Law Amendment<sup>12</sup>. Legislative improvements alone can't get rid of the structural disparities built into the criminal justice system without interpretative honesty and institutional sensitivity. The Criminal Law (Amendment) Act, 1983<sup>13</sup> was largely about amending the laws against rape after the Mathura rape case. Because sexual offences against children were happening more regularly, the Criminal Law (Amendment) Act, 2018 made them tougher to commit. It altered Section 376 of the Indian Penal Code to read that the minimum term for raping a girl under 12 is 20 years in prison, but the sentence can be longer, up to life in prison or death.<sup>14</sup> Lawyers and rights groups have called this development "penal populism," which means putting public anger ahead of fixing the system. People feel it was okay to do in public to halt terrible acts following the rapes in Kathua and Unnao.<sup>15</sup> Empirical data supports this claim: according to the National Crime Records Bureau (NCRB), conviction rates in child rape cases remain below 30%, and trials are delayed in thousands of cases across India.<sup>16</sup> This shows that certainty and swiftness of punishment, rather than its severity, are more effective deterrents. The Supreme Court made it plain that death sentences should only be granted in rarest of rare cases and only after thinking about how the person who was accused could reform and get better. More and more, courts are questioning whether the mandatory death sentence in some statutes is in line with the constitutional principles of proportionality and due process.<sup>17</sup>

The IPC and the Protection of Children from Sexual Offences (POCSO) Act, 2012<sup>18</sup> both cover many of the same crimes but have different guidelines for how to prosecute and sentence people. This has made it hard to figure out how to frame charges and sentences. For example, the Supreme Court said that prosecuting child sexual abuse under two different legal systems was difficult and stressed the need for harmonisation.<sup>19</sup> There have been times when both IPC and POCSO provisions were used at the same time, which caused delays in the process and conflicting sentences. The POCSO Act was meant to be a law that was apart from other laws, friendly to children, and sensitive to victims. On the other hand, IPC provisions, especially

---

<sup>12</sup> *Tukaram v. State of Maharashtra*, AIR 1979 SC 185.

<sup>13</sup> The Criminal Law (Amendment) Act, 1983 (Act. 43 of 1983).

<sup>14</sup> The Criminal Law (Amendment) Act, 2018, (Act 22 of 2018).

<sup>15</sup> Vrinda Grover, *Death Penalty for Rape: A Misguided Move*, 5(2) JILS 67 (2018) available at: <https://jils.ac.in/archives/vol-9-no-2>

<sup>16</sup> National Crime Records Bureau, "Crime in India – 2022," Chapter on Crime Against Children, available at <https://ncrb.gov.in/en/crime-india>.

<sup>17</sup> *Rajendra Pralhadrao Wasnik v. State of Maharashtra*, (2019) 12 SCC 460.

<sup>18</sup> The Protection of Children from Sexual Offences (POCSO) Act, 2012 (Act. 32 of 2012).

<sup>19</sup> *Alakh Alok Srivastava v. Union of India*, W.P. (Crl.) No. 156 of 2018.

after 2018, rely on more generic and frequently harsher frameworks.<sup>20</sup>

The Bharatiya Nyaya Sanhita (BNS), 2023 and the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which officially repealed the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973, have brought up new discussions over what actual criminal law reform in India should look like. The new law is more like colonial systems than a huge change because it keeps most of the big reforms made by previous amendments, notably the expanded definition of rape, the right to protection from assault while in jail, and the right to procedural protections for victims.<sup>21</sup> For example, the BNS doesn't encompass past crimes like adultery and unnatural sex (as decided in *Joseph Shine v. Union of India*<sup>22</sup> and *Navtej Singh Johar v. Union of India*<sup>23</sup>), but there are still no clear rules about marital rape, gender neutrality, or restorative justice approaches. Some individuals are also worried that BNSS will give police more power, like the ability to arrest people without a warrant, keep them in jail longer while they are being investigated, and make bail less safe. Article 21 indicates that everyone has the right to life and freedom, thus these changes might go against that.<sup>24</sup>

Judicial interpretation is particularly essential to figuring out if these laws are being used to protect constitutional rights and remedy faults in the system. The Supreme Court declared that narco-analysis without permission is against Articles 20(3) and 21.<sup>25</sup><sup>26</sup> This highlight how crucial it is for people to be able to keep their private lives private during criminal investigations. The Court further stated in *Maneka Gandhi v. Union of India*<sup>27</sup> that the "procedure established by law" in Article 21 must be "just, fair, and reasonable." This created a precedent for all criminal laws that have enforced the rules of due process. Because of these earlier cases, the courts can now look at new parts of BNS and BNSS from a constitutional point of view.

Even if it still has rules that make it easier for witnesses to testify (as included in earlier changes), the real experience of the victim is nevertheless harmed by re-victimization, delays

---

<sup>20</sup> Anuja Gulati, *Child Sexual Abuse Laws in India: Analysing POCSO in Practice*, 11(1) IJHRJ 92 (2020).

<sup>21</sup> Malik, N. (2024), *Criminal Law Reforms in Recent Times: Issues and Challenges*, 5(7) ShodhKosh: J VPA, 227–231. available at: doi:10.29121/shodhkosh.v5.i7.2024.2341227

<sup>22</sup> *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

<sup>23</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>24</sup> Dr.C B Naveen Chandra, *CONCEPT OF GENDER JUSTICE IN INDIA: A CONSTITUTIONAL PERSPECTIVE*, 11 (IJCR) g215 (2023).

<sup>25</sup> The Constitution of India.

<sup>26</sup> *Selvi v. State of Karnataka*, (2010) 7 SCC 263

<sup>27</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

in the legal process, and a lack of gender sensitivity. Courts still work based on colonial ideas, and they typically use patriarchal logic.<sup>28</sup> The lack of options for restitution, restorative justice, or mental health care shows that the focus is still on punishment instead of helping people get better. The changes could not mean much if police training, the legal system, and the ability of prosecutors to do their jobs aren't improved.<sup>29</sup>

### **Role of the Judiciary in Interpreting to Criminal Law: A Case-Based Analysis**

The courts are very crucial in making sure that criminal laws are used as tools of justice by interpreting them in a way that is consistent with their purpose and the Constitution. The courts make laws real by making sure that they are followed in a way that is in line with the Constitution, human rights, and evolving social norms. This purpose as an interpreter is very significant in criminal law since it brings together the rights of victims, the accused, and the power of the state.

The Criminal Law (Amendment) Act of 1983<sup>30</sup> was a big change in how India dealt with sexual crimes, especially rape. The public outcry after the Supreme Court's decision in the *Tukaram v. State of Maharashtra*<sup>31</sup>, which is often called the Mathura rape case, led to this change. The Court let two cops go who were accused of raping a young tribal girl while she was in detention. They said there was no indication of resistance, which meant consent.<sup>32</sup> The ruling led to protests around the country by women's groups, legal experts, and human rights campaigners who said the courts had a patriarchal and insensitive view of consent.

In response, the legislature passed the 1983 amendment to fix the problems. The change to the Indian Penal Code added Sections 376A to 376D, which set apart more serious types of rape, like custodial rape, rape by those in positions of power, and gang rape. Section 114A of the Indian Evidence Act<sup>33</sup> was a very forward-thinking addition. It made it so that in some

---

<sup>28</sup> Anup Surendranath & Neetika Vishwanath, *New Criminal Laws Are a Continuation of Colonial Logic, not a Break from It*, Indian Express, 27 June 2024, available at:

<https://indianexpress.com/article/opinion/columns/criminal-codes-threat-citizen-liberty-justice-guise-decolonisation-project-9418768> (last visited 27, Mar 2026).

<sup>29</sup> India's New Criminal Codes: Taking Stock and Looking Ahead, *Modern Criminal Law Review panel discussion*, 27 June 2024, available at: <https://crimlrev.net/2024/01/10/colonialism-redux-for-the-digital-age-what-to-make-of-indias-new-criminal-codes-abhinav-sekhri/>

<sup>30</sup> The Criminal Law (Amendment) Act, 1983 (Act 43 of 1983).

<sup>31</sup> AIR 1979 SC 185.

<sup>32</sup> Kunjal Sarada, *CASE ANALYSIS: TUKARAM & ANR. V STATE OF MAHARASHTRA*, IV IJLLR 3 (2022), available at: [https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5\\_2d97007e614e4327afe323d0dc414c37.pdf](https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_2d97007e614e4327afe323d0dc414c37.pdf)

<sup>33</sup> The Indian Evidence Act, 1872 (Act. 1 of 1872).

circumstances where the victim testified, there was a presumption that they did not give consent. This was a big deal in a criminal justice system that usually puts the burden of proof on the accused. It meant that the weight of proof had shifted, at least in part, to the accused.<sup>34</sup>

The courts have backed up the goals of these reforms in a number of cases. The Supreme Court made it very clear in *State of Maharashtra v. Madhukar Narayan Mardikar*,<sup>35</sup> that even a lady with "easy virtue" or doubtful moral character had the right to privacy and bodily integrity, and that her sexual history should not have any effect on whether or not she gave consent. This decision was very important in fighting patriarchal stories that look down on women because of their sexual history. It was also very much in line with the changes of 1983. In *Bodhisattwa Gautam v. Subhra Chakraborty*,<sup>36</sup> the Court further said that rape is not just a crime, but a violation of the victim's basic right to life and personal freedom under Article 21 of the Constitution. The Court's decision to do this showed that the victim had the right to compensation and temporary relief. This was a change from a solely punitive form of justice to one that focused on restoring what was lost.<sup>37</sup> The Court has set explicit rules on how to preserve the privacy and dignity of sexual assault victims in the case of *Nipun Saxena v. Union of India*<sup>38</sup>. The *Malimath Committee*<sup>39</sup> achieved this with a focus on the victims. The Committee also advised developing a programme to protect witnesses and letting the victim be involved in all phases of the trial. The Supreme Court case of *Nilabati Behera Alias Lalit Behera v. State of Orissa*<sup>40</sup> recognised the Victims Compensation Scheme. This scheme was eventually added to the Cr.P.C. in 2009 as section 357-A.<sup>41</sup>

Over time, a several of court cases have made this legal structure more solid. In correspondence from the Supreme Court in *Shobha Rani v. Madhukar Reddy*<sup>42</sup> that mental cruelty alone could be a good reason to get a divorce. This was in line with what Section 498A wanted to do. The Delhi High Court further stressed the clause's protective purpose and the need for stringent

---

<sup>34</sup> N Jagadeesh, *Legal changes towards justice for sexual assault victims*, IJME, available at: <https://doi.org/10.20529/IJME.2010.037>.

<sup>35</sup> AIR 1991 SC 207.

<sup>36</sup> (1996) 1 SCC 490.

<sup>37</sup> Aditi Utkarsha, *SHRI BODHISATTWA GAUTAM VS MISS SUBHRA CHAKRABORTY*, 2 JLRJS 526.

<sup>38</sup> (2019) 2 SCC 703.

<sup>39</sup> Government of India, "Malimath Committee Report on Reforms of the Criminal Justice System" (Ministry of Home Affairs, 2003), available at: <https://mha.gov.in>.

<sup>40</sup> 1993 AIR 1960.

<sup>41</sup> Rachna Mishra & Utkarsh Mishra, *MALIMATH COMMITTEE'S REFORMS IN CRIMINAL JUSTICE SYSTEM: A CRITICAL ANALYSIS*, 4 IJLLR 13 (2022). Available at: [https://3fdef50c-add3-4615-a675a91741bcb5c0.usrfiles.com/ugd/3fdef5\\_c1774d48bc5e47728f126a18d8340b81.pdf](https://3fdef50c-add3-4615-a675a91741bcb5c0.usrfiles.com/ugd/3fdef5_c1774d48bc5e47728f126a18d8340b81.pdf) (last visited on 27, July 2025)

<sup>42</sup> 1988 1 SCC 105.

enforcement to stop abuse connected to dowry in *Savitri Devi v. Ramesh Chand*<sup>43</sup>.

The Criminal Law (Second Amendment) Act of 1983<sup>45</sup> was also very important since it dealt with a different but very important issue the rising number of dowry deaths and domestic violence in India. This move was adopted because there was a worrying increase in cases of newlywed women being harassed, tortured, or even killed because of dowry demands. Back then, the law didn't have clear guidelines for penalising this form of abuse in the family, especially when it was mental abuse or chronic violence.

The most important thing this amendment did was add Section 498A to the Indian Penal Code (IPC), which made it a crime for a husband or his family to be cruel to a married woman. This law defined "cruelty" in a wide way to cover both physical and mental abuse, especially when it was connected to demands for dowry. This was a big change from general criminal law to gender-specific legal protection, showing that married women needed to be protected against abuse in their own homes. The crime was made cognisable and non-bailable, which shows that the legislature wanted to handle these kinds of actions seriously. The Act changed the Indian Evidence Act and the Criminal Procedure Code as well as the IPC. Under Section 174 of the Criminal Procedure Code (CrPC), it was required that an Executive Magistrate hold an inquest if a lady died in suspicious circumstances within seven years after becoming married. Also, Section 113A of the Indian Evidence Act was added to let judges assume that the husband or his relatives influence the woman kill herself if she had been abused. It complemented the broader criminal law reforms of the same year by focusing on domestic spaces, and laid the foundation for later legislation such as the Protection of Women from Domestic Violence Act, 2005.<sup>46</sup>

The Indian legal system kept altering to meet with new problems in society after the Criminal Law (Amendment) Act of 1983 introduced some small but progressive adjustments. The Criminal Law (Amendment) Act, 2005's<sup>47</sup> major purpose was to modify the Criminal Procedure Code (CrPC) to better protect witnesses' rights and the right to a fair trial. The case

---

<sup>43</sup> AIR 2003 Del 151.

<sup>44</sup> Dr. Priya Rao, Abhay Kumar Tiwari, *Analysis of Section 498A of IPC in the Light of Judgments of the Apex Court and High Court*, 11 Res. J. Humanities and Social Sciences. (2020) available at: [https://rjhsonline.com/HTML\\_Papers/Research%20Journal%20of%20Humanities%20and%20Social%20Sciences\\_PID\\_2020-11-1-14.html](https://rjhsonline.com/HTML_Papers/Research%20Journal%20of%20Humanities%20and%20Social%20Sciences_PID_2020-11-1-14.html). (Last visited on 27, July 2025)

<sup>45</sup> The Criminal Law (Second Amendment) Act, 1983 (Act 46 of 1983), available at: <https://indiacode.nic.in>.

<sup>46</sup> The Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).

<sup>47</sup> The Criminal Law (Amendment) Act, 2005 (Act. 2 of 2006).

of *Zahira Habibullah Sheikh v. State of Gujarat*,<sup>48</sup> was very important because it proved how crucial it is to protect victims and provide them a fair trial. The Supreme Court told the Best Bakery case to go back to trial. This decision shows how serious the courts are about making the criminal justice system work better.

Further, The Criminal Law (Amendment) Act of 2013<sup>49</sup> was a big deal in the history of Indian law. It happened because people were upset by the Delhi gang rape in 2012<sup>50</sup>, and it was based on the suggestions of the Justice J.S. Verma Committee.<sup>51</sup> The change made the definition of rape under Section 375 IPC broader. It also made stalking (Section 354D), voyeurism (Section 354C), and acid attacks (Sections 326A & 326B) crimes and added draconian punishment requirements. The Supreme Court stated in *Lillu v. State of Haryana*,<sup>52</sup> that the "two-finger test" was illegal since it offended a woman's dignity and bodily integrity.<sup>53</sup> The Court also made the notion of consent clearer in the case of *Md. Anwar v. State of NCT of Delhi*.<sup>54</sup> It said that agreeing to something under a false promise of marriage could be seen as rape, which is in line with the victim-centered law that was passed in 2013.

The Supreme Court upheld the death sentence granted to the man who raped and killed a three-year-old girl in *Rajendra Pralhadrao Wasnik v. State of Maharashtra*.<sup>55</sup> This case shows how the law has altered in a big way. The Court held that the crime was "rarest of rare" in *Bachan Singh v. State of Punjab*,<sup>56</sup> because it was so cruel and took away the victim's innocence. The verdict made it plain that the death penalty should only be applied in very rare cases, albeit it may be acceptable in cases of horrible sexual crimes against children that shock the public's conscience.

Moreover, The Criminal Law (Amendment) Act, 2018<sup>57</sup> was passed straight quickly after people all throughout the country were shocked by the brutal gang rape and murder of an eight-

---

<sup>48</sup> (2006) 3 SCC 374.

<sup>49</sup> The Criminal Law (Amendment) Act of 2013 (Act. 13 of 2013)

<sup>50</sup> BBC News, "Nirbhaya case: Four Indian men executed for 2012 Delhi bus rape and murder 2020" available at: <https://www.bbc.com/news/world-asia-india-51969961>. (Last visited on 28, Mar, 2026).

<sup>51</sup> *Supra* note 10.

<sup>52</sup> (2013) 14 SCC 643.

<sup>53</sup> KRUTHIKA R, *Two Finger Test in Rape Cases: Adding Insult to Injury*, CLPR, 2024, available at: <https://clpr.org.in/blog/two-finger-test-in-rape-cases-adding-insult-to-injury/#:~:text=The%20Supreme%20Court%20of%20India,and%20medically%20and%20scientifically%20irrelevant%E2%80%9D>. (Last visited on 27, Mar 2026).

<sup>54</sup> (2020) 7 SCC 391.

<sup>55</sup> (2019) 12 SCC 460.

<sup>56</sup> (1980) 2 SCC 684.

<sup>57</sup> The Criminal Law (Amendment) Act, 2018 (Act. 22 of 2018)

year-old girl in Kathua, Jammu & Kashmir,<sup>58</sup> and the Unnao rape case<sup>59</sup> involving a sitting member. The revision adds Section 376AB to the Indian Penal Code. This section specifies that anyone who rapes a girl under the age of 12 must serve at least 20 years in imprisonment. The sentence can be extended to life in prison or death. It also said that the investigation had to be done in two months, which shows that lawmakers wanted to fix the problems with delays and inefficiency in rape cases quickly.

The case of *Tajinder Singh v. State of Punjab*,<sup>60</sup> indicates that the alterations implemented in 2018 have also generated big concerns with the way things are done. The Supreme Court looked at how both the IPC and the Protection of Children from Sexual Offences (POCSO) Act, 2012 may be used to charge someone with the same sexual assault against a child. The Court said that if courts don't employ the principle of harmonic construction, using more than one criminal provision at the same time could lead to problems with sentence, multiple charges, and following the law. The case showed how important it is for judges to know how to employ both general and specific laws to protect victims and deal the accused properly. These cases show that the courts have to do two things at once that make sure that those who commit serious sexual crimes get long prison sentences and make sure that the law is applied fairly when there are a lot of laws that apply.

### **The Impact of International Human Rights Treaties on Criminal Law Reform**

International human rights treaties have become important guides for courts, especially when it comes to protecting victims, making sure everyone gets fair treatment, and making sure everyone gets their rights. Indian courts, while primarily guided by the Constitution but they have also used foreign treaties to explain and add to the law, especially where Indian law is unclear, silent, or changing. Article 51(c)<sup>61</sup> of the Directive Principles of State Policy backs this up by telling the State to follow its treaty and international law responsibilities. Article 21 is also used by the courts to explain the right to life and dignity in a way that is in keeping with international human rights standards.

---

<sup>58</sup> BBC News, “*Kathua child rape and murder: Three men given life sentences*” 12, April 2018, available at: <https://www.bbc.com/news/world-asia-india-43722714> (last visited on Nov 1, 2025).

<sup>59</sup> Wikipedia the free Encyclopedia, *2017 Unnao rape case*, 2017, available at: [https://en.wikipedia.org/wiki/2017\\_Unnao\\_rape\\_case](https://en.wikipedia.org/wiki/2017_Unnao_rape_case), (last visited on Nov 1, 2025).

<sup>60</sup> 2022 SCC OnLine SC 1277.

<sup>61</sup> The Constitution of India.

In the case of *Vishaka v. State of Rajasthan*<sup>62</sup>, the Supreme Court used the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>63</sup> to set regulations concerning sexual harassment at work that are legally obligatory. The court stated that if India didn't have its own laws, international agreements that it has signed might be read into its constitutional protections.<sup>64</sup> Similarly, in *Nipun Saxena v. Union of India*<sup>65</sup>, the Court referred to both CEDAW and the Convention on the Rights of the Child (CRC)<sup>66</sup> to emphasize the need for victim-sensitive procedures in sexual assault cases involving children and women, including the preservation of victim anonymity and psychological well-being.<sup>67</sup>

The *Justice Verma Committee Report* (2013) made it clear that India's legal responses to sexual violence should be in line with its international human rights duties. This made it much easier for Indian criminal law to employ international agreements as interpretive tools. The Committee was formed after the 2012 Delhi gang rape (the Nirbhaya case)<sup>68</sup> to look at the flaws in the current criminal justice system and suggest major changes. Many of these suggestions were included in the Criminal Law (Amendment) Act, 2013. The Committee said that India's adoption of CEDAW, the International Covenant on Civil and Political Rights (ICCPR)<sup>69</sup>, and the Universal Declaration of Human Rights (UDHR)<sup>70</sup> were strong reasons for changing the law in India. It stressed that India must follow through on its commitments under these treaties by making sure that its criminal laws are fair to women, focus on victims, and follow the Constitution. Report stated that the death penalty isn't a good idea because it doesn't ensure speedy and sure justice. The Committee's use of international legal ideas showed how global norms might affect what people say and do at home, even if this idea wasn't turned into law. It shows that things like marital rape, child abuse, and public officials not doing their jobs

---

<sup>62</sup> (1997) 6 SCC 241.

<sup>63</sup> United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women*, G.A. Res. 34/180, GAOR, U.N. Doc. A/34/46 (18 December 1979).

<sup>64</sup> Anoj Mitta, "Justice JS Verma gave India collegium system" *The Times of India*, Apr 23, 2013, available at: <https://timesofindia.indiatimes.com/india/justice-js-verma-gave-india-collegium-system/articleshow/19685392.cms>, (last visited on Mar 1, 2026).

<sup>65</sup> (2019) 2 SCC 703.

<sup>66</sup> UN General Assembly, *Convention on the Rights of the Child*, GA. Res.44/25, GAOR, U. N Doc. A/RES/44/25 (Nov. 20, 1989).

<sup>67</sup> Bhumika Indulia, "SC issues directions for protection of identity of victims of rape and sexual offences; need for victim friendly trial stressed upon" *SSC Online Times*, 12 December, 2018, available at: <https://www.sconline.com/blog/post/2018/12/12/sc-issues-directions-for-protection-of-identity-of-victims-of-rape-and-sexual-offences-need-for-victim-friendly-trial-stressed-upon/> (Last visited on 27, July 2025).

<sup>68</sup> *Supra* note 50.

<sup>69</sup> UN General Assembly, *The International Covenant on Civil and Political Rights*, GA Res. 999, GAOR, U. N. Doc. A/RES/2200 (XXI) (Dec. 16, 1966).

<sup>70</sup> UN General Assembly, *The Universal Declaration of Human Rights*, GA. Res. 217 A (III), GAOR, U.N. Doc. A/810, (10 December, 1948).

should be against the law. This is in line with the principles of international treaties that demand for fairness, respect, and accountability.<sup>71</sup> Indian courts have always stated that international accords that have been ratified, especially those that are in line with the Constitution, can help judges grasp the law, even when there is no law that lets them do so. The case of *People's Union for Civil Liberties v. Union of India*<sup>72</sup> is a striking example of this. The ICCPR could help us understand what the right to privacy and personal freedom implies, according to the Supreme Court. This approach of looking at criminal law has led to modifications that make the process more fair, speed up trials, and provide women and children more protection, all of which are in keeping with India's responsibilities across the world.<sup>73</sup>

### **Suggestions for Reforming Indian Criminal Law**

The Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) are new laws that replace existing colonial laws and make substantial changes to India's criminal justice system. However, some areas still need further development. One significant advice is to make the legislation better for the victim. The BNS says that persons who commit minor offence should do community service as punishment. But there still aren't enough laws about how to pay back victims, seek mental health care, and especially for people who have been sexually assaulted or attacked with acid. Adding a Victim Rights Charter to the law will make sure that justice is both punishing and healing.

Another important concern is that the BNSS imposes time constraints for trials and investigations. Some cases need to be finished with investigations in 90 days and trials in 45 days. The idea is to make justice happen faster, but these deadlines could not mean anything because courts are too busy and police forces don't have enough people. So, to make this law work, the government needs to put money into all three of these things at the same time: judicial infrastructure, forensic capabilities, and digital case management. Special fast-track courts for crimes against women and children can also help make sure that justice is done speedily.

The word "sedition" has been taken out of the new criminal legislation under section 152 of

---

<sup>71</sup> Government of India, "REPORT OF THE COMMITTEE ON AMENDMENTS TO CRIMINAL LAW 2013" available at: [https://adrindia.org/sites/default/files/Justice\\_Verma\\_Amendmenttocriminallaw\\_Jan2013.pdf](https://adrindia.org/sites/default/files/Justice_Verma_Amendmenttocriminallaw_Jan2013.pdf) (Last visited on Mar 1, 2026).

<sup>72</sup> (2003) 4 SCC 399.

<sup>73</sup> Neupane, Madhusudan and Marasini, Shashi Nath, *Provisions of Freedom of Expression in International Law* (July 14, 2022). available at: SSRN: <http://dx.doi.org/10.2139/ssrn.4163065>. (Last visited on 27, Nov 2025).

BNS and replaced with the new crime of "acts endangering sovereignty, unity, and integrity." This language is still broad enough that it might be used to silence criticism. To protect the constitutional right to free speech under Article 19(1)(a), it is suggested that this clause be more clearly defined and that any investigation under this section be reviewed by a judge before FIRs are registered.

A long-standing demand in Indian criminal law is the recognition of marital rape as a punishable offence. Disappointingly, the BNS continues to exempt sexual intercourse between a husband and wife from the definition of rape. This exception violates the principles of bodily autonomy, dignity, and equality under Article 21 and Article 14. Hence, it is strongly recommended that this exception be removed, and the definition of rape be expanded to include non-consensual acts within marriage, in line with international human rights standards.

The BNSS makes a number of good changes to technology, like letting people send electronic summons, have video trials, and file documents electronically. But to make the most of technology in the criminal justice system, there needs to be tighter laws about cybercrime and how to handle digital evidence. It is suggested that separate cybercrime courts be set up that would make sure that the judicial system can keep up with the growing problem of cybercrimes.

Finally, the issue of those who are being held in jail without trial is still quite important in India. Some of the BNSS's suggestions are good, including letting first-time offenders out on bail and requiring them check in every month to see how they're doing in jail. But they need help from programs that help people stay out of jail, new ways to handle problems, and sentencing options that don't need them to go to jail. Article 21 of the Constitution says that everyone has the right to be free. This would help keep jails from getting too full and protect that right.

## **Conclusion**

These changes are necessary not only to close gaps in the law, but also to make sure that India's criminal justice system reflects constitutional morality, human rights duties, and the best practices utilised around the world. When laws are made, they must also make sure that the victims' dignity is protected, that the legal process is fair, and that the rule of law is followed.