Protection of women's right to dignity and decency under India's new criminal laws

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Abstract: Women's dignity requires respect for bodily autonomy, privacy, equal citizenship, and freedom from sexual humiliation. India's new criminal laws provide an important opportunity to examine how these commitments operate in substantive offences and everyday justice procedures. This article analyses the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam through a doctrinal and constitutional approach. It situates contemporary protections within their historical development and considers international standards concerning discrimination, consent, and institutional responsibility. Particular attention is given to sexual harassment, voyeurism, stalking, confidential reporting, medical examination, digital evidence, and survivor identification. The analysis distinguishes dignity from restrictive ideas of female respectability and argues that decency should regulate harmful conduct without policing women's choices. Effective protection requires accessible institutions, competent investigation, privacy safeguards, fair trials, and meaningful rehabilitation. Legislative renewal becomes significant when women can exercise their rights without humiliation, intimidation, or dependence upon social approval.

Keywords: Women's Dignity; Decency; Bodily Autonomy; Sexual Harassment; Criminal Law Reform; Privacy; BNS,2023; BNSS,2023; BSA,2023

1. INTRODUCTION

The right to dignity becomes concrete when a woman can refuse unwanted contact, travel without persistent intimidation, report abuse confidentially, and receive respectful treatment from public authorities. Its violation may involve physical injury, but it may also arise through sexualised insults, intrusive observation, threats, or the circulation of intimate material. Criminal law must recognise these harms without treating women as passive objects of protection.

India's principal criminal justice framework changed from 1st July 2024 through the Bharatiya Nyaya Sanhita, 2023 (BNS), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and Bharatiya Sakshya Adhiniyam, 2023 (BSA). Their protection of women includes both retained

safeguards and selected innovations. A responsible assessment must distinguish statutory reorganisation from substantive change.

This article examines how the framework protects dignity and decency, where its assumptions remain contested, and what implementation requires. It uses doctrinal analysis of legislation, judicial decisions, and international instruments. Its central argument is that dignity belongs to every woman, whereas decency must be interpreted consistently with autonomy, equality, and freedom of expression.

2. HISTORICAL BACKGROUND

Women's inherent human dignity has occupied an uneasy position in the development of criminal law. Legal protection has frequently recognised the seriousness of sexual harm while describing women through ideals of modesty and family honour. Such language can conceal an important distinction. A woman possesses dignity because she is a person, irrespective of whether others approve of her conduct. Reputation, by contrast, depends upon social opinion and can reflect prejudice. The historical development of protection must therefore be examined through the gradual recognition of women as independent rights holders, capable of making choices and entitled to remedies when those choices are violated.

The Indian Penal Code, 1860, supplied the principal colonial framework for prosecuting rape and other offences affecting women. Provisions concerning assault and insulting conduct used the language of modesty. These offences acknowledged that certain intrusions deserved punishment, yet their interpretation could invite scrutiny of women perceived sexual respectability. The inherited framework also placed considerable importance upon marriage and conventional social relationships. This history matters because statutory categories influence what police investigate, what lawyers' question, and what courts consider significant. A law may prohibit harmful behaviour while still carrying assumptions that limit its practical recognition of a woman's personal freedom.

Constitutional government provided a different foundation. Articles 14 and 15 established commitments to equality and freedom from discrimination, while Article 21 became central to the protection of life and personal liberty. Article 15(3) permits special provisions for women and children. These guarantees support protective measures that enable participation rather than impose dependence. Article 51A(e), requiring citizens to renounce practices derogatory

to women's dignity, also gives constitutional expression to respect in social life. Read together, these provisions challenge an approach that measures entitlement through chastity, obedience, or marital status. They support dignity as a condition of equal citizenship and human freedom.

Debates surrounding the Mathura case exposed the difficulties of understanding consent within unequal relationships of power. In *Tuka Ram v. State of Maharashtra*, decided in 1978, the Supreme Court acquitted the accused policemen. The case subsequently became associated with sustained criticism of legal assumptions about submission, resistance, and sexual experience. Its broader significance concerns institutional vulnerability: the location and circumstances of an encounter can affect the freedom available to a person. A meaningful understanding of consent must therefore examine coercion and authority rather than expect every complainant to demonstrate a uniform physical response before her account is taken seriously.

The Criminal Law (Amendment) Act, 1983, responded to concerns about sexual violence through changes involving custodial offences, confidentiality, and evidentiary rules. Its development marked an important move towards recognising that conventional criminal procedures could themselves disadvantage women. However, legal reform could not automatically eliminate humiliating questioning or prejudiced assumptions. Protection required changes in how officials recorded statements, interpreted medical findings, and treated complainants. This distinction between statutory promise and institutional conduct has persisted. The historical lesson is that dignity depends upon the entire process through which a claim is received and assessed, alongside the formal availability of punishment after conviction.

In *Vishaka v. State of Rajasthan* (1997), the Supreme Court linked workplace sexual harassment with equality and the ability to work with dignity. The judgment drew upon international standards and prescribed preventive safeguards in the absence of legislation occupying the field. Its importance extended beyond the creation of complaints mechanisms. It recognised that unwanted sexual conduct can obstruct economic independence and professional participation. The institutional environment consequently became a legal concern. Employers could no longer understand safety solely as a private matter between individuals. Respectful working conditions emerged as part of the practical infrastructure necessary for women's enjoyment of rights.

Legislation subsequently addressed harms occurring across different settings. The Information Technology Act, 2000, as amended, introduced provisions relevant to electronic privacy violations and sexually explicit material. The Protection of Women from Domestic Violence Act, 2005, recognised physical, sexual, verbal, emotional, and economic abuse within its statutory framework. The Protection of Children from Sexual Offences Act, 2012, provided specialised protection for children. These developments reveal a widening appreciation of harm. Women and girls may require legal responses within homes, workplaces, public spaces, and digital environments. Each setting demands attention to vulnerability, practical assistance, and procedures suited to the people seeking protection.

The December 2012 Delhi gang rape prompted renewed demands for institutional accountability and stronger legal protection. The Criminal Law (Amendment) Act, 2013, expanded the treatment of sexual offences and introduced specific provisions concerning sexual harassment, voyeurism, stalking, and acid attacks. The workplace sexual harassment legislation enacted that year established preventive and redressal mechanisms. These developments recognised conduct previously trivialised as teasing or normal social interaction. They also strengthened the understanding that sexual violence exists along a spectrum of coercion and intrusion. Nevertheless, the visibility of severe offences continued to compete with the quieter difficulties of reporting, investigation, support, and rehabilitation.

Judicial scrutiny increasingly extended to indignity produced by justice institutions themselves. *Lillu v. State of Haryana* (2013) rejected the two-finger test and its interpretation as violations of privacy, integrity, and dignity. *Aparna Bhat v. State of Madhya Pradesh* (2021) challenged stereotypical reasoning and inappropriate conditions imposed in sexual offence proceedings. These decisions demonstrate that a survivor may experience renewed injury through medical examination or courtroom treatment. Respectful procedure is therefore integral to justice. Institutions must assess evidence carefully while avoiding assumptions that a credible complainant will dress, speak, remember, or respond in a single socially approved manner following an assault.

The enactments of 2023 entered this historical landscape with provisions carried forward from earlier reforms and changes involving procedure, technology, and selected offences. Their operation from July 2024 should be assessed against the accumulated experience of women seeking protection. History cautions against equating legislative novelty with effective

transformation. It also demonstrates that inherited safeguards can acquire practical strength through better implementation. Contemporary reform must therefore connect autonomy with accessible reporting, competent evidence collection, confidentiality, and dependable support. The purpose is to enable women to continue living with freedom and security, rather than require them to withdraw from ordinary public life.

3. UNDERSTANDING DIGNITY AND DECENCY THROUGH CONSTITUTIONAL RIGHTS

Dignity denotes inherent human worth and the entitlement to be treated as a person with agency. Decency is more context dependent and may refer to standards governing public conduct or representation. The terms overlap when sexual humiliation undermines a woman's security, but they should not be treated as interchangeable.

A rights-based interpretation asks whether conduct violates autonomy, privacy, or equality. It should not ask whether the complainant satisfies an imagined standard of respectable womanhood. Unmarried women, women in consensual relationships, sex workers, and women whose clothing challenges social expectations possess the same human dignity.

The Constitution also protects expression under Article 19(1)(a), subject to constitutionally permissible restrictions under Article 19(2), including decency or morality. Consequently, protection must distinguish unlawful harassment and exploitation from legitimate expression. Using vague moral disapproval as a substitute for statutory analysis can undermine the very freedom that dignity requires (Constitution of India, 1950).

This distinction has immediate consequences for educational and professional institutions. A complaint about harassment should lead to a fair inquiry and measures addressing the alleged conduct, rather than pressure upon the woman to leave a course or job. Restrictions presented as protective can deepen exclusion when they transfer the burden of safety to women alone. Institutional policy should therefore consider whether its response expands the complainant's practical choices and allows participation without retaliation.

4. SEXUAL HARASSMENT, PRIVACY, AND PROTECTION UNDER THE BNS,2023

BNS Sections 74–79 address assault affecting modesty, sexual harassment, disrobing, voyeurism, stalking, and insulting modesty. Section 77 expressly distinguishes consent to

capture an image from consent to disseminate it. Section 72 protects the identity of victims of specified sexual offences, subject to statutory exceptions (Bharatiya Nyaya Sanhita, 2023).

These provisions should be applied through their legal ingredients. Persistent unwanted attention should not be excused simply because the accused describes it as affection. Equally, every unpleasant interaction does not automatically satisfy a criminal offence. Careful investigation must identify the conduct, intention, circumstances, and evidence relevant to the particular provision.

Section 69 separately addresses intercourse, not amounting to rape, obtained through specified deceit or a marriage promise made without intention to fulfil it. This requires distinguishing dishonest intention from later relationship failure. Section 63 retains the marital exception for wives aged eighteen or above, while Section 67 addresses non-consensual intercourse during separation.

The latter distinction remains a serious concern for a theory of equal sexual autonomy. Protection grounded in dignity should recognise that marriage does not erase personal agency. Legislative reconsideration should combine recognition of intimate coercion with clear offence definitions, reliable evidence procedures, and fair adjudication.

5. RESPECTFUL REPORTING AND MEDICAL PROCEDURES UNDER THE BNSS,2023

BNSS Section 173 allows information concerning cognisable offences irrespective of territorial location, including electronic communication subject to signature within three days. It requires recording by a woman police officer or woman officer for specified offences and provides particular accommodations for disabled complainants. Section 184 requires consent for rape-related medical examination and forwarding the report within seven days (Bharatiya Nagarik Suraksha Sanhita, 2023).

For a woman reporting abuse, the practical meaning of these rules is straightforward: she should receive clear instructions, privacy, appropriate communication assistance, and respectful treatment. The first interaction should establish safety and explain available options. Repeatedly demanding unnecessary intimate details can discourage participation and create avoidable distress.

Section 193 imposes a two-month investigation period for specified sexual offences and listed POCSO offences; it is not a universal deadline covering every offence against women. Sections 396–398 address compensation, treatment of specified victims, and state witness protection schemes.

Implementation should connect these duties with functioning services. A referral matters when assistance actually follows. A medical examination should preserve evidence without diminishing consent. A timeline matters when adequate personnel and forensic resources make careful investigation possible. Administrative compliance should therefore be measured through quality and accessibility as well as speed.

6. EVIDENTIARY SAFEGUARDS AND FREEDOM FROM CHARACTER ASSASSINATION

BSA Section 48 excludes character and previous sexual experience as evidence of consent in specified prosecutions. Section 120 provides a presumption concerning absence of consent in prosecutions under BNS Section 64(2), when its statutory conditions are met. The presumption does not apply indiscriminately to every sexual offence allegation (Bharatiya Sakshya Adhiniyam, 2023).

These safeguards matter because courtroom questioning can otherwise convert a proceeding about alleged wrongdoing into an examination of the complainant's private life. Earlier intimacy does not resolve whether a particular subsequent act was agreed to. Institutional respect requires maintaining that distinction while permitting relevant challenges to prosecution evidence.

Sections 61–63 address electronic records and their evidentiary treatment. Investigators should preserve relevant messages and recordings, document their handling, and address authenticity. They should also avoid collecting or circulating unrelated intimate material unnecessarily. Reliable proof and privacy protection are compatible objectives. Both depend upon disciplined procedures rather than assumptions about what technology automatically establishes.

7. CONTEMPORARY THREATS: DIGITAL HUMILIATION AND INSTITUTIONAL EXPOSURE

Digitally fabricated sexual images and threats to circulate intimate material can seriously disrupt women's lives. Their effects may include withdrawal from education, employment, or online participation. Sections 66-E and 67-A of the Information Technology Act remain relevant to particular privacy violations and sexually explicit electronic content, subject to their respective requirements (Information Technology Act, 2000).

Criminal enforcement should therefore be accompanied by timely evidence preservation and legally available removal measures. Specialist assistance should help a complainant identify relevant material without requiring her to repeatedly distribute the harmful content. Investigators must determine the applicable offences carefully; synthetic imagery does not automatically satisfy every provision drafted for actual observation or capture of a private act.

Institutions can also expose women through careless disclosure. A report may omit a name yet include enough contextual detail to reveal identity. Confidentiality requires attention to documents, photographs, metadata, media briefings, and staff access. Responsible communication can explain institutional action without turning a survivor's experiences into public spectacle.

The ethical meaning of decency consequently extends to official behaviour. Respectful language, secure records, and consent-sensitive communication should be ordinary professional standards. Women should not have to choose between seeking justice and retaining control over their personal information.

Digital access also differs sharply between individuals. A woman using a family phone may be unable to store evidence safely or receive confidential updates. Another may need interpretation, accessible software, or assistance identifying an anonymous account. These circumstances should shape the reporting process. Authorities should explain secure alternatives and avoid assuming that an online facility is equally usable by everyone. Effective modernisation requires a workable human response behind the interface, including assistance when the technology fails or when using it places the complainant at further risk.

8. INTERNATIONAL PERSPECTIVES

The Universal Declaration of Human Rights identifies dignity and equality as foundations of human rights. CEDAW addresses discrimination against women, while General Recommendation No. 35 explains gender-based violence within that framework and recommends coordinated prevention, protection, prosecution, and redress. Its attention to technology-mediated violence is relevant to contemporary digital abuse (United Nations General Assembly, 1948, 1979; Committee on the Elimination of Discrimination against Women, 2017).

These standards encourage a wider view of institutional responsibility. The state's task includes preventing foreseeable harm, responding appropriately to complaints, and providing effective remedies. Their value for Indian analysis lies in connecting criminal justice with equality, professional conduct, and practical access to support.

In England and Wales, Section 74 of the Sexual Offences Act, 2003 links consent with choice, freedom, and capacity. This formulation offers a useful comparative perspective on coercion. It directs attention towards the conditions of decision-making rather than a complainant's perceived moral character (Sexual Offences Act 2003).

The Istanbul Convention structures responses around prevention, protection, prosecution, and coordinated policies. India is not a party, so its relevance is comparative rather than directly binding. Its approach nevertheless illustrates why shelters, healthcare, training, and legal remedies should operate together (Council of Europe, 2011). Comparative learning should support context-sensitive implementation rather than assume that importing terminology will resolve institutional weaknesses.

9. RECOMMENDATIONS FOR MEANINGFUL PROTECTION

Police, medical practitioners, prosecutors, and judges need continuing practical training concerning consent, privacy, disability accommodation, and digital evidence. Training should examine realistic situations and challenge stereotypes without compromising impartial assessment.

Survivors should receive a reliable explanation of procedural stages and available assistance. Communication must be accessible to women with limited literacy, language barriers, or

restricted access to technology. Confidential offline options remain essential where a shared device creates additional risk.

Accountability should include review of unjustified reporting barriers, improper disclosures, and avoidable delays. Anonymised performance assessment can identify recurring failures without exposing complainants. Institutions should avoid conviction targets that encourage distorted investigation. An acquittal does not, by itself, establish fabrication; a conviction does not excuse an unlawful or humiliating process. Fairness and dignity must guide every stage.

Support should continue beyond the filing of a complaint. Women may require assistance with transport, safe accommodation, counselling, or maintaining education and employment while proceedings continue. A coordinated referral system should identify who is responsible for each need and confirm whether assistance was received. Evaluation should consider these practical outcomes alongside case disposal. Institutions can learn from confidential, voluntary feedback about unclear instructions, repeated interviews, unnecessary waiting, and insensitive communication. Such feedback makes dignity observable in everyday administrative decisions and provides a basis for targeted improvement. These obligations should receive sustained funding and independent oversight.

10. FUTURE SCOPE

Future research should examine how women experience the new framework across different states, institutions, and social circumstances. Interviews, court observation, and anonymised case analysis could assess reporting access, confidentiality, evidentiary quality, support, and longer-term safety. Reliable evaluation must distinguish legislative effects from changes in recording practices or willingness to report.

Legislative review should consider intimate sexual coercion, the operation of Section 69, and the adequacy of responses to synthetic sexual imagery. Research should also examine whether protective language inadvertently restricts women’s freedom. Women with direct experience of justice institutions should participate voluntarily in shaping these assessments.

11. CONCLUSION

India’s new criminal laws offer an opportunity to strengthen protection against sexual humiliation, intrusive conduct, and institutional mistreatment. Their significance depends upon

accurate interpretation and dependable implementation. Dignity must remain independent of perceived respectability, while decency must be understood consistently with constitutional freedom and equality.

The practical test is whether a woman can report harm, obtain care, preserve privacy, and participate in proceedings without renewed humiliation. Effective investigation and fair trials support that objective together. Lasting reform requires institutions to respect women's agency in ordinary decisions, ensuring that legal protection enables fuller participation in social, professional, intimate, and digital life.

References

1. Indian Penal Code, No. 45 of 1860 (India).
2. United Nations General Assembly. (1948). *Universal Declaration of Human Rights (Resolution 217 A [III]).* https://www.un.org/en/about-us/universal-declaration-of-human-rights
3. Constitution of India. (1950). https://www.indiacode.nic.in/bitstream/123456789/19150/1/constitution_of_india.pdf
4. Tuka Ram v. State of Maharashtra, (1979) 2 SCC 143 (Supreme Court of India, judgment delivered September 15, 1978). https://indiankanoon.org/doc/1092711/
5. United Nations General Assembly. (1979). *Convention on the Elimination of All Forms of Discrimination against Women (Resolution 34/180).* https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women
6. Criminal Law (Amendment) Act, 1983 (India). https://www.indiacode.nic.in/repealedfileopen?rfilename=A1983-43.pdf
7. Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (India). https://indiankanoon.org/doc/1031794/
8. Information Technology Act, No. 21 of 2000 (India). https://www.indiacode.nic.in/indiacode/handle/123456789/1999?locale=en

9. Sexual Offences Act 2003, c. 42 (UK). https://www.legislation.gov.uk/ukpga/2003/42/section/74

10. Protection of Women from Domestic Violence Act, No. 43 of 2005 (India). https://www.indiacode.nic.in/bitstream/123456789/2021/5/A2005-43.pdf

11. Council of Europe. (2011). *Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210).* https://www.coe.int/en/web/istanbul-convention/the-convention

12. Protection of Children from Sexual Offences Act, No. 32 of 2012 (India). https://www.indiacode.nic.in/bitstream/123456789/2079/1/AA2012-32.pdf

13. Criminal Law (Amendment) Act, No. 13 of 2013 (India). https://www.mha.gov.in/acts-rules?page=4

14. Lillu alias Rajesh v. State of Haryana, (2013) 14 SCC 643 (India). https://indiankanoon.org/doc/78844212/

15. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013 (India). https://www.indiacode.nic.in/bitstream/123456789/2104/1/A2013-14.pdf

16. Committee on the Elimination of Discrimination against Women. (2017). *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (CEDAW/C/GC/35).* https://docs.un.org/en/CEDAW/C/GC/35

17. Aparna Bhat v. State of Madhya Pradesh, (2021) 3 SCC 247 (India). https://api.sci.gov.in/supremecourt/2020/20318/20318_2020_35_1501_27140_Judgement_18-Mar-2021.pdf

18. Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India). https://www.indiacode.nic.in/indiacode/handle/123456789/20099?view_type=browse

19. Bharatiya Nyaya Sanhita, No. 45 of 2023 (India). https://www.indiacode.nic.in/indiacode/bitstream/123456789/20062/1/a202345.pdf

20. Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India). https://www.indiacode.nic.in/indiacode/handle/123456789/20063