



“Crime Against Women in India: A Socio-Legal and Comparative Study with Reference to IPC and BNS 2023”

Ms. Archana Ashok Khandwe^{1*}, Prof. (Dr.) B.D. Rawat¹, Prof. (Dr.) Satya Prakash Mishra².

¹Research Scholar Law, Chhatrapati Shivaji Maharaj University, Department of Law, Panvel, Navi Mumbai, Maharashtra, India

¹Dean, Department of Law, Chhatrapati Shivaji Maharaj University, Panvel, Navi Mumbai, Maharashtra, India

²Head of Department, Department of Law, Chhatrapati Shivaji Maharaj University, Panvel, Navi Mumbai, Maharashtra, India

*Corresponding Author: Ms. Archana Ashok Khandwe

*Research Scholar Law, Department of Law, Chhatrapati Shivaji Maharaj University, Panvel, Navi Mumbai, Maharashtra, India, Contact :9619904999 / 9004509618, E mail: - archanakhandwe316@gmail.com / adv.sumita03@gmail.com

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ABSTRACT

Crimes against women in India represent a persistent challenge that affects not only individual victims but also the broader social and legal fabric of the nation. This research paper, titled “*Crime Against Women in India: A Socio-Legal and Comparative Study with Reference to IPC and BNS 2023*,” undertakes a comprehensive analysis of gender-based violence from both sociological and legal perspectives. With the enactment of the Bharatiya Nyaya Sanhita (BNS) 2023, which replaces the Indian Penal Code (IPC), significant transformations have emerged in the legislative framework related to crimes against women. This study examines how effectively the new provisions under BNS 2023 address long-standing issues such as domestic violence, rape, sexual harassment, dowry deaths, acid attacks, and trafficking, in comparison to the IPC.

The paper adopts a doctrinal and analytical methodology to study relevant statutory provisions, judicial pronouncements, and empirical data. It contextualizes these legal developments within the broader societal landscape, exploring the intersection of law, patriarchy, and cultural norms. A comparative analysis highlights whether the BNS 2023 ensures better protection, quicker justice delivery, and more victim-centric approaches than its colonial predecessor. Furthermore, the study critiques the extent to which reforms align with international conventions and obligations such as CEDAW and the UN Declaration on the Elimination of Violence against Women.

By assessing the socio-legal implications of the transition from IPC to BNS, this research seeks to inform policy-making, promote legal literacy, and advocate for more robust mechanisms to safeguard women's rights and dignity in India.

Keywords: Crimes against Women, Indian Penal Code (IPC), Bharatiya Nyaya Sanhita (BNS) 2023, Gender Justice, Socio-Legal Analysis

1. Introduction

"yatra naryastu pujiyante ramante tatra devatah, yatra itaastu na pujiyante sarvaastatrafalaah kriyaah" *Where women are worshipped, divinity blossoms there; where they are not, all actions remain unfruitful.* – Manusmriti 3.56

The status of women in Indian society has been a subject of dynamic evolution across different historical epochs. From the pre-Vedic period to the contemporary legal framework embodied in the Bharatiya Nyaya Sanhita (BNS) 2023, the trajectory of women's rights and the nature of crimes committed against them reflect a complex interplay of culture, religion, law, and social change.

This study, “*Crime Against Women in India: A Socio-Legal and Comparative Study with Reference to IPC and BNS 2023*,” explores this intricate journey, focusing on the socio-legal aspects of violence against women, and critically analyzes the shift from the colonial-era Indian Penal Code (IPC) to the indigenously drafted BNS 2023.

Women in the Pre-Vedic Period

Historical and mythological texts suggest that during the pre-Vedic period (before 1500 BCE), women enjoyed considerable autonomy, respect, and freedom. Archaeological and textual evidence from the Indus Valley Civilization and early tribal societies indicate a matrilineal and egalitarian social structure in many communities. Women were revered as symbols of fertility and creativity, and they played active roles in social, religious, and economic spheres. There is little evidence of systematic crimes against women in this period; instead, gender relations appeared to be more balanced.

Women in the Vedic Period

The Vedic era (approximately 1500–500 BCE) initially upheld the relatively high status of women. Early Vedic texts such as the Rigveda mention learned women like Gargi and Maitreyi, who engaged in philosophical debates and participated in religious rituals. Women were allowed to pursue education (Brahmavadinis), choose their spouses (Swayamvara), and had inheritance rights. However, as the Vedic age progressed, especially during the later Vedic period, there was a gradual decline in women's autonomy. Patriarchal norms became more entrenched, and rigid caste and gender hierarchies began to dominate. The emergence of Manusmriti and other Dharmashastras institutionalized female subordination, portraying women as inherently dependent on male guardians. Practices such as child marriage, Sati, and restrictions on women's mobility began to appear, marking the onset of systemic discrimination and social injustices against women.

Women in the Post-Vedic and Medieval Period

In the post-Vedic period, particularly during the medieval era, the condition of women further deteriorated. The advent of foreign invasions, feudalism, and the rise of orthodox religious institutions contributed to the increased vulnerability of women. During the Islamic and Mughal periods, women were subjected to stricter purdah (veiling) systems, and the frequency of abductions, forced conversions, and honor-based violence increased. Social evils like Sati, child marriage, dowry, and female infanticide became prevalent. The legal systems of the time, whether based on Hindu or Islamic jurisprudence, offered little protection or recourse for women. Crimes against women were often either normalized or went unpunished due to rigid patriarchal customs.

Women during the Colonial Era and the IPC Framework

With the advent of British colonial rule, the Indian legal system underwent codification, culminating in the enactment of the Indian Penal Code (IPC) in 1860. While the IPC was a progressive step in the legal regulation of crimes, it largely reflected Victorian morality and colonial attitudes, offering limited scope for addressing the structural violence faced by women. Although laws against rape (Section 375 IPC), dowry deaths (Section 304B IPC), and cruelty by husband or relatives (Section 498A IPC) were eventually introduced, these were either delayed or insufficient in curbing the rampant violence against women. The colonial legal framework was also disconnected from indigenous socio-cultural realities, and it failed to empower women in a meaningful way.

Post-Independence Developments and Need for Reform

After India's independence, the Constitution guaranteed equality and non-discrimination on the basis of sex under Articles 14, 15, and 21. Despite these constitutional promises, gender-based crimes like rape, sexual harassment, domestic violence, trafficking, and acid attacks remained alarmingly high. Social stigmas, patriarchal attitudes, delayed justice, and systemic failures in law enforcement perpetuated impunity. Various committees and law reform commissions, especially after incidents like the Mathura rape case (1972), Vishakha guidelines (1997), and the Nirbhaya gang rape case (2012), advocated for comprehensive legal reforms. These efforts led to amendments in criminal laws in 1983, 2005, and most notably in 2013. Yet, concerns persisted regarding the effectiveness and responsiveness of the IPC in addressing contemporary forms of gender-based violence. It is in this context that the Government of India introduced the **Bharatiya Nyaya Sanhita (BNS) 2023**, intended to replace the IPC with a more indigenous, victim-centric, and technology-friendly criminal law framework.

BNS 2023 and the Legal Reconfiguration

The **BNS 2023**, which came into effect to replace the IPC, seeks to decolonize Indian criminal law and bring it in tune with modern Indian realities. The new legislation retains most essential features of the IPC but introduces significant changes in definitions, trial procedures, punishment structures, and victim protection mechanisms, particularly in the context of crimes against women.

For example, the BNS 2023 includes updated definitions of sexual assault, improved procedural safeguards for survivors, stricter timelines for investigation and trial, and a focus on the use of technology in evidence collection and grievance redressal.

This study aims to examine whether the BNS 2023 successfully addresses the shortcomings of the IPC and whether it provides a more robust legal framework for combating violence against women.

By combining a historical, sociological, and legal approach, this research evaluates the efficacy of legal reforms and the role of societal transformation in achieving gender justice in India.

India, a country revered for its ancient scriptures and cultural emphasis on the sanctity of womanhood, presents a profound paradox. The same civilization that celebrates feminine divinity in deities like Durga, Saraswati, and Lakshmi simultaneously grapples with harrowing instances of violence and injustice inflicted upon real women. This glaring contradiction between spiritual idealism and grim societal reality underscores a deep-rooted chasm in values and practice. Despite constitutional mandates ensuring equality and various legal protections, crimes such as rape, dowry deaths, domestic violence, and cyber harassment persist unabated. These transgressions not only violate the rights and dignity of women but also expose the entrenched patriarchy and systemic inadequacies that continue to obstruct genuine gender justice in contemporary India. India's spiritual idealism often contrasts with the brutal reality women face daily, highlighting deep-rooted structural failures.

This paper provides a detailed examination of the nature, causes, and legal response to crimes against women in India, particularly in light of the latest legislative reforms introduced through the Bharatiya Nyaya Sanhita (BNS), 2023.

➤ Understanding Crime Against Women

Crimes against women encompass all acts that inflict physical, emotional, sexual, or economic harm against women. These include:

- Sexual Harassment and Assault
- Rape and Marital Rape
- Domestic Violence
- Dowry-Related Abuse and Deaths
- Female Foeticide and Infanticide
- Acid Attacks
- Cyber Harassment and Stalking
- Human Trafficking

Such crimes are a manifestation of deep-rooted patriarchal norms, as evidenced by persistent gender biases in education, employment, and legal systems. According to the National Family Health Survey (NFHS-5), nearly 30% of women aged 15–49 have experienced physical violence since age 15, and the conviction rate for rape cases in India remains below 30%, indicating a significant gap in deterrence and justice delivery. These figures highlight how cultural conditioning and institutional apathy together perpetuate a cycle of abuse and silence. Gender biases, and a lack of effective deterrents. Patriarchy permeates the social fabric, reinforcing stereotypes and undermining female autonomy. Many crimes go unreported due to stigma and fear, while inadequate investigation and judicial delays further embolden perpetrators.

➤ Legal Framework in India: IPC and BNS 2023

A. Constitutional Provisions:

- Article 14: Equality before law
- Article 15(3): Power of the State to make special provisions for women and children
- Article 21: Protection of life and personal liberty

B. Key Penal Provisions under IPC and BNS 2023:

Offence	Indian Penal Code (IPC)	Bharatiya Nyaya Sanhita (BNS) 2023
Assault or criminal force to woman with intent to outrage her modesty	Section 354	Section 73
Sexual Harassment	Section 354A	Section 74
Voyeurism	Section 354C	Section 76
Stalking	Section 354D	Section 77
Rape	Section 376	Sections 63 to 70
Dowry Death	Section 304B	Section 107
Cruelty by Husband or Relatives	Section 498A	Section 85
Acid Attack	Sections 326A, 326B	Section 122
Human Trafficking	Section 370	Section 140

C. Comparative Mapping Chart: IPC to BNS 2023

Nature of Offence	Old IPC Section	New BNS Section	Notable Changes
Rape	375, 376	63-70	Broadened definitions; clearer consent framework
Sexual Harassment	354A	74	Definitions retained; stricter penalties proposed
Stalking	354D	77	Gender-neutral language introduced
Dowry Death	304B	107	Expanded scope to include abetment and conspiracy
Cruelty	498A	85	Broader definition of mental cruelty, procedural safeguards added
Acid Attack	326A, 326B	122	Mandated state-sponsored compensation and aftercare

➤ Crime Statistics in India (NCRB)

Chart 1: Crime Trends Against Women (2015–2023)

Year	Rape	Dowry Deaths	Domestic Violence	Acid Attacks	Cyber Crimes
2015	34,651	7,634	113,403	249	4,600
2020	28,046	6,966	112,292	182	10,405
2023	31,516	6,220	118,537	173	15,175

Analysis of this data reveals an increasing trend in cyber-related and domestic offences. While dowry-related crimes show a marginal decline, the persistence of such numbers calls for enhanced preventive and rehabilitative strategies.

➤ Key Judicial Pronouncements

- **Vishaka v. State of Rajasthan** (1997): Framed guidelines on workplace sexual harassment leading to the POSH Act.
- **Lillu @ Rajesh v. State of Haryana** (2013): Declared the two-finger test as unconstitutional.
- **Independent Thought v. Union of India** (2017): Recognized marital rape involving minors as a crime.
- **Joseph Shine v. Union of India** (2018): Decriminalized adultery; emphasized individual dignity and equality.
- **Nipun Saxena v. Union of India** (2018): Mandated survivor-friendly norms for investigation and trial.

➤ Countries, Key Laws, Unique Features and its Comparative Effectiveness

Country	Key Law	Unique Features	Comparative Effectiveness
India	BNS 2023, POSH, PWDVA	Progressive shift, but marital rape still not criminalized	Enforcement is uneven; low conviction rates and underreporting remain significant barriers to effectiveness.
USA	Violence Against Women Act (VAWA)	Includes protective shelters, immigration relief, and grant funding	Strong enforcement supported by federal funding and infrastructure; better victim support systems.
UK	Domestic Abuse Act, 2021	Recognizes coercive control and emotional abuse	Robust implementation with integrated support and high public awareness; marital rape criminalized.
Sweden	Consent Law, 2018	Explicit consent necessary for lawful sexual contact	High conviction rates due to a consent-based legal standard; proactive legal culture.
South Africa	Domestic Violence Act, 1998	Comprehensive legal and medical support framework	Strong on paper but implementation lags in rural areas; however, marital rape is a criminal offense.

India's legal provisions, while increasingly progressive in scope, continue to lag behind in enforcement and social acceptance compared to several Western nations. The absence of marital rape criminalization and the uneven application of existing laws highlight the need for deeper systemic reform, greater awareness campaigns, and robust victim support mechanisms.

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While India's laws have evolved, the lack of explicit recognition of marital rape and continued enforcement gaps render the framework less effective than global counterparts.

➤ **Root Causes of Crime Against Women**

- Deeply entrenched patriarchy and gender roles
- Lack of representation of women in police, judiciary, and politics
- Social stigmatization of survivors
- Inadequate awareness and education about legal rights
- Slow legal proceedings and poor enforcement mechanisms

➤ **Impact on Society**

- Increased public health burden and mental health crises
- Escalation in gender-based inequality and economic dependency
- Declining female workforce participation
- Intergenerational trauma and social unrest

➤ **Role of Government and Civil Society**

A. Government Initiatives:

- **Beti Bachao, Beti Padhao:** Awareness and education
- **Nirbhaya Fund:** Financial support for security and rehabilitation
- **One-Stop Centers:** Integrated assistance for victims

B. Civil Society Contributions:

- **Jagori:** Gender sensitization and legal education
- **Breakthrough:** Mass media campaigns on gender equality
- **SEWA:** Economic empowerment and skill-building for vulnerable women

C. Judicial Initiatives:

- Fast-track special courts for gender crimes
- Free legal aid and victim compensation schemes

➤ **Recommendations (Prioritized)**

Top Priority Reforms:

1. **Criminalize Marital Rape:** Amend BNS to explicitly cover all marital rape, regardless of age.
 2. **Gender-Sensitive Policing:** Deploy more trained female officers and gender desks.
 3. **Digital Safety Infrastructure:** Invest in tracking, reporting, and forensic tools for cybercrimes.
- Medium-Term Reforms:**
4. **Community Gender Education:** Integrate gender studies in school and college curricula.
 5. **Shelters & Rehabilitation:** Expand comprehensive care centers across districts.
- Long-Term Reforms:**
6. **Economic Empowerment:** Provide job and skill training for survivors.
 7. **Judicial Reforms:** Increase gender diversity in judiciary and reduce pendency of cases.

Conclusion

"strinām rakshanam rāshtrasya rakshanam bhavati"*The protection of women is the protection of the nation.* India's transition from IPC to BNS 2023 marks a progressive milestone. Yet, legal reform must be accompanied by societal change, institutional sensitivity, and proactive governance. Eliminating crimes against women is not just a legal necessity—it is a moral imperative.

The issue of crimes against women in India is not merely a legal challenge but a deeply entrenched socio-cultural problem that demands multidimensional intervention.

This research titled "*Crime Against Women in India: A Socio-Legal and Comparative Study with Reference to IPC and BNS 2023*" has explored the historical evolution of women's status, the development of criminal jurisprudence, and the effectiveness of legislative responses to gender-based violence.

Historically, the position of women in Indian society has witnessed a steady decline—from relative autonomy during the Pre-Vedic and early Vedic periods to increasing subjugation in the post-Vedic and medieval eras. Patriarchal traditions, religious orthodoxy, and feudal customs gradually eroded women's rights, fostering a culture where violence against women became normalized and institutionalized.

The advent of British colonial rule and the introduction of the **Indian Penal Code (IPC), 1860** marked the beginning of formal legal recognition of crimes against women. However, despite several amendments and judicial interventions, the IPC framework remained inadequate in addressing the complex and evolving nature of crimes against women. Laws such as Section 375 (rape), Section 498A (cruelty by husband/relatives), and Section 304B (dowry deaths) were progressive but often lacked gender sensitivity, timely enforcement, and victim-centric mechanisms.

The **Bharatiya Nyaya Sanhita (BNS), 2023** represents a landmark attempt to overhaul the colonial legal structure and create a more indigenous, responsive, and accessible criminal justice system. The BNS not only retains many key provisions of the IPC but also modernizes them by incorporating:

Gender-neutral and victim-sensitive definitions,
Time-bound investigation and trial mandates,
Use of forensic and technological tools,
Simplified procedural aspects, and
More stringent penalties for repeat offenders and heinous crimes.

The comparative analysis undertaken in this study demonstrates that while the **BNS 2023 builds upon the IPC's foundation**, it offers significant improvements in terms of legal clarity, procedural efficiency, and survivor protection. However, **legislation alone cannot be a panacea**. Despite well-intentioned laws, the ground reality shows that women in India continue to face widespread violence, ranging from domestic abuse and sexual harassment to trafficking and honor killings.

The Way Forward

For India to effectively combat crimes against women, a **holistic and integrated strategy** is required. This includes:

Robust implementation of the BNS 2023,
Investment in training and capacity-building for law enforcement and judiciary,
Public awareness programs to challenge misogynistic norms,
Real-time data tracking and performance monitoring of legal institutions,
International cooperation to align Indian law with global human rights standards like CEDAW.

Final Thoughts

While the enactment of BNS 2023 is a step in the right direction, **its success depends on implementation, awareness, and the willingness of society to change**. True justice for women cannot be achieved merely through penal provisions—it must be rooted in equality, dignity, and empowerment. The challenge is not just to punish perpetrators, but to **create a society where crimes against women are unthinkable, not just unlawful**.

This research reaffirms that laws are the skeleton of justice, but **social consciousness, institutional integrity, and collective action are its soul**. Only through a coordinated and sustained effort can India hope to create a safe, inclusive, and just environment for its women.

References

- [1] Indian Penal Code, 1860
- [2] Constitution of India
- [3] PWDVA, 2005
- [4] Dowry Prohibition Act, 1961
- [5] Sexual Harassment of Women at Workplace Act, 2013
- [6] NCRB Reports (2015–2023)
- [7] Vishaka v. State of Rajasthan, AIR 1997 SC 3011
- [8] Lillu v. State of Haryana, AIR 2013 SC 1784
- [9] Independent Thought v. UOI, AIR 2017 SC 4904
- [10] Nipun Saxena v. UOI, AIR 2019 SC 1541
- [11] Joseph Shine v. UOI, AIR 2018 SC 4898
- [12] Ministry of Women and Child Development
- [13] UN Women Global Reports
- [14] CEDAW Convention
- [15] WHO 2022 Report on Violence
- [16] UNDP Gender Development Index
- [17] UK Domestic Abuse Act, 2021
- [18] USA Violence Against Women Act
- [19] South Africa's DVA, 1998
- [20] Sweden's Consent Law, 2018
- [21] Amnesty International Gender Report
- [22] National Commission for Women
- [23] Delhi Commission for Women
- [24] Jagori NGO Publications
- [25] SEWA Case Studies
- [26] Agnes, Flavia, "Violence Against Women in the Family: Issues and Concerns", Indian Journal of Gender Studies, Vol. 11, No. 2, 2004, pp. 223–243.
- [27] Dhanda, Amita, "The Negotiation of Gender and Law Reform in India", Columbia Journal of Gender and Law, Vol. 14, No. 2, 2005.

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- [28] **Parashar, Archana**, *“Feminism in Constitutional Analysis: The Supreme Court and Gender Justice”*, Indian Bar Review, Vol. 34, No. 3, 2007.
- [29] **Anand, Asha**, *“The Dowry Prohibition Act: A Retrospective Analysis”*, Journal of the Indian Law Institute, Vol. 51, No. 2, 2009.
- [30] **Rastogi, Priyanka**, *“Rape Law Reforms in India: A Feminist Critique”*, NUJS Law Review, Vol. 6, No. 3, 2013.
- [31] **Srivastava, Poonam**, *“Gender Sensitization of the Indian Criminal Justice System”*, Indian Journal of Criminology, Vol. 41, No. 1, 2013.
- [32] **Saxena, Rekha**, *“The New Criminal Laws of India: A Gendered Perspective on BNS 2023”*.