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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide 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

PAINTED LAWS, UNCHANGED REALITIES: A CRITICAL STUDY OF LEGAL REFORMS IN THE REALM OF GENDERED VIOLENCE

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ABSTRACT

Beneath the dazzling facade of the Bhartiya Nyaya Sanhita's legal reforms, lies the familiar scene of victims still struggling against layers of stigma, slow courts, and organizational neglect. Being introduced as the grand reboot of the outdated colonial provision: the Indian penal code, it thrived with new hopes of modernisation and promises of gender inclusivity, particularly in addressing sexual and gendered violence. Yet, under those Painted Reforms what remains constant is the essence which feels stubbornly familiar. Through this paper the writer asks a simple question: do these reforms genuinely change the lived experience of the survivors or merely update the vocabulary of justice.

From CEDAW guidelines to Scandinavian consent-based laws, to a mix of critical legal analysis and socio-legal observation, this research probes how the BNS measures up against ground realities. It highlights how social stigma still define justice for many women around marital rape, digital abuse, and systemic patriarchal attitudes. It revisits case studies including the Nirbhaya case and the Vishaka guidelines, revealing how BNS clarifies definitions of consent, timelines, and victim protection, yet sidestepping the real points.

Ultimately, the paper argues that while the BNS symbolizes a much needed step towards modernisation, it remains like the painting over cracks in a broken wall. The law may now sound very empathic, and could be rewritten overnight, but justice requires more than semantic progression. It demands empathy and structural change, but until that takes place, India's criminal law may continue to look new on paper yet feel painfully old in practice.

INTRODUCTION

India's criminal law framework system is at an intriguing crossroad where the efforts are underway to modernize laws. Despite decades of amendments which aimed at strengthening protections for victims of gendered violence, the justice system continues to reflect the fundamental, social and procedural inequities. The introduction of the Bharatiya Nyaya Sanhita (BNS) seeks to modernize colonial-era laws by clarifying definitions of crimes such as rape, expanding procedural rights, and emphasizing libility¹ Yet, this legislative revamp raises a main question: Do these reforms truly transform the lived experiences of victims within the justice process, or do they remain largely symbolic in their impact?² Does the BNS significantly enhance the experiences of victims, or does it mainly function as a societal advancement that conceals persistent problems? This method encompasses a vital legal examination to unpack the written clauses and their consequences, a socio-legal viewpoint to investigate the law's interaction with social realities such as stigma and organizational responses, and a comparative analysis of global strategies regarding sexual violence legislation. This method seeks to determine if the BNS can bridge the gap between legal reform and actual experiences or if it simply rewords existing issues with different language³. Together, this approach aims to understand whether the BNS can overcome the disconnect between legal reform and lived reality or if it merely repackages old challenges in new terminology.

Thus, while the BNS marks a step toward modernization, its success ultimately links on bridging the gap between legislative intent and the actual delivery of justice to survivors⁴.

Historical Context: Evolution of Rape Laws in India

Initially the definition of rape laws were emerged from the colonial era, which was limited down to penile-vaginal intercourse without consent under the *Indian Penal Code (IPC) of 1860*. During earlier times the laws did show male centric ideologies in it which often subjected survivors to societal and judicial scrutiny⁵. Landmark judgments including the *Mathura case*

¹ SocioMentors, Bharatiya Nyaya Sanhita and Violence Against Women – UPSC Sociological Perspective (Oct. 24, 2025),

² PRS India, The Bharatiya Nyaya (Second) Sanhita, 2023 (Oct. 24, 2025)

³ B. Devarajan & V. Samyuktha, Bharatiya Nyaya Sanhita: Unveiling the Reality of Gender Equality for Men, 5 *Indian J. Integrated Rsch. L.* 144 (Jan. 2025).

⁴ Nat'l L. Sch. India U. (Anushka Pandey, Preeti Pratishruti Dash & Mrinal Satish), Bharatiya Nyaya Sanhita: Decolonising or Reinforcing Colonial Ideas? (Jan. 25, 2024).

⁵ Law Hunts, Navigating Justice: Gender Dynamics and Legal Reform in India's Rape Legislation (Oct. 24, 2025)

(1972)⁶ really intrigued the public which resulted in demand for new reforms, in which the *Supreme Court* cleared the accused police officers based on victim character evaluations, exposing judicial insensitivity. Later, the *Criminal Law (Amendment) Act, 1983*, was introduced which held custodial rape as illegal, broadening the definition of rape, and establishing victim-friendly evidentiary protections. Not to mention the brutal *Nirbhaya case (2012)*⁷, which sparked a national outrage which resulted in the intervention of the *Criminal Law Amendment Act (CLA), 2013*, leading it to broaden definitions including, non-penile penetrations, mandatory *FIR* registrations, stalking and voyeurism penalization, and mandated fast-track courts to expedite justice⁸. Despite numerous advancements, additional reforms on loopholes were called upon, such as the marital rape exemption and its implementation were weakened. The *Bhartiya Nyaya Sanhita (BNS) of 2023* represents the recent attempt to replace colonial laws with an Indian-centric criminal code prioritizing clarity, procedural efficiency and victim protection.

BNS Key Reforms

To enhance victim protection, BNS introduces significant reforms aiming for the same. In keeping with international norms, it strongly emphasizes affirmative consent, making it extremely evident that passivity or silence shall not equate to consent. In order to address persistent delays it enforces strict procedural timelines for investigation and trial, introducing judicial oversight aimed at accountability⁹. Starting from privacy guarantees, trauma-informed court processes, to state-mandated compensation plans, everything was introduced for the upliftment of survivors' self-esteem and promoting healing all contribute to improved victim protections. Reflecting a more holistic approach towards justice, BNS also implements rehabilitative punishments for punitive measures¹⁰.

Identified Gaps:

- **Narrow Definitions:** In spite of progress, BNS excludes the concept of Martial Rape from its ambit, which still leaves a large population of women vulnerable within

⁶ Parijata Bhardwaj, Legally Speaking | Rape, Outrage, and the Legal System: Tracing the Evolution of India's Rape Laws, Hindustan Times (Aug. 18, 2024).

⁷ Raj Maitreya, A Critique of Rape Laws in India, iPleaders Blog

⁸ Garg, Rachit. A Critique of Rape Laws in India. iPleaders Blog, 19 April 2021.

⁹ Anju S. Nair, Understanding the Importance of Bharatiya Nyaya Sanhita in Indian Legal System, Tulja Legal Blog

¹⁰ Kush V. Trivedi, Bharatiya Nyaya Sanhita: India's New Transformative Criminal Law, 11 Int'l J. L. 1 (2025).

marriages¹¹. Definitions such as Coercion, exclude psychological, financial, and online harassment in favor of concentrating narrowly on physical force or direct threats. In the era of digital abuse, digital harassment is still not adequately addressed, leaving legal blind spots for survivors of online sexual violence¹².

- **Implementation Challenges:** Even with fast-track courts our judicial system faces massive backlogs for expediting cases involving sexual violence. Insufficient gender-sensitivity training for police officers results in hampering investigations and encourages victim-blaming or neglect. Many survivors still experience hostility or contempt, which awfully discourages them from further reporting, hence jeopardizing the accuracy of the evidence¹³.
- **Cultural Resistance and Social Hierarchies:** Patriarchy, caste, and class dynamics still have an important effect on judicial decisions and enforcement¹⁴. Vulnerabilities including women and marginalized groups, especially the Dalit women, have faced excessive discrimination and economic resilience. Despite of having notable cases like the Kathua rape and murder (2018)¹⁵ still serve as examples of how social prejudice and local power structures hinder justice.

Comparative Insights and Innovative Suggestions

India significantly has been through legislative, institutional, and technological advancements in recent years for its commitment in addressing gender-based violence (GBV) and safeguarding women's rights. A global comparison, particularly with respect to the standards outlined by the *United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and *Scandinavian consent-based laws*, offers us valuable insights and a roadmap into how India can improve its strategy. Altogether these insights with an understanding of domestic gaps and recent advancements, paints a picture of the current scenario and its potential future paths.

¹¹ Nihit Nagpal & Lakshit Rajdev, New Criminal Laws Legalise Male Rape in India, Int'l Bar Ass'n (Sept. 24, 2024)

¹² Preeti Pratishruti Dash, Rape Adjudication in India in the Aftermath of the Criminal Law Amendment Act, 2013: Findings from Trial Courts of Delhi, 19 Indian L. Rev. 1 (2022)

¹³ The Bharatiya Nyaya Sanhita, No. 45 of 2023, Gazette of India, Extraordinary, pt. II, sec. 1 (Dec. 25, 2023) (India)

¹⁴ Anushka Pandey, Preeti Pratishruti Dash & Mrinal Satish, Bharatiya Nyaya Sanhita: Decolonising or Reinforcing Colonial Ideas?, The NLS Blog (Jan. 25, 2024)

¹⁵ An Extensive Study of Rape Laws in India, Manupatra (Jan. 23, 2013)

Globally, *CEDAW's General Recommendation No. 35*, affirmative consent must be an essential groundwork of any legislation addressing sexual violence. This mandate obligates states to change the legal emphasis from physical resistance or coercion to the express, voluntary consent of all parties. It hence summons for the elimination of gender biases and stereotypes in judicial processes, which ensures the survivors of all gender identities to receive effective legal protection and remedies. Even though India has ratified *CEDAW* and has added some of its principles in criminal statutes like the *Bharatiya Nyaya Sanhita (BNS)*, fully remains fragmented, especially in the implementation of affirmative consent and destroying discriminatory practices during adjudication.

Sweden's 2018 consent law has demonstrated a well-developed legislative framework in line with global best practices. By defining rape as any sexual act performed without voluntary and explicit consent, *Swedish law* rejects silence or inactivity as implicit agreement. In accordance with recent assessments conducted by *Sweden's Crime Prevention Council (Brå)*, the number of prosecutions under this law has increased, indicating that it is being applied effectively. Although it required continuous judicial training to negotiate difficult consent boundaries, this law has not only changed public perceptions of sexual violence but has also given the judiciary clearer guidelines. India can take note of this when drafting its future judicial reforms.

Globally, technological innovations support legal approaches, as shown through the digital reporting platforms like *SafetiPin* and *SafeCity* in India. In order for the improvement of our safety infrastructure, these civic-tech tools enable anonymous, *GPS-enabled* reporting of harassment, real-time risk mapping, and data sharing with law enforcement agencies and local governments. By 2025, *SafetiPin* expanded its network, working with police in cities like Pune and Delhi to influence public safety measures, including better lighting of the street lamps and more surveillance. However, the complete integration of such technology into official crime reporting and planning mechanisms have slowed due to official inactivity, privacy concerns, and data governance issues.

Despite India's legislative leap such as the creation of *Fast Track Courts*, improved penalties, and *BNS's* enlarged definitions of sexual violence, significant gaps still exist. One of the most critical shortcoming lies in the continued exclusion of marital rape from the criminal scope and the narrow legal focus on physical force or overt threats, neglecting psychological, economic, and digital coercion, which altogether was recommended to be included by *CEDAW* and other

international organizations. This exclusion keeps victims still vulnerable in married households, which is contradictory with changing social norms and court rulings like the 2022 *Supreme Court* ruling acknowledging marital rape in relation to pregnancy termination.

The gender-specific framing of sexual violence laws poses another significant issue. Currently, India's rape laws primarily protect female survivors against male offenders. This gender binary excludes male, transgender, and non-binary survivors, reinforcing social and legal marginalization. In 2025, research and policy discussions will increasingly call for gender-neutral legislation that will recognise the diversity of survivors, integrating intersectional understanding of caste, class, and gender identity.

Issues with institutional capacity further hampers justice delivery. Police officers frequently lack enough efficient training in trauma-informed and gender-sensitive case handling; courts are overburdened; and survivors frequently experience secondary victimization as a result of victim-blaming or insensitive legal processes.

Despite its promises, technology itself is not the ultimate cure. Adoption is limited by concerns starting through privacy, data security, and the absence of comprehensive regulatory frameworks. Civic-tech leaders emphasize that integrating digital tools into the traditional criminal justice system is still risky because there is absence of strong privacy-by-design principles, open data governance, and independent audits. This cautious approach, although sensible, delays the advantages that digital innovations could bring, especially in terms of enhancing evidence management and survivor reporting.

The above realities highlight several critical *research issues* that are important to India's reform trajectory.

- Is it feasible for India to implement restorative justice initiatives or survivor-centered courts that prioritize survivor agency, integrate trauma-informed practices, and adhere to CEDAW's mandate to eradicate stereotypes? What oversight and assessment systems would be required to guarantee that these specialized methods improve justice without resorting to coercion?
- How should AI and other technological tools be integrated in evidence management, involving secure documentation, duplicate detection, and timeline tracking , without enabling predictive policing or infringing on privacy and human rights?
- How can reforms better acknowledge marital, digital, and economic coercion, and

effectively account for intersectional identity factors such as caste and class that deeply affect victimization and access to justice?

Progressive reform suggestions emerge from these questions and global precedents. India should codify an explicit affirmative consent standard excluding vagueness by declaring that silence or passivity is never consent. The marital rape exemption must be removed, while laws should be expanded to cover coercion beyond physical violence, including psychological, economic, and digital forms, explicitly referencing UN and Scandinavian guidelines. Instituting mandatory, regular trauma-informed training for law enforcement, judiciary, and medico-legal personnel is vital to transforming institutional attitudes and practices. With evaluation frameworks influenced by Sweden's Brå reports, the creation of specialized survivor courts or trauma-sensitive judicial mechanisms, complete with specialized support services, should be investigated and closely watched. With evaluation frameworks influenced by Sweden's Brå reports, the creation of specialized survivor courts or trauma-sensitive judicial mechanisms, complete with specialized support services, should be investigated and closely watched. To increase trust and adoption, technologies like SafetiPin must be expanded in collaboration with the government and subject to enforceable privacy, transparency, and data protection standards. Changing the social norms that support violence and legal reticence requires extensive public consent education campaigns that normalize affirmative, continuous consent. These campaigns should be based on Scandinavian social messaging. Last but not least, open public dashboards that display important data like conviction rates, case timelines, and survivor support participation can promote accountability and ongoing change.

Critical Reflection

For addressing gender-based violence (GBV) in India we have seen significant progress, yet their effectiveness remains restricted due to systemic and social factors. Recent government reports and academic studies from 2025 show that while legal reforms like the Protection of Women from Domestic Violence Act (PWDVA, 2005), the Indian Penal Code amendments, and special measures such as Fast Track Courts and One Stop Centres have improved the landscape, violence and under-reporting persist at high levels. An important thing to note is that reforms are essential, yet not sufficient on their own. Real progress requires law, society, and institutions to work together. With the help of the conviction rate we can measure the effectiveness, but they provide limited insight. Beyond this, factors such as the rate of survivor reports, experience of secondary victimization, and how quickly justice is delivered is crucial.

For example, despite an increase in Fast Track Courts, many survivors still face social stigma and rigorous procedures that discourage reporting and participation in trials. This reflects how deep patriarchal norms and stigma are rooted in our society, and institutional inertia that reform cannot quickly break it down.

The question arises: Can legal solutions alone deal with violence that's deeply embedded in society? Cultural conception of family honor, caste-based discrimination, economic dependence, and gender stereotype persistently weakens the enforcement of law. Even progressive judgments recognizing issues like marital rape have yet to translate into comprehensive legal criminalization due to societal resistance. Additionally, emerging forms of gender-based violence like cyber harassment, economic pressure, challenge the adaptability of legal frameworks and demand continuous evolution.

This complexity requires flexible lawmaking mechanisms capable of rapid adaptation. Alongside societal changes and technological developments laws must evolve to effectively protect survivors. India's expanding use of digital reporting tools like SafetiPin illustrates how technology can empower survivors but also highlights the critical need for privacy protection and governance frameworks.

The interaction between law, society and institutions underscores that reforms require a systematic approach combining legislative clarity, cultural transformation, and institutional improvement. Synchronized efforts can ensure that legal protections translate into real-world safety and justice for survivors, rather than remaining aspirational ideals.

Conclusion

Essential legal reforms which target gender-based violence in India are like putting a band-aid on a broken bone. They themselves are not enough. The difference between what the law promises and what people actually experience is large and disheartening. Only conviction rates and passing new laws cannot address the deeply rooted problems like gender-based discrimination caused by societal norms, ineffectiveness of law implementation, and cultural patriarchy.

Without a coordinated effort that brings together law, society, and institutions, reforms risk

becoming mere window dressing symbolic measures that shimmer but fail to truly protect. We cannot judge the success of the reforms only based on statistics like the number of convictions or cases filed; it requires attention to survivor dignity, reducing stigma, timely justice, and institutional responsiveness.

Can a legal code alone eliminate the violence which is deeply rooted in Indian society, fixated in gender discrimination, caste hierarchy, and economic dependence? It highlights the limits of laws in confronting structural and historical inequalities. Laws cannot fully solve these issues unless lawmaking is dynamic, constantly evolving to address new forms of abuse, from financial exploitation to cyber harassment, and informed by survivors' voices. Until then, India's legal reforms may often feel like handing a life jacket filled with holes to victims swimming in an ocean of misery.

After all, legal reforms are meaningful only if they can provide the benefits and protection they promised, and not merely the ink on dusty pages or numbers in official reports. If the law is not embedded in social consciousness, they risk becoming ghost ships drifting in illusory justice.

The question remains: will India's reforms navigate toward true safety and justice, or remain adrift in the symbolic sea?

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