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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

SHORTCOMINGS IN EMERGING CRIMINAL LEGISLATION

AUTHORED BY - SAURABH SINGH

ABSTRACT

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) are new laws that replace the Indian Penal Code of 1860, the Code of Criminal Procedure of 1973, and the Indian Evidence Act of 1872.¹ They are a big change in how India's criminal justice system works. These laws are meant to modernise the criminal justice system and make it work better with new technologies. These changes, like e-trials, digitised evidence handling, and structured time limits for investigations, are meant to make the system more efficient, open, and focused on victims. However, they have also raised serious questions about how they will be put into place, who will be included, and civil liberties.²

This article looks at some of the most important problems with the new laws. First, it talks about the change from retributive to restorative justice and looks at how this change in philosophy affects how things work in the real world.³ Second, it talks about how transgender people are included in the definition of "gender," but it also points out that sexual offence laws are still based on a binary view of gender, which means that they don't protect male and transgender victims.⁴ Laws against rape that don't take gender into account go against progressive court decisions and international human rights standards.⁵

The new evidentiary framework under the BSA is another important area that was looked at, especially the fact that electronic records are now considered primary evidence.⁶ This progress is important, but it is being held back by logistical problems, such as a lack of forensic experts

¹ Bharatiya Nyaya Sanhita, No 45 of 2023; Bharatiya Nagarik Suraksha Sanhita, No 46 of 2023; Bharatiya Sakshya Adhiniyam, No 47 of 2023.

² Ministry of Home Affairs, 'Statement of Objects and Reasons – BNS/BNSS/BSA' (2023).

³ *ibid.*

⁴ Bharatiya Nyaya Sanhita 2023, s 10.

⁵ *National Legal Services Authority v Union of India* (2014) 5 SCC 438; *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.

⁶ Bharatiya Sakshya Adhiniyam 2023, ss 57, 61.

and possible biases in the process of certifying digital evidence.⁷ Also, worries about too many crimes and unclear legal definitions, especially when it comes to national security laws, are big threats to freedom of speech and dissent.⁸ The BNSS gives police more power, especially the parts that let them hold people for longer and require them to use digital devices. This makes people even more afraid that their rights will be violated.⁹

Most importantly, the fact that marital rape is still not a crime in India shows how deeply ingrained patriarchal bias is in Indian law.¹⁰ The article says that this omission goes against constitutional guarantees of equality and personal freedom and goes against India's commitments to human rights around the world.¹¹ The new criminal laws are a step in the right direction for the future, but they have a lot of holes that need to be fixed right away by the legislature, the courts, and the government. The paper says that the goals of justice, equality, and due process may stay goals rather than being put into action if there aren't clear definitions, strong protections, reforms that include everyone, and better infrastructure.¹²

Introduction

Three new laws changed India's criminal law system on July 1, 2024. The Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), the Bharatiya Nyaya Sanhita 2023 (BNS), and the Bharatiya Sakshya Adhiniyam 2023 (BSA) took the place of the Indian Penal Code 1860 (IPC), the Code of Criminal Procedure 1973, and the Indian Evidence Act 1872.¹³ These laws were passed to bring India's criminal law system up to date, since it was based on laws from the time of British rule. Electronic recordkeeping and communication are two examples of how the BNS and BSA have adapted to modern times.¹⁴ The new criminal laws make big changes that deal with problems that are happening right now. Home Minister Amit Shah proposed that sedition be treated as treason, set new time limits for punishments, e-trials, redefined the idea of police custody, added new technologies to investigations, and set deadlines for different legal

⁷ *ibid* s 63(4); see also *Anvar PV v PK Basheer* (2014) 10 SCC 473.

⁸ Bharatiya Nyaya Sanhita 2023, ss 150–152.

⁹ Bharatiya Nagarik Suraksha Sanhita 2023, s 187.

¹⁰ Bharatiya Nyaya Sanhita 2023, s 63.

¹¹ Constitution of India 1950, art 21; Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

¹² Law Commission of India, *172nd Report on Review of Rape Laws* (2000).

¹³ *Bharatiya Nyaya Sanhita*, No 45 of 2023; *Bharatiya Nagarik Suraksha Sanhita*, No 46 of 2023; *Bharatiya Sakshya Adhiniyam*, No 47 of 2023.

¹⁴ *Bharatiya Sakshya Adhiniyam* 2023, ss 57–63; see also *Bharatiya Nyaya Sanhita* 2023, s 173 (on admissibility of electronic records).

processes.¹⁵

1. The philosophical change

American justice was never known to be a punitive one, as it has always denounced punishment and doctrines of retribution and punishment.¹⁶ The American system used punishment according to age: youth was supposed to involve mild treatment by the law and, by extending age, stricter treatment. This system, however, soon became obsolete; since the laws were beefed up to permit punishment in comparison with individuals above a certain age, the innocent were soon being imprisoned.¹⁷ The description of punishment in all its details in the Indian criminal law became increasingly retributive during the time preceding the enactment of the Indian Penal Code: before the Code came into force and was not even applied to an area.¹⁸ The Indian Penal Code, Code of Criminal Procedure, and Evidence Act together form the traditional framework of Indian criminal laws, which were rooted in a philosophy that emphasized punitive and retributive justice.¹⁹ In this system, every crime must be punished with an equal measure of punishment to fortify societal norms and dissuade others from such crimes in the future. Thus, it was believed that restoring an equilibrium in the scale of justice with punishment to the criminal would ensure the return of moral order in society. Justice is done, in other words, when the offender is punished; thus restoring the moral order of the society. The offender's punishment was seen as a means to uphold authority and public confidence in the legal system. Issues such as rehabilitation of the accused or engagement with the victim were second order priorities, which many times resulted in a justice system that was more retributive than resolving.²⁰ Thus, the new legislation under the BNS, BNSS, and BSA marks a serious departure from retributive justice to restorative justice.²¹ This contemporary doctrine aims at addressing the root causes of criminal behaviour and integrating solutions that benefit both victims and offenders.

In addition, the legislation emphasizes rehabilitation by involving offenders in responsibilities

¹⁵ Ministry of Home Affairs, 'Statement of Objects and Reasons – BNS/BNSS/BSA' (2023); Press Information Bureau, 'Union Home Minister introduces criminal law bills in Lok Sabha' (Press Release, 11 August 2023).

¹⁶ Herbert L Packer, *The Limits of the Criminal Sanction* (Stanford University Press 1968) 33.

¹⁷ Franklin E Zimring, *American Juvenile Justice* (OUP 2005) 14–17.

¹⁸ Ratanlal & Dhirajlal, *The Indian Penal Code* (35th edn, LexisNexis 2022) Introduction.

¹⁹ K D Gaur, *Textbook on Indian Penal Code* (5th edn, Universal Law Publishing 2015) 2–4.

²⁰ Nandita Haksar and Sebastian Hongray, *Retribution and Impunity: The Rule of Law in India* (Penguin 2021) 56–59.

²¹ Ministry of Home Affairs, 'Statement of Objects and Reasons – Bharatiya Nyaya Sanhita' (2023).

and making amends to take responsibility for their actions through such laws.²² Victim-centric measures ensure that victims are active participants in the justice process but also have support, validation, and reparation of damage suffered. Finally, this comprehensive method is poised to and will work toward rebuilding trust within the community, preventing its recurrence, and promoting social harmony through reintegration of reformed offenders.²³ Indeed, restorative justice differs from retributive justice in that it makes repair of relationships and community balance its prime objective rather than the punitive outcome itself.²⁴

2. Gender Neutrality

The Indian Penal Code, 1860 (IPC) has been superseded by the Bharatiya Nyaya Sanhita, 2023 (BNS).²⁵ It is clear from looking at the IPC that the definitions of "gender" in Section 8 and "man" and "woman" in Section 10 were restrictive, preventing transgender people from being recognised.²⁶ By extending the definition of "gender" under Section 10 to include transgender individuals, the BNS advances civil rights recognition.²⁷ It does not, however, provide them with any particular safeguards against sexual offences. It is important to remember that Section 63 of the BNS maintains that only a "woman" can be the victim and only a "man" can be the perpetrator, mirroring Section 375 of the IPC (as amended by the Criminal Law (Amendment) Act, 2013).²⁸

Rape laws should be gender-neutral, according to the 172nd Law Commission Report (March 25, 2000).²⁹ A major change was brought about by the Criminal Law (Amendment) Ordinance, 2013, which introduced gender-neutral language for defining sexual offences with regard to both offenders and victims.³⁰

Indian laws continue to lack provisions protecting men and transgender people from sexual offences, even after the Supreme Court decriminalised same-sex relationships in *Navtej Singh Johar v. Union of India* and acknowledged transgender people as the "third gender" in *National*

²² Bharatiya Nyaya Sanhita 2023, s 2 (emphasising offender rehabilitation and reintegration).

²³ *ibid.*

²⁴ Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2002) 8–10.

²⁵ Bharatiya Nyaya Sanhita 2023, No 45 of 2023.

²⁶ Indian Penal Code 1860, ss 8, 10.

²⁷ Bharatiya Nyaya Sanhita 2023, s 10.

²⁸ Bharatiya Nyaya Sanhita 2023, s 63; Indian Penal Code 1860, s 375 (as amended by Criminal Law (Amendment) Act 2013).

²⁹ Law Commission of India, *172nd Report on Review of Rape Laws* (25 March 2000).

³⁰ Criminal Law (Amendment) Ordinance 2013.

Legal Services Authority v. Union of India.³¹ In contrast, gender-neutral rape laws have been enacted in about 77 countries worldwide.³²

Gender-neutral laws are crucial for creating a just legal system that protects all individuals, regardless of gender identity, from violence and abuse. The present statutes that limit the definitions of victimhood and perpetration to binary genders actually to ignore the realities faced by non-binary and transgender persons that need to be considered, leaving them vulnerable and unprotected. Gender-neutral legislation would acknowledge these groups, that would ensure equal access to justice and a fair system thereby reinforcing the principle of equality before the law, that is also the spirit of the Constitution of India.³³ Such an inclusive perspective propagates a fairer society where legal protection reflects the diverse nature of human identities.³⁴

3. Electronic Evidence under the New Criminal Laws: Legal Advances and Practical Challenges

The BNS has made more types of electronic communication illegal, and the BSA now accepts emails, voicemails, and location data as proof.³⁵ According to the old Indian Evidence Act, electronic evidence could only be stored on physical media like paper, optical, or magnetic storage, like CD-ROMs.³⁶ The BSA has made this list longer by adding semiconductor memory, such as SD cards, as acceptable methods and systems for electronic evidence.³⁷ This means that communication devices can now be used to store records like this. So, messages, chats, and voice recordings from mobile phones are now functionally equivalent and can be used in court as primary evidence under sec 57 of BNSS.³⁸ This makes digital records more important as evidence and makes e-evidence easier to use as valid proofs.

Before, the Evidence Act said that electronic records were only secondary evidence. They could only be used in court if the original main evidence was not there.³⁹ But Section 57 of the

³¹ *National Legal Services Authority v Union of India* (2014) 5 SCC 438; *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.

³² UN Women, 'Progress of the World's Women 2019–2020: Families in a Changing World' (United Nations, 2020) 126.

³³ Constitution of India 1950, art 14.

³⁴ *ibid* art 15.

³⁵ *Bharatiya Sakshya Adhiniyam* 2023, s 2(r); *Bharatiya Nyaya Sanhita* 2023, s 173.

³⁶ *Indian Evidence Act* 1872, s 65B (before repeal).

³⁷ *Bharatiya Sakshya Adhiniyam* 2023, s 2(r)(vii)

³⁸ *Bharatiya Nagarik Suraksha Sanhita* 2023, s 57.

³⁹ *Indian Evidence Act* 1872, s 65A–65B.

BNS changes the status of electronic records to primary evidence, and Section 61 says that they are just as good as physical documents as evidence.⁴⁰ Section 63 of the BSA lets copies of electronic records be used as evidence without having to prove that the original exists, as long as certain safety measures are in place.⁴¹ Because the Supreme Court said that electronic evidence is easy to tamper with, Section 63 sets rules that must be followed, such as making sure that the device used to collect the evidence was regularly used and working properly.⁴² Also, Section 63(4) says that electronic records must be certified by the device's custodian and an expert chosen by the central government.⁴³

This could make people worry about the impartiality of these experts, especially in cases that are politically sensitive.⁴⁴ Timely verification of electronic evidence depends on having trained forensic experts available. This is a big problem in India, where 40% of posts in forensic labs are still open and there are a lot of cases that need to be solved, especially in cyber forensics and DNA identification.⁴⁵ A lack of professionals could lead to longer deadlines for the authentication process, which would make legal proceedings take longer and have an impact on serious cases like sedition, which violates free speech.⁴⁶

These new laws are necessary right now because cybercrimes are becoming more and more complicated.⁴⁷ But they also make people wary of going too far. Careful draughting and strict, efficient processes for verifying evidence are needed to stop misuse and the creation of ambiguities. All of this makes it even more important to find a balance between interests, since the interests of democracy must be protected while also making sure that criminals are brought to justice.⁴⁸

4. Overcriminalization and Vagueness in Provisions

The Bharatiya Nyaya Sanhita (BNS), 2023, was meant to bring India's criminal justice system up to date.⁴⁹ But there are worries about overcriminalization and the lack of clarity in some

⁴⁰ *Bharatiya Nyaya Sanhita* 2023, ss 57, 61.

⁴¹ *Bharatiya Sakshya Adhiniyam* 2023, s 63.

⁴² *Anvar PV v PK Basheer* (2014) 10 SCC 473.

⁴³ *Bharatiya Sakshya Adhiniyam* 2023, s 63(4).

⁴⁴ Abhinav Chandrachud, 'Can Digital Evidence Be Trusted?' *The Hindu* (30 August 2023).

⁴⁵ National Crime Records Bureau, *Crime in India Report 2022*, Chapter 13 (Forensics and Expert Delays).

⁴⁶ Editorial, 'Sedition and the Unfinished Task of Reform', *The Indian Express* (12 July 2023).

⁴⁷ Ministry of Home Affairs, *Cybercrime Trends in India* (2022).

⁴⁸ Prashant Reddy T, 'Balancing Digital Due Process with National Security', *Bar & Bench* (5 February 2024).

⁴⁹ *Bharatiya Nyaya Sanhita* 2023, No 45 of 2023.

parts, which could lead to misuse and violations of civil rights.⁵⁰

Broad and Vague Offences

One of the main worries is the creation of broadly defined crimes, especially those that have to do with national security. For example, Section 150 of the BNS makes it illegal to do things that put India's sovereignty, unity, and integrity at risk.⁵¹ Critics say that the vague language in this law could be used to silence dissent and go after political opponents, even though it was meant to replace the colonial-era sedition law.⁵² Section 152 also talks about subversive activities,⁵³ but it doesn't make it clear what those activities are. There is a worry that these sections could be enforced in an arbitrary way and that legitimate expression could be stifled because they don't have clear definitions.⁵⁴

Expansion of Police Powers

The Bharatiya Nagarik Suraksha Sanhita (BNSS) adds to the BNS and gives police a lot more power.⁵⁵ It is important to note that it extends the time that police can hold someone from 15 days to up to 90 days for some crimes.⁵⁶ This extension makes people worry about the possibility of abuse in custody and violations of people's rights.⁵⁷ The BNSS also gives police the power to force people who are accused of a crime to hand over their digital devices and let them look at what is on them during investigations. Without enough protections, these kinds of rules could violate people's right to privacy and be used in the wrong way.⁵⁸

Implications for Civil Liberties

Civil liberties are in great danger when crimes are not clearly defined and police powers are increased. If these rules are misused, they could lead to the suppression of free speech, random arrests, and long periods of detention without trial.⁵⁹ These kinds of results would go against

⁵⁰ Abhinav Sekhri, 'New Laws, Old Concerns: Criminal Law Reforms and Rights at Risk' (2024) 15 *India Law Review* 98.

⁵¹ Abhinav Sekhri, 'New Laws, Old Concerns: Criminal Law Reforms and Rights at Risk' (2024) 15 *India Law Review* 98.

⁵² *Shreya Singhal v Union of India* (2015) 5 SCC 1.

⁵³ *Bharatiya Nyaya Sanhita* 2023, s 152.

⁵⁴ Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (OUP 2016) 117.

⁵⁵ *Bharatiya Nagarik Suraksha Sanhita* 2023, No 46 of 2023.

⁵⁶ *ibid* s 187.

⁵⁷ People's Union for Civil Liberties, *Report on Custodial Violence and Legal Reform* (2023) 22–24.

⁵⁸ Apar Gupta, 'Privacy and Digital Access under New Criminal Laws' (2024) *Internet Freedom Foundation Briefing Note*.

⁵⁹ Ujjwal Kumar Singh, *Political Prisoners in India* (OUP 2020) 146–148

the Constitution's principles of justice and protecting people's rights.⁶⁰

Need for Clarity and Safeguards

It is very important to do the following to stop these rules from being misused:

- Make sure that laws are not open to broad interpretation by clearly defining offences. Use checks and balances to make sure that police don't abuse their new powers. Make sure that any actions taken in the name of national security do not violate basic rights without going through the proper channels.
- The BNS and BNSS can better align with the goals of a modern, fair, and just legal system that protects everyone's rights and freedoms by addressing these issues.⁶¹

5. Marital rape – still silent

The absence of marital rape from the corpus of offences under India's newly enacted criminal laws, especially the BNS, leaves a glaring lacuna that has rekindled debate among jurists, gender rights activists, and civil society.⁶² Marital rape is a form of non-consensual sexual intercourse with a spouse and currently lies beyond the ambit of criminal liability, notwithstanding its far-reaching implications for bodily autonomy, informed consent, and basic human rights.⁶³ This continues to remain a law against the backdrop of the fact that many of the jurisdictions across the globe have already criminalized marital rape, considering it as a serious crime requiring legal retaliation.⁶⁴

Mihira Sood, Executive Director of the Centre for Child Rights and Juvenile Justice and a distinguished Delhi-based legal practitioner, articulated her consternation regarding the new legislation's limitations.⁶⁵ Sood highlighted that the prevailing statutory delineation of rape is inherently restrictive, recognizing the crime exclusively as an act perpetrated by a man against a woman.⁶⁶ Such a constricted definition not only precludes gender inclusivity but also neglects the multifaceted nature of sexual violence, particularly within the bounds of matrimony, where statutory safeguards for women are glaringly inadequate. This traditionalist interpretation of

⁶⁰Constitution of India 1950, arts 19 and 21.

⁶¹ Law Commission of India, *Consultation Paper on Reforming Criminal Law* (2020).

⁶² *Bharatiya Nyaya Sanhita* 2023, No 45 of 2023.

⁶³ Flavia Agnes, 'Marital Rape and the Indian Legal System: Rethinking Consent' (2015) 50(21) *Economic and Political Weekly* 64.

⁶⁴ UN Women, *Progress of the World's Women 2019–2020: Families in a Changing World* (United Nations 2020) 126.

⁶⁵ Mihira Sood, 'Interview: India's Missed Opportunity on Criminalising Marital Rape' *The Quint* (6 July 2023).

⁶⁶ *Bharatiya Nyaya Sanhita* 2023, s 63; *Indian Penal Code* 1860, s 375 (Exception 2).

marital relations ignores the contemporary, nuanced understanding of consent as an ongoing, dynamic construct that cannot be presumed to be implicit or perpetual within marriage.⁶⁷ The sustained reluctance to criminalize marital rape reflects entrenched sociocultural paradigms that venerate traditional marital roles and perceive conjugal obligations as sacrosanct.⁶⁸ The prevailing legal doctrine suggests that marriage entails irrevocable consent to sexual relations, an anachronistic view that starkly contravenes modern legal principles emphasizing individual agency.⁶⁹ Consequently, a substantial cohort of women find themselves devoid of legal recourse for sexual violations perpetrated within marriage, effectively relegating them to a subordinate status under the ambit of legal protections.⁷⁰ Further complicating this issue, as Sood highlights, is the lack of distinction between cases of “breach of promise to marry” and instances involving a “false promise to marry.”⁷¹ The absence of clear delineation in this regard obfuscates the justice process and often yields inequitable outcomes, particularly in cases where consent was vitiated by deception or coercion.⁷²

Highlighting these definitional aspects is vital and significant to ensuring equitable treatment for victims whose consent was manipulated under fraudulent pretenses. A compelling rationale for the criminalization of marital rape rests upon the constitutional principles of equality and personal sovereignty as enshrined in the Indian Constitution.⁷³ The omission of protection for married women against sexual violence stands in stark violation of the right to life and personal liberty as guaranteed under Article 21 of the Constitution.⁷⁴ It would strengthen international commitments that India has agreed to on human rights and women's safety to recognize marital rape as a criminal offense, and it would be a significant step in endeavoring to root out patriarchal ideologies present in the society.⁷⁵

This would also encourage a legal system against structural violence and inequity. It is notable that although the new criminal laws bring some welcome features, like introducing electronic

⁶⁷ Law Commission of India, *172nd Report on Review of Rape Laws* (2000).

⁶⁸ Jaya Sagade, *Marital Rape and the Law in India: A Human Rights Perspective* (OUP 2015) 89–92.

⁶⁹ United Nations Human Rights Committee, *General Comment No. 28: Equality of Rights Between Men and Women* (2000) UN Doc CCPR/C/21/Rev.1/Add.10.

⁷⁰ Lawyers Collective, *Rights of Women in Marriage and Divorce* (4th edn, LexisNexis 2022) 110.

⁷¹ Sood (n 4).

⁷² Ipsita Mohanty, ‘False Promise to Marry: Consent, Coercion, and Criminal Law in India’ (2022) 14(2) *NUJS Law Review* 223.

⁷³ Constitution of India 1950, arts 14 and 15.

⁷⁴ *ibid* art 21.

⁷⁵ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

evidence and widening the scope of admissibility of digital records, it lacks to lay some solid ground on the issues like marital rape. Thus, this difference in legislation presents an opportune moment for very effective advocacy, progressive legislative debate, and clever judicial intervention to transform Indian jurisprudence in a way that upholds the dignity and rights of all persons in the face of sexual violence, irrespective of marital status.⁷⁶

Conclusion

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) went into effect on July 1, 2024. This was a big change to India's criminal justice system. The goal of these laws was to bring the legal system up to date by replacing old colonial-era laws with new ones that better reflect modern values and technological progress. However, a close look at these reforms shows that they bring about good changes, but they also come with problems that need to be thought about carefully.

One of the most important changes in the new law is the shift from a punitive to a restorative justice system. This model puts more emphasis on rehabilitation than punishment. Its goal is to help offenders reintegrate into society and meet the needs of victims. The BNS, BNSS, and BSA all have rules that make e-trials easier, change how police hold people, and set deadlines for legal processes. This shows that the goal is to make the legal system more efficient and focused on victims.

The BSA's decision to accept electronic records like emails, voicemails, and location data as evidence is a big step towards bringing the legal system up to date with new technology. Sections 57 and 61 of the BNS change the classification of electronic records from secondary to primary evidence, which makes them more valuable as evidence. However, putting these rules into practice is hard because there aren't enough trained forensic experts and people are worried about the fairness of government-appointed certifying authorities.

The BNS broadens the definition of "gender" to include transgender people, which protects the rights of a wider range of people in society. Even though this is a step forward, the law still uses gender-specific language to define sexual offences, which means that men and transgender

⁷⁶ Amnesty International India, *Criminalising Marital Rape: Towards Justice for Women in India* (Policy Brief, 2021).

people are not protected from these crimes. This restriction shows how important it is to have laws that are truly gender-neutral and protect everyone equally, no matter what their gender identity is. One big worry about the new laws is that they could lead to too many people being charged with crimes and that some parts of them are not clear. The parts that talk about crimes against the state, like those that threaten unity and sovereignty, are written in a way that is too broad, which could lead to different interpretations and possible abuse. The BNSS gives the police more power, such as longer periods of custody and the ability to force people to give them access to their digital devices. This raises concerns about civil liberties and the possibility of abuse.

One big problem with the BNS is that it doesn't make marital rape a crime. The new law doesn't do anything about marital rape, even though it is a serious crime around the world and India's constitution guarantees equality and personal freedom. This omission keeps a legal system in place that doesn't fully protect the rights and freedom of married women. To make the new laws work, a lot of money needs to be spent on training, infrastructure, and building capacity. To get the most out of the reforms, police stations need more forensic experts, better technology, and better training programs for their officers.

To sum up, the BNS, BNSS, and BSA are all important steps towards making India's criminal justice system more modern. These laws include some progressive ideas, like restorative justice principles and using technology, but they also have problems with overcriminalization, gender inclusion, and implementation. It is very important to fix the problems that have been found through changes to the law, judicial oversight, and administrative actions in order for these reforms to work. To create a fair and just society, we need to find a way to protect people's rights while also making the legal system more efficient and fair.