

VICTIM CENTRIC CHANGES IN NEW CRIMINAL LAWS

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In the Bharatiya Nyaya Sanhita, 2023, for the first time, the provisions relating to crime against woman and child have been given precedence and placed under one Chapter. Strict punishments up to death sentence have been provided for the offences against women. Punishment for gang rape of a woman below the age of 18 years is life imprisonment till remainder of the convict's natural life or death. A new offence for having sexual intercourse on false promise of marriage, employment, promotion or by concealing identity, etc. has also been incorporated. Further, the Bharatiya Nyaya Sanhita, 2023 provides provisions for strict punishment upto life imprisonment for offence of human trafficking and sexual exploitation of trafficked children. Where the offence involves the trafficking of a child, it shall be punished with imprisonment not less than 10 years, but which may extend to imprisonment for life and fine. 'Beggary' has been introduced as a form of exploitation for trafficking and is punishable under section 143 of the Bharatiya Nyaya Sanhita, 2023. Act of hiring, employing or engaging child to commit an offence has also been made punishable. Main provisions related to protection of women and children in the new Criminal Laws are given in Annexure-II.

Annexure-I

VICTIM CENTRIC PROVISIONS IN THE NEW CRIMINAL LAWS

- i. Report Incidents Online: A person may now report incidents by electronic communication, without the need to physically visit a police station. This allows for easier and quicker reporting, facilitating prompt action by the police.
- ii. File FIR at Any Police Station: With the introduction of Zero FIR, a person can file a First Information Report (FIR) at any police station, regardless of jurisdiction. This eliminates delays in initiating legal proceedings and ensures immediate reporting of the offence.
- iii. Free Copy of FIR: Victim is entitled to receive a free copy of the FIR, ensuring their participation in the legal process.
- iv. Right to Inform Upon Arrest: In the event of an arrest, the individual has the right to inform a person of his choice about their situation. This will ensure immediate support and assistance to the arrested individual.
- v. Display of Arrest Information: Every police station and district must now have a designated police officer not below the rank of ASI and the information of all arrested individuals shall now be prominently displayed in every police station. This safeguards the right of the accused persons and mitigates instances of custodial violence and illegal detention by police.

Annexure-I (Cont.)

- vi. Progress Updates to Victims: Victims are entitled to get update on the progress of their case

- within 90 days. This provision keeps victims informed and involved in the legal process, enhancing transparency and trust.
- vii. Supply of police report and other documents: Both the accused and the victim are entitled to receive copies of the FIR, police report/chargesheet, statements, confessions and other documents within 14 days.
 - viii. Witness Protection Scheme: The new laws mandate all State Governments to implement Witness Protection Scheme to ensure the safety and security of witnesses, enhancing the credibility and effectiveness of legal proceedings.
 - ix. Exemption from going to police station: Women, persons below 15 years, persons above 60 years, and those with disabilities or acute illness are exempt from attending police stations.
 - x. It is mandated that victim be heard before withdrawal from prosecution in Section 360 of BNSS. The statutory recognition of the right of the victim to be heard is a significant example of a nyaya centric approach to criminal justice system. By mandatorily hearing the victim in proceedings regarding withdrawal of cases, the justice system becomes more responsive to the needs and concerns of those directly affected by crime.

Annexure-II

PROVISIONS FOR PROTECTION OF WOMEN AND CHILDREN

- i. Offences against woman and child have been given precedence over all other offences in a new Chapter-V of Bharatiya Nyaya Sanhita, 2023.
- ii. In Bharatiya Nyaya Sanhita, 2023, the age differential for minor victims of gang rape has been done away with. Earlier different punishments were prescribed for gang rape on a girl below the age of 16 years and 12 years. This provision has been modified and now gang rape on a woman below the age of eighteen years is punishable with imprisonment of life or death.
- iii. Women have been recognized as an adult member of family who can receive summons on behalf of the person summoned. The earlier reference to 'some adult male member' has been replaced with 'some adult member'.
- iv. In order to provide more protection to the victim and enforce transparency in investigation related to an offence of rape, the statement of the victim shall be recorded through audio video means by police.
- v. For certain offences against woman, statement of the victim is to be recorded, as far as practicable, by a woman Magistrate and in her absence a male Magistrate in the presence of a woman to ensure sensitivity and fairness, creating a supportive environment for victims.

Annexure-II (Cont.)

- vi. Medical practitioners are mandated to send the medical report of a victim of rape to the investigating officer within 7 days.
- vii. It is provided that no male person under the age of fifteen years or above the age of 60 years (65 years earlier) or a woman or a mentally or physically disabled person or a person with acute

illness shall be required to attend at any place other than the place in which such male person or woman resides. In cases where such a person is willing to attend the police station, they may be allowed to do so.

- viii. The new laws provide for free first-aid or medical treatment to victims of crimes against women and children at all hospitals. This provision ensures immediate access to essential medical care, prioritizing the well-being and recovery of victims during challenging times.
- ix. The act of hiring, employing or engaging a child to commit an offence, is made a punishable offence under section 95 of Bharatiya Nyaya Sanhita 2023, which entails punishment of imprisonment of minimum seven years, extendable to ten years. This provision aims to deter gangs or groups from employing/hiring children for committing offence.

This was stated by the Minister of State in the Ministry of Home Affairs Shri Bandi Sanjay Kumar in a written reply to a question in the Rajya Sabha.

VV/RR/HS/PS/PR

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