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BEYOND COLONIAL SHADOWS: A CRITICAL STUDY OF WOMEN'S EMPOWERMENT AND SAFETY UNDER BHARATIYA NYAYA SANHITA, 2023

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ABSTRACT

For over a century and a half, India's legal system relied on a colonial-era code that often felt disconnected from the lived realities of modern Indian women. The **Bharatiya Nyaya Sanhita (BNS), 2023**, is more than just a legislative update; it is an effort to finally move past the **163-year-old IPC** and build a justice system that truly understands our society. It is a "heart-centered" attempt to fix a deep-seated contradiction: living in a culture that honors the feminine while simultaneously struggling with systemic violence against women.

This paper takes a close look at the flaws of the old system where laws often lacked the nuance to handle 21st-century threats like **digital stalking**, **voyeurism**, and **deceptive exploitation**. By moving toward these new laws, we are seeing a fundamental shift in how the law views women not as "passive victims" in need of pity, but as empowered citizens with the right to safety and dignity.

We explore the practical changes brought by the BNS, such as the long-awaited legal recognition of "**sex under false promises**" and much stronger safeguards for **minors**. These reforms aren't happening in a vacuum; they are part of a larger push by the government to create a justice system that actually listens to and supports survivors.

However, a law is only as strong as its execution. This study emphasizes that while the BNS is a powerful tool, its true success depends on us as a society on breaking down the **social stigma** that surrounds reporting crimes and ensuring these protections reach every corner of the country. Ultimately, the BNS is a vital bridge to a future where every woman in India can live with the respect and security she deserves.

Keywords: BNS 2023, Digital Evidence, Gender Justice, Section 69, Women's Safety, Cybercrime, BSA 2023

1. Introduction

For decades, India has grappled with a painful paradox: a culture that deeply respects the feminine while witnessing a persistent struggle for women's safety. Whether it is the tragedy of **dowry deaths** or the silent fear of **digital stalking**, the headlines often remind us that the old laws weren't quite enough to keep up with

modern challenges. The **Bharatiya Nyaya Sanhita (BNS), 2023**, isn't just a new book of rules; it is a heart-centered attempt to finally move past the colonial-era **IPC of 1860**, which

often felt cold and outdated in its treatment of gender-based violence.⁹²⁷

The global rise in crimes against women reflects a deep-seated "monstrosity" fueled by changing lifestyles and a decline in moral values. To counter this, it is an absolute necessity to create a legal framework where Indian women can live with "respect, honor, dignity, and peace." While the IPC provided general protection, the **Bharatiya Nyaya Sanhita (BNS)** represents a vital evolution by introducing specific "socioeconomic offences" to combat these crimes more effectively. Ultimately, these legal changes are a "social imperative" designed to decolonize the justice system and ensure a safer, more inclusive India.⁹²⁸

While information technology has revolutionized communication, it has also paved the way for a "monstrosity" of digital offenses that disproportionately target the dignity and safety of women. The rise in **cyberstalking, morphing, and online bullying** highlights a "vicious outlook" where the internet is used as a tool for "exploitation and harassment."⁹²⁹

The statistics from the **National Crime Records Bureau (NCRB)** showing a **20% increase** in cybercrime cases between 2014 and 2015 underscore the "enormity" of this digital crisis. However, the lack of victim-specific data in official reports and the fact that **30% of women remain unaware** of their legal protections reveal a "meager concern" for the practical safety of women in the virtual world.

The transition to the **Bharatiya Nyaya Sanhita (BNS)** represents an "absolute necessity" to bridge these gaps. By incorporating "modern and digital safety" provisions, the BNS aims to move away from an "outdated colonial framework" to a system that acknowledges the "complex nature of gender-based crimes" in the 21st century. Ultimately, addressing these cyber-crimes is a "social imperative" to ensure that the

"liberty, peace, and dignity" of Indian women are protected in both the physical and digital realms.

2. Gaps under IPC

The statistical trajectory of crimes against women in India from 2018 to 2022 reveals a troubling persistence of traditional violence alongside a rapid expansion of modern threats. While the total number of cases rose significantly to 4,45,256 by 2022, the data highlights that domestic cruelty remains the most prevalent offence at 31.4%, followed by a steady increase in kidnapping and a dramatic rise in reported insults to modesty. Furthermore, the distressingly consistent volume of rape cases and the doubling of cyber-enabled crimes underscore a "monstrosity" of violence that now spans domestic, public, and digital spheres. This dual challenge of entrenched intimate partner violence and evolving digital victimization serves as a "social imperative" for the **Bharatiya Nyaya Sanhita (BNS)** to provide a more responsive, victim-friendly framework that can effectively decolonize the justice system and ensure the "liberty, peace, and dignity" of Indian women in a changing world.⁹³⁰

3. Need of Enacting Laws Relating to Women Under BNS

The enactment of laws relating to women under the **Bharatiya Nyaya Sanhita (BNS), 2023**, represents a "social imperative" to address the evolving nature of gender-based violence in modern India. This legislative shift moves away from the "cold and outdated" colonial framework of the 1860 IPC to a system that prioritizes the dignity and agency of women.⁹³¹

3.1. Structural Reform and Priority

The BNS fundamentally reorganizes how crimes against women are handled within the legal code:

➤ **Dedicated Chapter:** For the first time, offences against women and children are

⁹²⁷ file:///C:/Users/arora/Downloads/V51735%20(1).pdf

⁹²⁸ <https://blog.ipleaders.in/offences-against-women/>

⁹²⁹ <https://docs.manupatra.in/newsline/articles/Upload/CE3E0AE8-DE2B-41EA-92A2-8A46035DECEB.pdf>

⁹³⁰ <https://sprf.in/crimes-against-women-in-india-trends-challenges-and-policy-responses/>

⁹³¹ file:///C:/Users/arora/Downloads/V51735%20(2).pdf

consolidated into a single, prioritized chapter (Chapter V).⁹³²

➤ **Decolonization of Law:** The transition aims to reflect modern Indian values rather than the "retributive and deterrent" focus of British colonial rule.⁹³³

➤ **Addressing the "Painful Paradox":** The law attempts to resolve the contradiction of a culture that reveres the feminine while struggling with systemic violence.⁹³⁴

3.2. Closing Legal Gaps for Modern Crimes

The BNS introduces specific provisions for "invisible" or emerging crimes that the IPC lacked the nuance to handle:

➤ **Deceitful Exploitation (Section 69):** Specifically criminalizes sexual intercourse obtained through "deceitful means," such as false promises of marriage or employment.⁹³⁵

➤ **Enhanced Digital Safety:** Strengthens the legal response to cyber-crimes like stalking, voyeurism, and the circulation of intimate imagery, which more than doubled between 2018 and 2022.⁹³⁶

➤ **Protection of Minors:** Mandates stricter punishments for crimes against girls and fixes the age threshold for legal consent consistently at 18 years.⁹³⁷

3.3. Victim-Friendly and Restorative Approach

The need for enactment was also driven by the desire to reduce "social stigma" and empower survivors through the legal process:

➤ **Empowerment over Passivity:** Shifting the legal view of women from "passive victims" to citizens with recognized legal agency.⁹³⁸

➤ **Reformative Justice:** Aligns with the philosophy of "hate the crime, not the criminal," focusing on rehabilitation and reintegration.⁹³⁹

➤ **Handling Matrimonial Cruelty:** Addresses the high volume of "cruelty by husband or relatives," which accounted for 31.4% of crimes against women in 2022.⁹⁴⁰

4. Judicial Aspects

The transition from the IPC to the **Bharatiya Nyaya Sanhita (BNS), 2023** represents a legal shift that codifies years of judicial evolution.

Below are the key case laws and judicial principles to include in your study:

4.1. Deceitful Sexual Exploitation (Section 69 BNS)

One of the most significant judicial shifts is the formal codification of "sex on the false promise of marriage."

➤ The Supreme Court recently clarified that for a conviction under Section 69, there must be adequate evidence that the accused had **no intention whatsoever** of fulfilling the promise to marry from the very beginning. The court warned against converting prolonged voluntary relationships into "forcible sexual intercourse" once the relationship ends.⁹⁴¹

This judgment helps the judiciary distinguish between a **breach of promise** (which may not be criminal) and a **false promise** (which is a criminal "deceitful means" under Section 69).

4.2. Protection of Minors & Consent (Exception 2 to Section 63 BNS)

The judiciary has played a pivotal role in standardizing the age of consent, which is now reflected in the BNS.

➤ In a landmark ruling, the Supreme Court struck down the exception that allowed a husband to have intercourse with his "child wife" (aged 15–18). The court held that sexual intercourse with any girl below **18 years** is rape, regardless of marriage.⁹⁴²

⁹³² Chapter 5 of BNS

⁹³³ file:///C:/Users/arora/Downloads/V51735%20(2).pdf

⁹³⁴ ibid

⁹³⁵ ibid

⁹³⁶ ibid

⁹³⁷ ibid

⁹³⁸ ibid

⁹³⁹ ibid

⁹⁴⁰ ibid

⁹⁴¹ Rajnish Singh @ Soni v. State of U.P. (2025)

⁹⁴² Independent Thought v. Union of India (2017)

The BNS has now formally incorporated this decision by raising the age threshold in **Exception 2 to Section 63** from 15 to 18 years, harmonizing the Sanhita with the **POCSO Act**.

4.3. Addressing Matrimonial Cruelty (Sections 85 & 86 BNS)

The judiciary remains vigilant about the "monstrosity" of cruelty while preventing the misuse of the law against distant relatives.

➤ The Supreme Court held that "vague and omnibus" allegations against the entire family of the husband are insufficient for prosecution. This principle is vital for the application of **Section 85 of the BNS**, ensuring that only those directly responsible for cruelty are held liable.⁹⁴³

➤ Courts continue to enforce the "no automatic arrest" rule for offences punishable by up to seven years, such as cruelty. This ensures that the police follow a checklist before arresting a husband or his relatives under Section 85.⁹⁴⁴

4.4. Dowry Deaths & The "Live Link" (Section 80 BNS)

➤ The Court interpreted the phrase "soon before her death" to mean a **proximate and live link** between the dowry demand and the unnatural death. This judicial interpretation is the backbone of how **Section 80 of the BNS** is applied today, ensuring that temporal distance doesn't let culprits escape if the mental agony was persistent.⁹⁴⁵

5. Government Initiatives

The implementation of the BNS is supported by a multi-sectoral ecosystem designed to bridge the gap between "law on paper" and "justice on the ground." The **Nirbhaya Fund**, a non-lapsable corpus, remains the financial backbone for these initiatives, supporting "Safe City Projects" that utilize AI and smart surveillance to deter crimes

like stalking and outraging modesty (BNS Sections 74 & 77).⁹⁴⁶

To address the BNS's mandate for procedural expediency, the government has institutionalized **Fast Track Special Courts (FTSCs)**. These courts are specifically tasked with the swift disposal of cases involving sexual offences (BNS Section 63) and the POCSO Act, aiming to increase the conviction rate which has historically struggled with delays.⁹⁴⁷

Complementing the "victim-friendly" approach of the BNS, the **One Stop Centre (OSC) – 'Sakhi'** scheme provides integrated support, including medical aid, legal counseling, and temporary shelter, for women facing cruelty or acid attacks (BNS Sections 85 & 124). By housing these services under one roof, the government aims to mitigate the "social stigma" that often prevents survivors from approaching the traditional criminal justice system.⁹⁴⁸

In response to the expanded definitions of **Cyber-crimes** under Sections 76 and 77 of the BNS, the **National Cyber Crime Reporting Portal** and the **Cyber Shikshaa** program have been strengthened. These initiatives provide a digital interface for reporting voyeurism and online harassment, acknowledging the 20% rise in cyber-enabled crimes reported in recent NCRB cycles.⁹⁴⁹

Finally, the government has prioritized **Forensic and Investigative Strengthening** to comply with the BNS mandate for audio-video recording of statements and a 7-day window for medical reports. By modernizing Forensic Science Laboratories (FSLs) and strengthening Anti-Human Trafficking Units (AHTUs), the state aims to meet the "social imperative" of providing a robust, science-backed deterrent to violence.⁹⁵⁰

⁹⁴³ Kahkashan Kausar v. State of Bihar (2022)

⁹⁴⁴ Armesh Kumar v. State of Bihar (2014) & Recent Compliance (2026)

⁹⁴⁵ Satbir Singh v. State of Haryana (2021)

⁹⁴⁶ Ministry of Women and Child Development, Annual Report 2024-25; Nirbhaya Fund Framework Guidelines

⁹⁴⁷ Department of Justice, "Operationalization of Fast Track Special Courts," 2025; Justice J.S. Verma Committee Report, 2013

⁹⁴⁸ National Institute of Public Cooperation and Child Development (NIPCCD), "Impact Assessment of One Stop Centres," 2023

⁹⁴⁹ National Crime Records Bureau (NCRB), "Crime in India 2022," Snapshots; Ministry of Home Affairs, "Digital Safety Guidelines for Women," 2026

⁹⁵⁰ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Procedural Mandates; Ministry of Home Affairs, Modernization of Police Forces Scheme, 2025

Suggestions and Way Forward

The **Bharatiya Nyaya Sanhita (BNS), 2023**, is a powerful set of rules, but for these rules to truly change the lives of Indian women, we need to look beyond the courtroom. A law is only as strong as the hands that uphold it and the hearts that believe in it.

6.1. Bringing the Law to the Doorstep

It is a "painful paradox" that while we have modern laws, **30% of women** still don't know they exist. We need to bridge this gap not through thick textbooks, but through **community connection**.

➤ **Academic Leadership:** Colleges shouldn't just be places of study; they should be hubs for local awareness. Moving legal literacy out of the classroom and into villages, talking to women in their own language about things like **Section 69 (Deceitful Means)** is how we turn a "legal necessity" into a "social reality."

6.2. Healing the System's Soul

A survivor's journey often begins at a police station. If that first interaction is met with judgment or "social stigma," the law has already failed her.

➤ **Empathy Training:** We must move past the "colonial mindset" of the police being just an enforcement agency. They need to be trained to listen. When a woman reports **matrimonial cruelty (Section 85)**, the system should respond with sensitivity, not just paperwork.

6.3. Securing the Digital Frontier

As our lives move online, our fears have followed. The "monstrosity" of **cyber-stalking and voyeurism** cannot be fought with 19th-century tools.

➤ **Swift Digital Justice:** We need a "Way Forward" where digital forensics isn't a slow-moving hurdle. Every district needs expert teams that can act within hours to take down intimate imagery. Protecting a woman's dignity in the digital world is a **"social imperative"** that

requires high-tech efficiency combined with a human touch.

6.4. A Shift Toward Healing (Restorative Justice)

The BNS gives us a chance to move toward **reformative justice** focusing on healing the survivor rather than just punishing the offender.

➤ **Direct Support:** We should ensure that every rupee of a fine collected from an offender goes directly to the victim's rehabilitation through the **Nirbhaya Fund**.

➤ **Community Accountability:** For minor offenses, using **community service (Section 4(f))** can help offenders understand the "social ethos" they violated, fostering a culture of respect rather than just resentment.

7. Conclusions

The transition from the **Indian Penal Code (IPC) of 1860** to the **Bharatiya Nyaya Sanhita (BNS), 2023**, marks a watershed moment in India's legal evolution. By shedding the "colonial shadows" of a 163-year-old framework, the BNS seeks to resolve the long-standing "painful paradox" of Indian society harmonizing a deep cultural reverence for the feminine with a practical, robust, and modern mechanism for women's safety. This research has highlighted that the BNS is not merely a structural reorganization but a "heart-centered" shift toward **victim-centric jurisprudence** and **gender justice**.

The codification of emerging threats such as **deceitful sexual exploitation (Section 69)** and the expanded scope of **cybercrimes** under Sections 76 and 77 demonstrate a legislative intent to move beyond "passive protection" toward "active empowerment." By standardizing the age of consent to 18 years and prioritizing offences against women in **Chapter V**, the Sanhita effectively centers the dignity, agency, and liberty of the modern Indian woman.

However, as this study emphasizes, the law is only the first step. The "social imperative" requires that these legal reforms be matched by grassroots literacy, institutional empathy, and a



technological infrastructure capable of tackling digital monstrosities. The BNS serves as a **vital bridge** to a future where justice is restorative rather than just retributive. For this transition to be truly successful, the "spirit of the law" must be felt at every police station, in every courtroom, and in every village across the country. Ultimately, the BNS provides the roadmap to a society where every woman and girl can live in an atmosphere free from denigration, empowered by a legal system that finally truly understands and protects her.





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