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Strengthening Legal and Institutional Response to Sexual and Gender-Based Violence in India: A Critical Analysis of Victim-Centric Criminal Justice Reforms

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ABSTRACT

Sexual and gender-based violence (SGBV) remains one of the most widespread human rights violations committed against women, children and gender minorities in India, despite the legislative and institutional measures already in place. The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Bharatiya Sakshya Adhinyam, 2023 (BSA) marks a shift from a perpetrator-focused criminal justice approach to a victim-centric model. Yet the success of these reforms depends not only on the recognition of victims' rights in law but also on their effective implementation through responsive institutions, trauma-sensitive procedures and support services. This study critically examines the development of victimology in India, the socio-legal context of sexual and gender-based violence, and the transformation brought about by the recent criminal law reforms. Drawing exclusively on scholarly sources, the paper analyses the experiences of victims in universities, public institutions and child protection agencies, with particular attention to the psychological, procedural and institutional barriers that victims continue to face. The paper contends that although legislative changes have strengthened legal protection and procedure, entrenched patriarchal inequality, social stigma, institutional indifference and the absence of adequate victim support continue to obstruct the pursuit of justice. It argues that a sustainable impact requires not only progressive legislation but also institutional accountability and gender-sensitive administration.

Keywords: *Sexual and Gender-Based Violence, Victimology, Bharatiya Nyaya Sanhita, POCSO, Universities, Victim-Centric Justice, Criminal Law Reforms*

I. INTRODUCTION

Sexual and gender-based violence (SGBV) has become one of the most significant challenges confronting modern criminal justice systems across the world. Whereas traditional crimes

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against the person involve an initial act of aggression with immediate effects on the victim, SGBV extends beyond that act and produces lasting physical, psychological, social and economic effects on survivors. Such acts range from rape and sexual assault to sexual harassment at work, domestic violence, stalking, cyber sexual harassment, child sexual abuse, institutional harassment and various forms of gender-based discrimination. Contemporary victimology therefore shows that these offences cannot be understood purely within a framework of criminal accountability, because they are rooted in a system of social inequality characterised by patriarchy, gender hierarchy, economic dependency and institutional discrimination. In response, modern criminal justice systems seek to reconcile offender accountability with survivor rehabilitation, dignity, participation and restorative justice. The recent reform of Indian criminal law reflects this new approach, with an increased focus on survivor rights and compensation. At the same time, the persistence of gender inequality raises many questions about the efficacy of these legal reforms.¹

The historical development of the criminal justice system in India makes clear that the victim was always a marginal figure in criminal trials. Under the colonial system established by the Indian Penal Code of 1860, a crime was regarded more as an offence against the State than against an individual victim. Victims were treated largely as witnesses, and their role ended with the reporting of the offence and their assistance in prosecuting the case. The emotional and physical trauma of victims, and their rehabilitation, compensation and future well-being, took second place. Modern victimology, by contrast, recognises that the rights, dignity and well-being of victims must also be considered in the administration of criminal justice. Recent scholarship suggests that India has moved gradually towards a victim-oriented justice system through judicial activism, statutory amendments, compensation laws, special investigation processes and institutional structures. The introduction of the Bharatiya Nyaya Sanhita, 2023, together with the Bharatiya Nagarik Suraksha Sanhita, 2023, signals a paradigm shift in which victims are increasingly seen as stakeholders in the criminal trial rather than mere participants.²

The importance of this shift is most clearly seen in crimes against women and children. Recent studies demonstrate the extensive psychological trauma inflicted on victims of sexual violence, which extends far beyond the offence itself. Survivors may experience shame, self-blame, depression, anxiety, post-traumatic stress disorder (PTSD), suicidal tendencies and functional impairment following sexual abuse. These effects are aggravated where the abuse is prolonged,

¹ Deeksha Barath & Shikha Trivedi, *The Structural Transformation of Victimology in India: A Socio-Legal Analysis of Recent Criminal Reforms in Combatting Violence Against Women*, 14(1) INT'L J. RSCH. & TECH. 74 (2026).

² *Id.*

accompanied by physical violence, or committed by close family members or associates. An empirical study of 100 victims of child sexual abuse recorded under the Protection of Children from Sexual Offences Act found psychiatric disorders in more than half of the individuals studied. PTSD was the most common psychiatric disorder, while conduct disorder and depression were the next most common. The study also found a significant correlation between penetrative abuse, repeated victimisation and physical harm on the one hand, and the incidence of depression, PTSD and suicidal tendencies on the other.³

II. UNDERSTANDING SEXUAL AND GENDER-BASED VIOLENCE: EXPANDING THE VICTIMOLOGICAL PERSPECTIVE

Modern victimology no longer relies on a narrow definition of sexual violence as criminal behaviour; it recognises gender-based violence along a spectrum of coercion, discrimination, surveillance, intimidation and structural inequality. Sexual violence is thus not limited to the criminal act of rape but is understood as the outcome of unequal power relations at play in families, at work, in schools, on the streets and online. This approach recognises that victims may endure multiple violations, including emotional abuse, neglect, morality policing, economic insecurity, cyberbullying, social marginalisation and discriminatory policies. It is especially significant for India, where patriarchal traditions may constrain women's movement, agency, sexuality and participation in the public sphere. For this reason, scholars have adopted the term “sexual and gender-based violence,” which encompasses not only sexual assaults but also the range of structural processes that create an environment of victimisation.⁴

One of the key achievements of recent feminist research has been to show how educational institutions can reproduce gender disparities rather than serve as liberating and egalitarian spaces. Universities are often perceived as places of intellectual liberation, but the evidence shows that they replicate the patriarchal structures that dominate wider society. Research conducted in universities in Uttar Pradesh and Delhi found that women students were subjected to curfews, surveillance, dress codes, restrictions on mobility, moral policing, victim-blaming and institutional failure to address cases of sexual harassment. Women students repeatedly reported that the university campus was an extension of the patriarchal family, in which administrators and wardens assumed the role of patriarchs controlling women's movements in the name of protection. These institutions not only reflect gender stereotypes but also shift the

³ Lakshmi Keerthana T., Sireesha S. & Aparna M., *Profiles of Sexual Assault, Psychiatric Morbidity and Global Functioning in Survivors of Child Sexual Abuse: A Cross-Sectional Study*, INDIAN J. PSYCHOL. MED. (2026).

⁴ Adrija Dey, *The Right to the Campus: Sexual and Gender-Based Violence (SGBV) in India Universities*, 33(1) GENDER, PLACE & CULTURE 69 (2026).

burden of safety from the institution to women. The result is that women's freedom is curtailed through security measures while the reporting of sexual crimes is discouraged.⁵

The institutional response to allegations of sexual violence further highlights the structural barriers that victims face. Survivors are commonly met with disbelief, victim-blaming, concern for reputation and pressure not to file complaints for fear of academic repercussions, professional backlash or social ostracism. In most educational institutions, complaint panels lack sufficient independence, gender sensitivity and victim-centred mechanisms. Individuals interviewed in recent studies reported that victims were routinely dissuaded from filing complaints against the accused, questioned about their clothing and behaviour, or told that what had happened to them did not amount to sexual harassment. In several cases, it is alleged that the administration informed parents about students' "misbehaviour" rather than conducting a fair investigation of the perpetrators. This leads to the underreporting of sexual violence and makes clear that the reputation of the institution is valued above the well-being of survivors. Legal reforms addressing substantive criminal offences will therefore be unable to succeed without accompanying institutional change.⁶

III. CHILD SEXUAL ABUSE AS A PUBLIC HEALTH AND CRIMINAL JUSTICE CHALLENGE

Among all forms of sexual violence, the sexual abuse of children may be regarded as the gravest because of its long-lasting developmental effects on the victim. Children are often too young to understand or report such acts, which means that the disclosure of child sexual abuse is frequently delayed because children cannot resist or recognise it. According to the medical literature, child sexual abuse is not merely a criminal matter but a public health issue, because it causes lasting physical, behavioural, developmental and psychological damage. National crime data record high numbers of child sexual abuse reports, yet experts agree that the true rate is far higher owing to substantial underreporting caused by family pressure, social stigma, fear and cultural taboos surrounding sexuality. The Protection of Children from Sexual Offences Act, 2012 was an important legislative step towards a gender-neutral framework for protecting children from sexual exploitation.⁷

The role of medical professionals is especially significant in this context, since most victims first approach medical personnel rather than the police. Modern clinical guidelines stress that

⁵ *Id.*

⁶ *Id.*

⁷ Krithiga Muralidharan et al., *A Comprehensive Approach to Child Sexual Abuse: Insights for Dermatologists*, 92(1) INDIAN J. DERMATOLOGY, VENEREOLOGY & LEPROLOGY 60 (2026).

physicians must understand how to approach these cases from a multidisciplinary perspective encompassing medical management, forensic investigation, first aid and mandatory reporting under the POCSO Act. Effective management involves detailed history-taking, careful physical examination, preservation of evidence, assessment for sexually transmitted infections, administration of emergency contraceptive pills where necessary, counselling, rehabilitation planning and coordination with law enforcement authorities. It is also important to recognise that the absence of physical trauma does not mean that sexual abuse has not occurred, particularly when examination takes place after healing has begun. Medical professionals must therefore be trained to distinguish abuse-related findings from normal anatomical features and other dermatological conditions.⁸

IV. EVOLUTION OF VICTIM-CENTRIC CRIMINAL JUSTICE UNDER THE BHARATIYA NYAYA SANHITA, 2023

The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Bharatiya Sakshya Adhiniyam, 2023 (BSA), replacing the colonial framework of criminal law, is one of the most significant legislative developments in post-independence India. Whereas the Indian Penal Code, 1860 was rooted in a philosophy focused on punishing offenders and maintaining law and order, the new legislation reflects a deliberate intention on the part of lawmakers to acknowledge the role of victims in the dispensation of criminal justice. This shift is the product of decades of judicial pronouncements, Law Commission recommendations and scholarly recognition that justice should be measured not only by the number of convictions but also by the respect, participation, rehabilitation and well-being of survivors. According to current victimology scholarship, the changes introduced by the BNS signify a movement from the colonial view of crime as an offence against the State to the constitutional conception of sexual violence as an offence against the dignity of the individual, as enshrined in Articles 14, 15 and 21 of the Constitution of India.⁹

One notable reform introduced by the BNS is the legislative prioritisation of offences against women and children. Whereas the old IPC scattered offences against women across different chapters, the new legislation consolidates offences against women and children in a dedicated chapter at the outset of the criminal code. Although this may appear to be a matter of mere structure, it carries a strong normative statement, treating offences against women and children as an area of law that demands immediate legislative attention. The new legislation retains

⁸ *Id.*

⁹ Barath & Trivedi, *supra* note 1, at 74.

severe punishments for rape, aggravated sexual assault, trafficking, cruelty and offences against children, while also making legislative provision on consent, deception, exploitation and digital sexual offences. The criminalisation of sexual intercourse obtained through fraud, misrepresentation of identity or abuse of power demonstrates how the legislation has responded to emerging patterns of exploitation coming before the Indian courts.¹⁰

The procedural reforms introduced by the BNSS are equally significant from a victimological perspective, since they aim to reduce the secondary victimisation of the victim through the criminal process and at trial. Traditional criminal procedure often required survivors of sexual offences to give their statements repeatedly to the police, medical personnel, magistrates, prosecuting authorities and the court, compounding their mental distress. In response, the BNSS promotes the recording of statements, the fast-track prosecution of cases, prioritised investigation and procedural sensitivity in dealing with victims of sexual offences. Equally important is the provision for the medical examination of female victims by female doctors wherever practicable, and for medical procedures to be conducted with sensitivity, privacy and consent. These procedural reforms recognise that access to justice cannot be achieved merely by punishing the accused after conviction, but must be available throughout the criminal process, from the reporting stage to rehabilitation. This reflects the philosophy of the new legislation that procedural justice is integral to substantive justice.¹¹

The introduction of the new criminal codes also indicates an acceptance of restorative principles in Indian victimology. Traditional criminal jurisprudence treated incarceration as the primary goal of criminal law, whereas the contemporary victim-centred approach places equal importance on compensation, rehabilitation, counselling, psychological healing and social integration. Modern scholarship maintains that punishment alone cannot restore victims to their former state, since trauma often persists even after the trial has ended. Recent reforms therefore include the further development of victim compensation, alongside institutional services such as One Stop Centres, legal services, counselling centres, shelters and rehabilitation programmes. The continued inclusion of compensation schemes reflects a recognition of the constitutional duty of the State to assist victims who have suffered physically, emotionally and economically as a result of crime.¹²

¹⁰ *Id.*

¹¹ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India).

¹² Barath & Trivedi, *supra* note 1.

V. INSTITUTIONAL RESPONSES AND CONTINUING CHALLENGES IN INDIA

Although there have been considerable legislative advances in this area, empirical research shows that one of the most underdeveloped aspects of India's response to sexual and gender-based violence is the institutional response. While criminal laws may be comprehensive in recognising the victim's rights, their implementation depends on effective coordination among the police, healthcare providers, educational institutions, prosecutors, judges and social service providers. Research conducted in various Indian universities shows that the culture of these institutions reproduces patriarchal values that discourage survivors from reporting incidents of sexual violence, or that minimise their significance in order to protect the institution's reputation. Instead of addressing the systemic causes of violence, Indian universities tend to restrict women's freedom of movement through measures such as hostel curfews, surveillance, dress codes and restrictions on women's movement at night. This approach implicitly shifts responsibility for the prevention of violence from perpetrators to women.¹³

The prevalence of victim-blaming attitudes within institutional environments diminishes the effectiveness of legislative change. Instead of receiving immediate help, survivors often find themselves questioned about their choice of clothing, social interactions, personal qualities or the reasons for a delayed complaint. Such responses reinforce negative stereotypes that treat women's behaviour as responsible for men's aggression. Survivors are thereby discouraged from complaining and fall into a vicious circle of silence. University case studies further show that the authorities of educational institutions tend to place female students under close surveillance while paying little attention to the conduct of offenders. This reflects a broader tendency in society to control women's behaviour under the guise of concern for their safety, rather than offering genuine protection. It follows that, in addition to complaint mechanisms, the organisational culture of higher education institutions must change.¹⁴

Child sexual abuse presents the same institutional problems even where a complete framework exists under the Protection of Children from Sexual Offences Act, 2012. Medical sources note that health practitioners are usually the first to come into contact with survivors, and that early recognition, evidence preservation and psychological treatment are vital. However, a lack of training in forensic examination, mandatory reporting duties, trauma-informed interviewing and child-friendly procedures hampers both effective healthcare and criminal investigation. Current clinical recommendations state that the management of child sexual abuse requires collaboration among paediatricians, dermatologists, psychiatrists, forensic experts,

¹³ Dey, *supra* note 4.

¹⁴ *Id.*

psychologists, social workers, the police and Child Welfare Committees. Fragmented responses by individual institutions cannot address the multifaceted impact of child sexual abuse, since survivors simultaneously require medical care, psychological treatment, legal representation, family counselling, education and continuous follow-up. The absence of such institutional cooperation often results in the failure of the progressive legislation embodied in the POCSO Act and the new criminal codes.¹⁵

The psychological dimension of sexual violence provides a further illustration of the importance of strengthening institutional responses alongside the prosecution of offenders. Research shows that more than 50 per cent of victims of childhood sexual abuse suffer some form of psychological disorder, including post-traumatic stress disorder, depression, behavioural problems and suicidal thoughts. The more traumatic the abuse—involving sexual penetration, multiple offences, severe bodily harm or prolonged abuse—the greater the risk that the victim will develop psychological disorders later in life. Effective criminal justice interventions should therefore include not only criminal conviction but also mental health care, psychological therapy, family intervention and long-term rehabilitation programmes. Otherwise, even after offenders have been successfully prosecuted, survivors will remain at risk of developing psychological difficulties, dropping out of school, becoming socially isolated and losing their ability to function.¹⁶

VI. RECOMMENDATIONS FOR STRENGTHENING VICTIM-CENTRIC JUSTICE IN INDIA

The development of India's criminal justice system through the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhiniyam reveals that no amount of legislative reform will, by itself, end sexual and gender-based violence in society. The efficacy of these laws will ultimately depend on the capacity of institutions to adhere to survivor-oriented principles in their operations. The primary step is therefore the introduction of trauma-informed approaches throughout the criminal justice process. Police officers, public prosecutors, judges, medical personnel, forensic scientists and members of the Internal Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 must undergo regular multidisciplinary training on victim psychology, trauma-focused interviewing, confidentiality and secondary victimisation. Such capacity-building cannot be a one-off exercise; it must become a continuous institutional task.

¹⁵ Muralidharan et al., *supra* note 7.

¹⁶ Lakshmi Keerthana T., Sireesha S. & Aparna M., *supra* note 3.

Empirical research confirms that institutional indifference undermines victims' willingness to file complaints, even where sound laws protect their rights.¹⁷

The reform of educational institutions is particularly necessary, since universities have a unique role in shaping social attitudes towards gender equality. Current research shows that universities still address safety by subjecting women to surveillance and restrictions rather than by tackling structural discrimination and punishing perpetrators. Universities should therefore implement comprehensive gender-justice policies that go well beyond mere legal compliance. Internal Committees should be independent and include an appropriate number of external experts; their procedures should be transparent; survivor anonymity should be guaranteed; and regular audits of universities' performance in implementing anti-sexual-harassment policies should be conducted. Gender-sensitisation initiatives should be built into student orientation, staff training and faculty development so that universities cease to be places of surveillance and become inclusive spaces in which equality, autonomy and dignity prevail.¹⁸

Equally significant is the strengthening of victim support services that operate beyond the courts. Sexual offences have multidimensional effects that reach far beyond the criminal process, so rehabilitation must involve a combined effort from legal aid agencies, health centres, psychologists, psychiatrists, social service providers, children's organisations and rehabilitative facilities. One Stop Centres, victim compensation programmes, counselling centres, shelters and witness protection schemes must all be well funded and universally available across the country. Particular emphasis must be placed on rural and impoverished areas, which are both vulnerable and comparatively resource-poor. Children who survive sexual offences require more specialised treatment, including family counselling, education, developmental assessments and continuous psychological evaluation, since the impact of such offences often lasts into adulthood.¹⁹

Finally, the enforcement of these laws should be supported by effective data gathering, monitoring and evidence-based policymaking. National statistics on matters such as reporting, prosecution, compensation, psychological recovery, compliance and survivor satisfaction remain incomplete. Systematic assessment would help to identify inefficiencies and to measure the success of any new changes in criminal law. At the same time, the need for education campaigns on consent, gender equality, online rights, child safety and constitutional values must be addressed through the efforts of educational and other institutions. A sustainable reduction

¹⁷ Barath & Trivedi, *supra* note 1; Dey, *supra* note 4.

¹⁸ Dey, *supra* note 4.

¹⁹ Muralidharan et al., *supra* note 7; Lakshmi Keerthana T., Sireesha S. & Aparna M., *supra* note 3.

in sexual and gender-based violence cannot be achieved through criminal legislation alone, because it requires a change in the social attitudes that continue to support gender discrimination and the silencing of victims. Legislation, accountability and social change must therefore work together as essential elements of a just system.²⁰

VII. CONCLUSION

Sexual and gender-based violence is among the most complex socio-legal problems facing contemporary India, because it concerns not only criminal behaviour but also the deep-rooted inequalities embedded in various socio-institutional and socio-cultural arrangements. This study shows, through a review of the literature, that victimisation entails not only physical injury but also serious psychological damage, educational disruption, economic vulnerability, social isolation and institutional neglect. Modern victimology accordingly rejects an offence-focused approach to criminal justice and instead promotes a holistic approach that treats victims as rights-holders entitled to recognition, participation, rehabilitation, compensation and access to justice. Criminal law reforms such as the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhiniyam may be seen as milestones in this process, because they extend protection to women and children and provide procedural guarantees that help to reduce the risk of re-victimisation. However, legislative change cannot by itself remove the structural constraints imposed by patriarchal attitudes, institutional insensitivity, weak enforcement and the lack of multidisciplinary services available to victims.²¹

The empirical literature reviewed here makes clear that a purely crime-based approach to sexual violence is insufficient to address the problem. First, studies of child sexual abuse reveal extensive psychological illness among victims, which requires prolonged psychological treatment. Second, the literature on universities reveals practices, even at the institutional level, that normalise surveillance, victim-blaming and gender inequality despite the existence of legal protection. Taken together, these findings demonstrate that victim-centred justice requires the coordinated engagement of the various criminal justice institutions, the healthcare and education sectors, civil society organisations and communities. The success of the new Indian criminal laws will therefore depend not only on their judicial interpretation but also on the willingness of different institutions to adopt trauma-informed, rights-based and survivor-centred practices in their decision-making. Ultimately, criminal justice should be defined not only by the punishment of offenders but also by the restoration of the dignity, self-confidence, autonomy

²⁰ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India); The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India); The Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012 (India).

²¹ Barath & Trivedi, *supra* note 1.

and security of those whose lives have been seriously affected by violence. A constitutionally informed victimology will be central to this success.²²

²² Lakshmi Keerthana T., Sireesha S. & Aparna M., *supra* note 3; Dey, *supra* note 4.