

Research Article

Crimes Against Women Legal Framework and Challenges with Landmark Cases

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Received: 📅 2026 May 29**Accepted:** 📅 2026 June 19**Published:** 📅 2026 June 30

Abstract

Crimes against woman is a grave violation of human rights and poses a serious challenge to the Indian criminal justice system. These crimes encompass a wide range of offences, including sexual violence, domestic abuse, cruelty within marriage, offences against dignity and modesty, workplace harassment, trafficking, and other forms of physical, verbal, and psychological violence. The Bharatiya Nyaya Sanhita, 2023 (BNS) represents a significant legislative effort to understand and modernise the criminal law framework governing offences against woman, with an emphasis on protection of bodily integrity, dignity and autonomy. This paper examines the legal framework addressing crimes against woman under the BNS, while also referring to legislations and constitutional safeguards. It also adopts a doctrinal and analytical approach to categorise and analyse offences recognized under the BNS, hence mapping the statutory protection available to women over private and public spheres. While the legislation provides for strict penal provisions, the effectiveness of these laws mainly depends on judicial interpretation and enforcement mechanisms. The study critically analyses the role of the judiciary in strengthening women's rights through landmark cases such as *Vishaka v. State of Rajasthan*, which laid the foundation for workplace sexual harassment guidelines; *Mukesh v. State (NCT of Delhi)*, which upheld the seriousness of sexual offences and the need for strict punishment, and also in the case *Shayara Bano v. Union of India*, which talked about women's constitutional rights to equality and dignity within marriage. These cases illustrate how judicial intervention has addressed legislative gaps and expanded the scope of protection for woman. Despite a very advanced legal framework, the paper brings out the challenges in addressing crimes against woman, including society norms, societal stigma, barriers, and lack of victim support systems. The research highlights the continuing gap between law in principle and law in practice. The paper concludes that meaningful definitions of crimes against woman requires not only strong measures but also on how the laws are implemented in real life, and broader social transformation to ensure justice in India.

Keywords: Crimes Against Women, Bharatiya Nyaya Sanhita 2023, Gender Based Violence, Indian Criminal Justice System. Judicial Interpretation, Women's Rights, Criminal Law Reform

1. Introduction

Crimes against women is a critical concern within the Indian criminal justice system, reflecting unfairness in society, male dominated attitudes and failures in how laws are enforced which has been in the society for a very long time. Such crimes extend to both private and public spheres and include sexual violence, domestic abuse, cruelty within marriage, workplace harassment, women and child trafficking, offences against dignity and modesty, and other forms of physical, verbal, and psychological harm. These offences violate the individual rights but also undermine the constitutional power over these matters such as equality, dignity, and personal liberty guaranteed to women under the Indian constitution. India has responded to this challenge through the evolution of its criminal law framework. The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), marks an important step in consolidating and reforming criminal provisions relating to offences against women. By replacing the IPC structures, the BNS aims in modernising the definitions, enhance

punishments, and reaffirm the state's obligation to protect women from gender-based violence. BNS also addresses a wide range of offences affecting women, hence recognising the multifaceted nature of violence and exploitation they face in contemporary society. However, the comprehensive statutory provisions do not necessarily translate into effective protection or access justice [1].

The Implementation of laws concerning crimes against women continues to face serious issues. Due to the deep-rooted patriarchal problems, beliefs, fear of standing up against it, under reporting of offences. Delays, difficulties in finding evidence and Inadequate victim support mechanisms prevents survivors from obtaining timely and justice. Further the gaps in this paper would be when the laws are not properly enforced and officials are not sensitive to gender issues; the purpose of legal reform is weakened. In this paper, the role of the judicial system has been significant [2]. Through landmark judgements, Indian courts have

interpreted statutory provisions in light of constitutional values and International human rights standards. In landmark cases such as *Vishaka v. State of Rajasthan*, *Mukesh v. State (NCT of Delhi)*, and *Shayara Bano v. Union of India* have expanded the steps for legal protection for women in India, it has addressed the inadequacies and has reinforced the principles of equality and dignity [3]. The paper examines the legal framework governing the crimes against women under the *Bharatiya Nyaya Sanhita, 2023* having key judicial interventions with the objective of analysing both the strengths of the legal rule and the challenges that delay the effective implementation.

1.1. Objectives of the Study

- To analyse the legal framework governing crimes against women under the *Bharatiya Nyaya Sanhita, 2023* by identifying and understanding the relevant offences and analysing the scope of protection.
- To examine the role of the judiciary in strengthening laws relating to crimes against women, through an analysis of landmark judgements that support constitutional principles of equality, dignity and personal liberty.
- To evaluate the practical challenges in the implementation of laws addressing crimes against women, about under-reporting, procedural delays, and lack of sensitivity and their impact to justice.

1.2. Research Problem

Despite the presence of a legal framework which is aimed at addressing crimes against women, gender-based violence continues at an alarming level in India. The enactment of the *Bharatiya Nyaya Sanhita, 2023*, was intended to reform and the criminal law and also by strengthening protections for women by consolidating and also reforming provisions relating to sexual offences, domestic abuse, cruelty, and offences against dignity and autonomy. However, the continued happenings of such crimes raise questions on whether the laws are effective and how effective is the judicial application. Significant gaps yet remain in the practical implementation of the legislature as reflected in issues such as under reporting of offences, procedural delays, evidence damages, challenges, societal stigma, and lack of gender sensitivity. The judiciary has played an important role in advancing women's rights through landmark judgements, these have not been sufficient to overcome systemic deficiencies within the criminal justice process. Consequently, there exists an important need to critically examine the legal framework governing crimes against women under the *Bharatiya Nyaya Sanhita, 2023*.

1.3. Research Question

- What is the scope and effectiveness of the legal framework governing crimes against women under the *Bharatiya Nyaya Sanhita, 2023*, in addressing the diverse forms of gender-based violence faced by women?
- How have landmark judicial decisions contributed to the interpretation, expansion, and enforcement of laws relating to crimes against women in India, particularly in advancing constitutional principles of equality, dignity,

and personal liberty?

- What are the key practical and systemic challenges in the Implementation of laws addressing crimes against women, and how do these challenges affect access to justice and the overall efficacy of the criminal justice system?

1.4. Hypothesis

This study proceeds on the hypothesis that the *Bharatiya Nyaya Sanhita, 2023* has introduced a more comprehensive and structured legal framework for addressing crimes against women by clearly defining and criminalising various forms of gender-based violence, harassment, cruelty, and exploitation. However, it is further hypothesised that the effectiveness of these provisions is substantially limited by persistent challenges in implementation, including inadequate enforcement, procedural delays, under-reporting of offences, and lack of gender sensitisation within institutions. The study also assumes that judicial interpretation has played a crucial role in strengthening the protection of women's rights by expanding the scope of criminal law in accordance with constitutional principles of equality, dignity, and personal liberty. Despite progressive statutory developments and landmark judicial interventions, the hypothesis suggests that deeply rooted societal attitudes and structural barriers continue to hinder meaningful access to justice for women.

2. Research Methodology

The present study adopts a doctrinal research methodology based on the analysis of secondary legal resources. It examines statutory provisions relating to crimes against women under the *Bharatiya Nyaya Sanhita, 2023*, along with the relevant legislations and constitutional safeguards. This approach gives us a structured understanding of the scope, intent, and operation of laws addressing gender-based offences in India. Judicial decisions constitute a very important component of the research. Landmark judgements of the supreme court of India and High courts are analysed to assess the role of the interpretations of laws and also in the strengthening protections for women and advancing constitutional principles of equality, dignity, and personal liberty. The study further relies on secondary materials such as legal commentaries, academic journals, law commission reports, and online legal databases. The research is qualitative and does not include empirical data collection.

2.1. Literature Review

2.1.1. Flavia Agnes, Protecting Women Against Violence, Review of a Decade of Legislation

Flavia Agnes, in her paper on legislative reforms for women's protection, there is analysis on whether criminal laws have actually improved women's safety in India. She concludes that there are several amendments and new laws have been introduced, but the crimes against women continue to weaken due to the societal stigma and weak enforcement and lack of protection, which is directly relevant to analysing the crimes against women under the *Bharatiya Nyaya Sanhita, 2023* [4].

2.1.2. Upendra Baxi, The Supreme Court and Gender Justice

Upendra Baxu examines the role of the Indian Judiciary in promoting gender justice through constitutional interpretation. He argues that courts have played a progressive role in expanding the meaning of equality, dignity, and personal liberty in cases involving women. He has also noted that judicial pronouncements alone cannot ensure justice unless it is supported by implementing the laws in real life. This paper is significant because it helps in understanding the judicial role and its interpretation in crimes against women [5].

2.1.3. Indira Jaising, Violence Against Women: The Indian Perspective

Indira Jaising focuses on systemic barriers and challenges faced by women in accessing justice. She discusses issues regarding procedural delays, lack of legal awareness, and institutional bias and patriarchy and societal stigma within the criminal justice system. The paper is relevant as it explains why victims of crimes against women often hesitate to approach authorities despite the existence of strong laws [6].

2.1.4. The Law Commission of India, 172nd Report

The law commission of India in its 172nd report critically analyses the existing legal framework on sexual offences. It also identifies the flaws in definitions, evidentiary standards, and trial procedures, and also recommends reforms to make the law more victim focused. This report also provides an important basis for analysis the legislative developments which also includes reforms reflected in the Bharatiya Nyaya Sanhita, 2023.

2.1.5. Justice J.S. Verma Committee Report on Amendments to Criminal Law

Justice J.S. Verma, in his report on the amendments to criminal law has highlighted the failures in policing, investigation, and trial process, and stresses the need for gender sensitisation and accountability. The report is very crucial in understanding the implementation challenges in laws relating to crimes against women [7].

2.1.6. Madhu Mehra, Law, Gender and Sexual Violence: Analysis of Indian Criminal Law Reforms

Madhu Mehra examines the effectiveness of criminal law reforms introduced to address violence against women in India. She argues that even though there are legal provisions their impact is limited due to poor implementation, lack of victim support systems, and gender sensitisation of law enforcement agencies. The paper focuses on the rights, safety, and recovery of survivors instead of focusing only on punishment. This work is relevant as it strengthens the argument that legislative alone is insufficient to address crimes against women [8].

The Bharatiya Nyaya Sanhita, 2023 (BNS) represents a significant legislative effort to address the increasing crimes against women by recognising the differences regarding the gender-based violence. The framework under the BNS extends beyond the traditional methods of physical harm and incorporates offences that violates a women's dignity, integrity, privacy, respect and mental well-being. By reforming and revising criminal provisions, the BNS seeks to modernise the law in response to the evolving realities of the modern life. Sexual offences are the core part within the BNS. Provisions relating to rape define the offence as a non-consensual sexual act, where consent is the important part of a sexual act. The law recognises the aggravated forms of sexual violence where the offence is done by persons in positions of trust or authority, or where the victim is vulnerable or weak. In addition to rape, the BNS also mentioned about criminalising sexual harassment, voyeurism, and stalking, which involve unwanted sexual acts, interrupting one's privacy, or repeated acts of following a woman and monitoring her. These provisions reflect an expanded understanding of sexual violence as including acts that may not involve physical force but nevertheless it causes serious harm to dignity and mental well-being of that woman [9]. Crimes within the domestic sphere are addressed through provisions by criminalising cruelty by husband or relatives, where cruelty is defined to include physical violence, mental harassment, coercion, and conduct likely to cause grave injury to a women's mental or physical health. This definition is important because it acknowledges emotional and psychological abuse as punishable harms, which challenges the traditional steps where they tend to normalise abuse in the name of marriage.

Dowry related harassment and abuse are also included within this framework which recognises the financial demands which often leads to violence against married woman. The BNS further includes offences against modesty and dignity of women, such as assault or criminal force used against her to bring down her modesty, verbal abuse of a sexual nature, and acts that humiliate or intimidate women in public or private spaces. These provisions aim to protect women from everyday forms of harassment that often go unreported but contribute towards the systemic gender inequality. Additionally, the BNS criminalises trafficking and exploitation, recognising these as organised crimes that disproportionately affect women and girls. Such provisions address transportation or exploitation for sexual or forced labour purposes, thereby extending protection to women facing structural and economic vulnerabilities [10]. The BNS addresses termination of pregnancy only in limited circumstances namely where there is a miscarriage caused without a woman's consent, through coercion, or threatening because it is a girl child. In such cases, the offences are a violation of the woman's bodily integrity [11]. It is further covered in the Medical Termination of Pregnancy Act, 1971, the BNS intervenes when there is a criminal harm to women. While the scope of BNS is clearly very strong, its effectiveness depends on how it is intervened, awareness and enforcement. Although the law provides legal mechanisms,

3. Discussion and Analysis

3.1. Scope and Nature of Crimes Against Women under the Bharatiya Nyaya Sanhita, 2023

the lack of institutional commitment and the procedures that focuses on the victims it is not used to its full potential.

3.2. Judicial Interpretation and Expansion of Protection for Women's Rights

Judicial interpretation has played a significant role in shaping the application and effectiveness of laws relating to crimes against women. Indian court have consistently understood criminal provisions in light of constitutional mandates, particularly Article 14 Right to equality, Article 15 Prohibition of Discrimination, and Article 21 Right to life and personal liberty, this raises crimes against women from being just violations of ordinary laws to serious constitutional issues. The judiciary has expanded the understanding of gender-based violence by recognising that harm to women is not limited to physical injury but includes psychological trauma, loss of dignity, and violation of autonomy. Courts have emphasised that criminal laws protecting women must be interpreted as to fulfil their protective objectives rather than putting it in a manner where it defeats the legislative intent [12]. This approach has been particularly important in cases involving sexual offences, domestic cruelty, and workplace harassment. Judicial reasoning has also addressed the power imbalances in crimes against women. By recognising the unequal social, economic, and positions of women in the society, the courts have reformed the need for sensitivity in evaluating evidence. The judiciary has rejected stereotypical assumptions about women's behaviour and the trust in women's words, which has made the judicial to focus on the victim centric approach and justice can be granted. Court have stepped in to fill the gaps left by weak laws or poor administration. The BNS act has clear given instructions to the police and other authorities to conduct proper investigations, by following fair trial procedures and to protect the rights and dignity of victims during the criminal process.

Courts have also developed stronger sentencing principles, recognising that crimes against women do not affect only the Individuals victim but harm society as a whole. Due to this the judges have made sure that they are fair, proportionate, and strong enough to be implemented thoroughly. Judges have also recognised that crimes against women are not just private or family matters but they are serious social crimes that create fear and inequality in society. Because of this, courts have said that punishment should match the seriousness of the crime committed and also the punishment should be strong enough to influence the society that it will stop others from doing similar offences. The aim is to clearly show that violence against women will not be accepted [13]. However, courts have their own limits, judges can only decide cases that comes before them. They cannot directly fix administrative problems or change social attitudes. Even strong and progressive court decisions depend on proper action by the police, prosecutors, and other authorities. Delays in investigation, poor evidence collection, lack of training, and insensitive behaviour by officials can reduce the impact of court orders. Therefore, the judiciary has played an important role in protecting women's rights

and focusing on victims, it cannot bring real change on its own. Real justice for women needs efforts, the legislature must make clear and effective laws. The executive must ensure proper enforcement and training, and institutions must adopt gender sensitive practices. Only when all these systems work together can women truly receive justice for all the crimes caused against them.

3.3. Practical and Systematic Challenges in Implementation and their Impact on Access to Justice

Even though there are many laws and progressive court judgements to deal with crimes against women, but putting these laws into practice remains very difficult. One of the biggest problems is under reporting of crimes. Many women do not report offences because they fear the society would judge them or ruin their character, or get threatened by the offender. Economic dependence on family members or spouses, fear of losing social respect, and concern for family honour also discourages women from approaching the police, especially in cases of domestic violence, sexual harassment, and marital abuse. Another major challenge is procedural delay and inefficiency. Complaints are often registered late, investigation move slowly, and trials take many years to finish [14]. These delays increase the emotional and mental suffering of victims and often lead to challenges where the victim (women) is constantly questioned and forced to relive their trauma. Because many crimes against women take place in private spaces, such as homes or workplaces, collecting evidence becomes difficult. In many cases, the burden of proof unfairly falls on the victim, without considering the unequal power relationships, fear, and coercion involved in such offences. A serious problem is the lack of gender sensitisation among police officers, investigators, prosecutors, and sometimes even judges.

Victim may face insensitive questioning, disbelief, or moral judgement. Patriarchal attitudes and harmful stereotypes, such as questioning a woman's character or behaviour, weaken the protective purpose of the law. Poor training and lack of awareness result in weak investigation and ineffective prosecution, which ultimately leads to low conviction rates and loss of public trust in the justice system. In addition, there is also a lack of proper victim support systems. Many women do not have access to counselling, free legal aid, safe shelters, medical support, or witness protection. Without these services, victims may feel like they are isolated and their words do not matter and they also feel like they are unsafe throughout the legal process. As a result, the criminal justice system itself becomes stressful and traumatic, discouraging women from continuing with their cases or seeking justice at all. These challenges show us a clear gap between the law on paper and the reality faced by women. Although the Bharatiya Nyaya Sanhita (BNS) provides a strong and comprehensive legal framework, its success depends on effective implementation [15]. This requires institutional accountability, better administration, and changes in social attitudes. Addressing crimes against women therefore needs a multi- dimensional approach, where the law enforcement comes together with education, gender sensitisation, victim

support, and a justice system that truly focuses on the needs and dignity of survivors.

3.4. Landmark Cases

3.4.1. Vishaka v. State of Rajasthan (1997)

Bhanwari Devi, a social worker in Rajasthan who was working in a government programme to prevent child marriages. She tried to prevent child marriage in a powerful upper caste family and in retaliation she was brutally gang raped while performing her official duties. When the case went to court, the accused were acquitted because of lack of evidence and social pressure, which exposed how unsafe workplaces were for women and how the law completely failed them. At this time, India did not have any specific law to deal with sexual harassment of women at the workplace. Because of the lack of laws, several women's rights organisations approached the supreme court through a public interest litigation, asking for protection for working women. The main question before court was whether sexual harassment at the workplace violates a woman's fundamental rights and whether the court could step in even though parliament had not enacted a law. The supreme court said that sexual harassment was a bad behaviour but a serious violation of women's right to equality, dignity, and safe working conditions under Articles 14, 15, 19(1)(g), and 21 of the constitution. Since there was no legislation, the court created the Vishaka guidelines, making it compulsory for employers to prevent and address sexual harassment. Today these ideas are clearly reflected in the Bharatiya Nyaya Sanhita, 2023. Section 75 of the BNS defines sexual harassment as any unwelcome physical contact, sexually coloured remarks, or other acts of a sexual nature that violate a woman's dignity. Section 74 punishes assault or use of criminal force against a woman with the intention of outraging her modesty, meaning her inherent sense of dignity. The BNS also recognises related forms of harassment like voyeurism under Section 78 and stalking under Section 79, which deal with invasion of privacy and repeated unwanted attention. What started as a painful story of injustice in Vishaka eventually changed how the law looks at workplace safety, turning women's everyday experiences of harassment into recognised crimes under criminal law [16].

3.4.2. Shayara Bano v. Union of India (2017)

Shayara Bano was a Muslim woman who suddenly found her marriage was dissolved when her husband pronounces triple talaq without discussing, consent or any opportunity for her to respond. Overnight, she was left without marital security, financial stability, or social protection. This experience was not unique to her; it reflected the reality faced by many Muslim women who could be divorced instantly and unilaterally by their husbands. Feeling that this practice stripped women of dignity and treated them as unequal partners in marriage, Shayara Bano approached the Supreme Court challenging the constitutional validity of talaq-e-biddat. The central question before the Court was whether a personal law practice that allows a man to end a marriage at will could survive constitutional scrutiny, particularly in light of the rights to equality, non-discrimination, and personal dignity. The Supreme Court held that instant triple talaq was arbitrary

in nature because it placed Muslim women in a position of complete vulnerability, allowing marriage to be terminated without due process or safeguards. The Court observed that such a practice violated Article 14 of the Constitution by treating women unequally and undermined their dignity under Article 21. Although the case did not arise directly from criminal law, its reasoning strongly influenced how the law views cruelty and coercion within marriage. Under the Bharatiya Nyaya Sanhita, 2023, Section 85 recognises cruelty against a married woman as an offence, defining cruelty to include conduct that causes mental or emotional suffering, humiliation, or coercion. By striking down instant triple talaq, the Court reinforced the idea that marriage cannot be a site of unchecked power and that practices causing emotional harm and insecurity to women cannot be justified in the name of tradition. The judgment marked a shift from unquestioned personal law practices towards a constitutional understanding of marriage grounded in dignity, equality, and protection of women [17].

4. Conclusion

Crimes against women are not only legal issues but also social realities shaped by long standing beliefs, traditions, and power structures. Over the time society has developed stronger laws to protect women, and the Bharatiya Nyaya Sanhita, 2023 reflects this progress by clearly recognising offences such as sexual harassment, cruelty within marriage, assault on dignity, stalking and exploitation of women. Through defined provisions and punishments, the BNS aims to safeguard women's equality, dignity, and personal liberty, in line with constitutional values. Judicial decisions like Vishaka v. State of Rajasthan and Shayara Bano v. Union of India have played a crucial role in shaping this legal framework by highlighting the realities faced by women in workplace and also within marriage and by ensuring that law responds to lived experiences rather than social science. However, despite the existence of strong laws, crimes against women continue due to deeply rooted prejudices and societal attitudes. Practices such as child marriage, denial of reproductive choice, and disregard for women's consent show that legal reform alone is not sufficient. The principle that "no means no" must be understood not only as a legal rule or just because the law says but it should be understood as a societal rule. Supporting women's education, bodily autonomy, and informed reproductive choices, including access to safe abortion as permitted by law, is essential for real improvement. True change requires focusing on upbringing, awareness, and respect for women from an early age, rather than relying solely on punishment after harm has occurred. In conclusion, while the Bharatiya Nyaya Sanhita, 2023 provides a comprehensive legal framework to address crimes against women, its effectiveness ultimately depends on societal transformation, and implementation of laws and collective commitment from the society as a whole to give equality and dignity to women. Law can protect but society must change for justice to truly reach women.

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