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**MATRIMONIAL CRIMES AGAINST WOMEN: A STUDY**  
**WITH SPECIAL REFERENCE TO THE PROVISIONS UNDER**  
**BHARATIYA NYAYA SANHITA ACT, 2023.**

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**Abstract**

Matrimonial crimes or marital crimes have globally been recognised as a grave concern and contributes to devastating consequences that result in affecting the physical, reproductive, sexual, and psychological health of women. This paper focuses on marital crimes against women in India with the advent of new and improved criminal legislation in the nation. It investigates the conceptual framework, legal provisions and reform proposals related to this issue. This paper shall take a deep insight towards the types of crimes involved in a marriage referring majorly to domestic violence and its infliction and impact on women supported with statistical data representing matrimonial crime in each state, the laws that currently govern the matter and remedies.

The objective of this paper is to critically analyse the socio-legal facets of domestic offences against women in marriage and shed light on the intricacies of this crime and its ramifications. Furthermore, the paper shall discuss provisions across various laws, including the **“IPC 1860”**, **Family laws**, **‘The Protection Of Women From Domestic Violence Act, 2005’** with special reference to the **‘Bharatiya Nyaya Sanhita Act, 2023’**.

**Keywords:** Matrimonial Crimes, IPC, BNS, Women

**Introduction**

Crimes against women committed inside the framework of marriage have always been serious

societal issues, but in recent years, they have attracted a lot of attention. The institution of marriage is by definition, a sacred relationship, or a sanctions union among a male and a female which ultimately supports the theory of the partners sharing a secure and supportive environment with one another. However, there's a darker side to this, beneath the surface where crimes like domestic violence and abuse in marriages are still commonplace and plague the society today. Such crimes are prevalent mostly due to the societal behaviours and gender specific roles ultimately influenced by power imbalances. Society's expectations along with patriarchal norms and the influence of cultural have long been contributing factors of violence towards women within the context of marriage. For instance, Dowry, which is a deeply rooted concept in the Indian culture, the leading causes of domestic violence and abuse against women and has resulted in several deaths.

In a notable case, "**Lalitha Kumari v. Government of Uttar Pradesh (2013)**"<sup>1</sup>, the '**Supreme Court of India**' highlighted the gender bias and stereotypes prevalent in society that perpetuate violence against women.

The Indian Legal System has incorporated certain legislations aimed at addressing and redressing domestic violence such as "**The Protection Of Women From Domestic Violence Act, 2005**", however, challenges have continued to prevail in the implementation of such legislations. Domestic Violence is one of the many facets that are involved in today's discussions when it comes to crimes against women.<sup>2</sup>

Indian Penal Code, 1860 has various sections as follows :

1. **'Mock or invalid marriages'** (s 493 and 496)
2. **'Bigamy'** (s 494 and 495);
3. **'Adultery'** (s 497);
4. **'Criminal elopement'** (s 498);
5. **'Cruelty by husband or relatives of husband'** (s 498A)

The specific definition and classification of Marital Crimes can vary depending on the legal jurisdiction. However, other than domestic violence some common examples include:

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<sup>1</sup> Lalitha Kumari v. Government of Uttar Pradesh (2013), W.P. (CrI.) 68 of 2008 SCC

<sup>2</sup> Aditya Goswami, Lalita Kumari v. State of U.P., *Legal Services India*, (last visited on 28.02.2024), available at <https://www.legalserviceindia.com/legal/article-2870-lalita-kumari-v-s-state-of-up.html#:~:text=Gogoi%2C%20S.A.%20Bobde,Lalita%20Kumari%20v.,Article%2032%20of%20the%20Constitution>

1. Dowry Harassment: when money or property is demanded from the bride or bride's family as a condition for her marriage. It also involves any sort of physical, verbal or emotional abuse in relation with dowry related issues.
2. Marital Rape: this involves sexual activity that is non-consensual within a marriage amounting to sexual abuse or domestic violence.
3. Acid Attacks : when acid is thrown on the victim with the motive of harming the person often resulting in severe disabilities and disfigurement.
4. Honour Killings : these are also known as shame killings and are a horrific practice existing in various parts of the world. It involves the murder of women or girls, by family members who believe the victim has caused the family to feel humiliated or dishonoured.

#### **'About Bharatiya Nyaya Sanhita, 2023 (BNS)'**

**'Bharatiya Nyaya Sanhita, 2023'**<sup>3</sup> was passed on 25<sup>th</sup> December, 2023 to take place as the new penal code of India replacing '**Indian Penal Code, 1860 (IPC)**'. It is a thorough legislative initiative aiming to modernise the legal frameworks in existence and their simplification by addressing a broad variety of issues. Along with a lot of significant changes, Bharatiya Nyaya Sanhita prioritises offences against women and minors with punishments in form of both fines and imprisonment.<sup>4</sup>

**The Indian Penal Code** has been re-enacted after about a century and a half with the objective of "*streamlining provisions relating to criminal offences and penalties*" and to repeal colonial laws as they were outdated provisions and did not align with the rights at present as well as the discourse related to inclusion.

Some of the key features of **Bharatiya Nyaya Sanhita** are as follows:

1. Incorporates new crimes like **TERRORISM** and **ORGANISED CRIME**.
2. It introduces the opportunity of Community Service as a sentencing option for some offences.
3. Although it retains many offenses from the '**Indian Penal Code, 1860**' but revises some, such a increasing penalties for certain crimes.

It consists of **358 sections** whereas '**Indian Penal Code, 1860**'<sup>5</sup> consisted of 511 sections. It was introduced by **Minister of Home Affairs** in Lok Sabha on the 11<sup>th</sup> of August 2023. Later on, it

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<sup>3</sup> Bharatiya Nyaya Sanhita Act, 2023

<sup>4</sup> Vageshswari Deshwal, BNS: A Critical Analysis, *The Times of India*, (last visited on 01.03.2024), available at <https://timesofindia.indiatimes.com/blogs/legally-speaking/bharatiya-nyaya-sanhita-a-critical-analysis-of-the-proposed-law/>

<sup>5</sup> Indian Penal Code, 1860

was withdrawn on December 12,2023 and the “*Bharatiya Nyaya Sanhita Bill 2023*”.

### **Current Position of Women in India**

Women have played a pivotal role for the Indian society and culture yet, even today, the position of women in India has often been a topic for debate. This has been a burning topic of concern for the longest time as women in India, despite all progression in the recent years, still face many challenges regardless of being an inherent part of this society.

In the post-independence period India witnessed a universal moment for women equality with introduction of ‘*Articles 14 and 15 of the Indian Constitution*’<sup>6</sup> which guaranteed a complete equality between all the citizens of India. ‘*The Hindu Marriage Act of 1955*’<sup>7</sup> permitted the desolation of marriage on specific grounds and monogamy was made mandatory on men as well as women. **The Hindu Succession Act of 1956**<sup>8</sup> made a daughter an equal co-heir with the son. ‘*The Directive Principles of State Policy*’ lays down principles of same compensation for equivalent labour performed by men and women.<sup>9</sup>

Despite all the visible progress underlying issues remain when it comes to practising the principles of equality. Birth of a daughter is still considered a bad omen. Even today women are tortured for not bringing dowry though it has been banned. There are multiple cases of dowry deaths each year with death by burning remains one of the leading methods of killing. In extreme cases of extortion, these brides, sometimes, end up taking their lives by committing suicide. When it comes to crimes against women the huge number of cases that involve molestation, kidnapping, abduction, rape, etc are a great example of inequality and prejudice towards women. There are several crimes that occur within a marriage. These crimes are typically outlined in **Indian Penal Code, 1860(IPC)**<sup>10</sup>. For instance **sections 494**<sup>11</sup> and **495**<sup>12</sup> address the issue of bigamy. Similarly, **498**<sup>13</sup> and **498A**<sup>14</sup> talk about enticing a married woman and cruelty by husband or his relatives.

#### **i.Statistical data of matrimonial crimes in india**

**‘The National Crime Records Bureau (NCRB)’** reports that throughout the nation in 2021,

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<sup>6</sup> The Constitution of India, Art. 14 & 15.

<sup>7</sup> Hindu Marriage Act,1955

<sup>8</sup> Hindu Succession Act of 1956

<sup>9</sup> “Manzoor Ahmed Bhat, Position of Women in the Indian Society, *International Journal of Humanities and Social Sciences and Education (IJHSSE)*,Vol.2 Issue 5, May 2017”

<sup>10</sup> Indian Penal Code, 1860

<sup>11</sup> Indian Penal Code,1860, S.494

<sup>12</sup> Indian Penal Code, 1860 S.495

<sup>13</sup> Indian Penal Code, 1860 S.498

<sup>14</sup> Indian Penal Code, 1860 S.498A

there were 89,200 instances of "*women being assaulted with intent to outrage their modesty.*" Rajasthan has 9,079 of these events, ranking fourth. [who secured the top three spots. According to an examination of NCRB data, there has been a 13% increase in offences against women over the past five years, from 3.15 lakh in 2017 to 3.57 lakh in 2021. A considerable percentage of the 3,57,671 crimes against women that occurred in 2021 were related to particular offences such rape, domestic abuse, kidnapping and abduction, and "*assault with intent to outrage modesty.*" Over the past five years, there has been a 4% increase in this final category of offences.

There were 86,001 assault incidences reported nationwide which increased to 89,200 in 2021 with the intention of shocking modesty in 2017. Nonetheless, these assaults now make up only 2% of all crimes committed against women. This indicates that throughout this time, there was a surge in offences against women in other categories. However, "assault with intent to outrage modesty" accounts for a sizable portion of all offences committed against women. In 2017, it was 27%, and by 2021, it had dropped to 25%.

## ii. Crimes by Husband and his Family

A sizeable percentage of crimes against women are done by husbands or their family, as evidenced by the horrifying crime committed in Rajasthan by a husband and his in-laws. According to NCRB data, there were 1,36,234 cases of husbands or their relatives abusing their wives in 2021 compared to 1,04,551 in 2017. In 2021, it accounted for about one-third of all crimes committed against women.

West Bengal had the greatest total, with 19,952 of these offences. Rajasthan came in third and Uttar Pradesh in second place, respectively, for the overall number of incidents of offences committed against women in their marital homes by husbands or their relatives.<sup>15</sup>

Rajasthan came in third and Uttar Pradesh in second place, respectively, for the overall number of incidents of offences against women by husbands or their relatives. There has been a staggering 30% increase in the specific crime category of "cruelty towards a woman by a husband or his relative." As a result, its percentage of all crimes has also gone up—from 33% in 2017 to 38% in 2021—a rise of 5%.<sup>16</sup>

Two states that are frequently mentioned frequently in crime statistics are Uttar Pradesh and Rajasthan. Uttar Pradesh is ranked fourth for cruelty committed towards women by husbands or

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<sup>15</sup> Shibra Siddiqui, Nearly Third of Crimes Against Women are by Husband or his Relatives, *NewsClick*, (last visited 02-03-2024) available at <https://www.newslick.in/nearly-third-crimes-against-women-are-husband-or-his-relatives>

<sup>16</sup> Supra note 3.

other family members, and third for attacks on women intended to offend modesty. As previously indicated, Rajasthan ranks third in terms of cruelty by husband and his family and fourth in terms of assault with aim to insult modesty. With almost 14,000 incidents, Odisha leads the nation in attacks on women intended to offend modesty, followed by Maharashtra, Uttar Pradesh, and Rajasthan. Sadly, West Bengal tops the list with 19,952 cases of violence committed by husbands and their families.

Indeed, the NCRB data distinguishes between two different categories of crimes: "insult to modesty" and "assault on women with intent to outrage modesty." 'Section 354 of the Indian Penal Code (IPC)' applies to the former, while **Section 509** to the latter.

A large portion of people defend wife-beating:

'The National Family Health Survey (NFHS-5)' Fifth Round indicates that a significant segment of the Indian population rationalises the beating of a woman for many reasons, including leaving the house without telling the wife, disrespecting the in-laws, and doubting the husband's commitment.

According to the NFHS study, 44% of men and 45% of women between the ages of 15 and 49 said they thought it was acceptable for a husband to abuse his wife for any of the seven reasons specified. Views of wife-beating have evolved since the results of the NFHS-4 poll. In NFHS-5, women's agreement with any of the seven justifications for wife beating decreased from 52% in NFHS-4 to 7 percentage points. On the other hand, it went up by 2 percentage points for men, from 42% in NFHS-4. The results of the NFHS-5 show that 3.1% of pregnant women with a history of marriage and 29.3% of women aged 18-49 who had been married at some point in their life experienced physical abuse from their spouses.<sup>17</sup>

### **Current laws governing matrimonial crimes**

Offences relating to marriage within the IPC are stated between 'Section 493-498A' of the 'Indian Penal Code'. These provisions act as a protective legal barrier against acts that could undermine the context of marriage through injury, deceit, or injustice. The goal of the law is to uphold marriage integrity and to encourage equality, justice, and trust among spouses by defining and penalising such acts. The Indian Penal Code's Sections 493–495 will be examined in this article in an effort to clarify the charges pertaining to marriage.

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<sup>17</sup> Id at 3.

### i. Section 493 of IPC

The legal system usually handles complex cases involving relationships, faith, and the consequences of dishonesty. The code's **Section 493** deals with cohabitation that arises from a man falsely creating the impression that marriage is legitimate.

For instance, Shyam, a man with a history of deceitful behaviour, convinces Sunita that they are lawfully married by forging documents and holding a fake wedding ceremony. Sunita, unaware of Shyam's deceptive actions, begins cohabiting with him, only to discover the truth later. Shyam's intentional deception and Sunita's subsequent cohabitation would fall under the purview of Section 493.<sup>18</sup>

#### **Components**

**Deception:** The male must purposefully mislead his spouse into believing that they are in a valid marriage in order for it to be considered a **Section 493 violation**. This kind of deceit can involve activities that mislead the victim into believing they are legally married, or it can involve deceptive claims, fraudulent promises, or both.

- **Cohabitation:** The tricked partner has to move in with the man while pretending that they are legally wed. Cohabitation is the term for living together in a Intent to deceive: The guy must act with the intention of tricking his spouse into thinking they are in a marriage that is recognised by law. In the absence of the element of intent, Section 493 offences may not be proven.

In this context, **Arun Singh v. State of UP**<sup>19</sup> is a significant case. The Respondent's daughter, who was engaged to the Appellant (Accused), was at issue in this case. After they started hanging together, the appellant persuaded Jyoti to have a sexual connection with him. The appellant then began requesting a dowry of Rs. 5 lakhs. The Mahila Thana received a complaint at first, but nothing was done about it. Subsequently, it was found that the appellant had set up a marriage with another woman for financial gain. Thus, in accordance with "**Sections 3 and 4 of the Dowry Prohibition Act**" and "**Section 493 of the Indian Penal Code**", a formal complaint was filed against the appellant.

But the Court decided that in this instance, **Section 493** IPC's necessary components were

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<sup>18</sup> Akshat Tiwari, Section 493 IPC, *Legal Services India*, (last visited on 04.03.2024), available at <https://www.legalserviceindia.com/legal/article-8115-cohabitation-caused-by-a-man-deceitfully-inducing-a-belief-of-lawful-marriage-section-493-ipc.html>

<sup>19</sup> Arun Singh v. State of U.P. AIR 2020 SUPREME COURT 1758

missing. The charges did not prove that Jyoti cohabitated with the accused because of dishonest misrepresentation, nor did they show that the Appellant tricked Jyoti into thinking she was legitimately married to him. As a result, it was decided that the accusations in the FIR did not fall under **Section 493 of the IPC.**

## ii. Section 494 of the Indian penal Code:

The legal provision pertaining to individuals who marry again while already married to someone else is covered by Section 494. This provision of the **Indian Penal Code** states that an individual will be held accountable if, while their first spouse is still alive, they engage into a second marriage with a third person. The individual must currently be in a lawful and recognised marriage.

Such perpetrators will be tried under this clause, according to Section 494. It is significant to remember that this offence is classed as both bailable and non-cognizable, which means that authorities cannot arrest someone without a warrant.<sup>20</sup>

It is noteworthy, therefore, that bigamy cases can be resolved extrajudicially or compounded, but only with the first spouse's cooperation and approval from the appropriate court. This makes it possible for the parties to possibly work things out or reconcile.

### **Ingredients of Section 494**

The requirements are outlined as follows:

1. First Marriage's Validity : To be legally valid, the first marriage must have been performed in accordance with the law.
2. Second marriage occurrence: The person must have gotten married again, demonstrating their desire to build a new marriage.
3. Continuation of the first marriage: The first marriage ought to be valid and should not have been formally ended or dissolved.
4. Spouse survival: In order to be eligible for a second marriage, the first spouse must still be alive.
5. Validity of both marriages: The first and the second marriages ought to be accepted by the law and adhere to its regulations.<sup>21</sup>

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<sup>20</sup> Rachit Garg, Punishment under Section 494 IPC, *ipleaders*, (last visited on 04.03.2024), available at <https://blog.ipleaders.in/section-494-ipc-punishment/>

<sup>21</sup> Supra at 20.

In this context, **Sri. T. Manjanna v. State of Karnataka**<sup>22</sup> is a significant case. The petitioner attempted to have the FIR against him, which was lodged under IPC Section 494, quashed. The petitioner's legally wedded wife, the complainant, claimed that while their divorce was pending, he entered into a second marriage. The court concluded, however, that the allegation of a second marriage was unfounded.

Sending images of another lady does not make it a crime according to **Section 494 IPC**. There were insufficient components in the complaint to support an offence under **Section 494 IPC**. It was determined that the petitioner's prosecution on the basis of these accusations was unlawful and a misuse of the legal system. The petition was granted by the court, which also halted the petitioner's prosecution for the Section 494 IPC crimes.

### iii. Section 495 of the Indian Penal Code, 1860

The Indian Penal Code's Section 495 addresses the crime of getting married again while hiding a previous marriage from the partner in the new union. The purpose of this section is to safeguard the rights and interests of those engaged in married relationships and to stop dishonest behaviour in such relationships. It includes particular requirements that must be met in order for the offence to be committed.<sup>23</sup>

#### **Components:**

1. The defendant needs to be lawfully wed.
2. The defendant needs to get married again.
3. The accused is required to keep their previous marriage a secret from the person they enter into a new marriage with.
4. The second marriage needs to be legally recognised.

**Subhash Babu v. State of Andhra Pradesh**<sup>24</sup> is a seminal case in this respect. The definitions of "wife" and "aggrieved person" under Section 495 of the Indian Penal Code were expanded in this instance. The Court focused on the goal of the law's application rather than the technical interpretation of the section. Due to her husband's first living spouse's deception, the court acknowledged that the second wife should be regarded as a legitimate wife.

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<sup>22</sup> AIR 2000 SUPREME COURT 2231

<sup>23</sup> Shivani Panda, Sarla Mudgal v. UOI, *iPleaders*, (last visited on 05.03.2024), available at <https://blog.iPLEaders.in/bigamy-in-india-sarla-mudgal-case/#:~:text=Section%20495%20of%20IPC%20makes,whom%20subsequent%20marriage%20is%20contracted.>

<sup>24</sup> 2011 (7) SCC 616

The Court underlined the need for severe punishment, considering this crime to be the most serious deception recognised by the law. It is known that a second wife has a right to submit a maintainable complaint under Section 495 against her husband.

#### iv. Dowry Deaths

India is one of the many places in the world where gender-based violence, such as dowry deaths, is still prevalent. The Indian government responded to this problem by passing the Indian Penal Code in 1961, which included Section 304B that made dowry murders illegal. According to this clause, a woman's death from burns or other physical harm suffered during her 7 years of marriage qualifies as a dowry death if it can be shown that the woman's husband or his family intentionally mistreated her or engaged in abusive behaviour in response to dowry demands.

The practice of sending dowry to the husband's family is still common in many groups in India, even though it has been prohibited since 1961. Dowry deaths are a big problem there. The practice has its roots in patriarchal beliefs that prioritise the interests of men above those of women and see women as financial liabilities to their families.<sup>25</sup>

#### v. Section 304B of the IPC

Section 304B acknowledges the graveness of dowry deaths and punishes offenders harshly. If found guilty, the accused could spend as little as seven years in prison and as much as life behind bars. In these situations, it is the accused's responsibility to demonstrate that the death was not the result of abuse or dowry-related harassment.

Even with the existence of this IPC provision, dowry deaths still happen in India. The reasons are many and intricate, encompassing things like cultural perceptions of women, poverty, and illiteracy. A multimodal strategy involving social awareness campaigns, legal reforms, and women's economic empowerment is needed to effectively address this issue.<sup>26</sup>

#### Ingredients of Dowry Death

The principal components of the dowry death offence under Section 304B IPC are as follows:

1. A woman passes away within 7 years of getting married
2. Death from burns or other physical harm, or from conditions other than those of a natural death; death from abuse or harassment by the husband or his family in relation to any dowry demand

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<sup>25</sup> Samridhi M, Dowry Death in India, *Lawctopus*, (last visited on 05.03.2024), available at 2011 (7) SCC 616

<sup>26</sup> *Supra* at 25.

3. Such mistreatment or harassment had to have occurred to the woman shortly before her death.

In the event that all of these conditions are met, 'Section 304B of the Indian Penal Code' may be used to prosecute the husband or his family for subjecting the wife to such mistreatment or intimidation and resulting in dowry death. The minimum sentence for the offence is seven years in jail, with the possibility of a life sentence. Dowry murder is a crime for which there is no bail.

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#### vi. Other Relevant Statutes

The *Dowry Prohibition Act, 1961* prohibits the payment of a dowry to a woman at the time of her marriage or before. According to the legislation, dowry refers to any property or valued security given or agreed to be given, directly or indirectly, to the other party in a marriage, by either party's parents, or by any other person, at or before the marriage. The law mandates fines and jail time as well as criminal penalties for giving or receiving dowries. Additionally, the statute makes it illegal for anybody to seek a dowry from the bride or her family. It is the bride's family's duty to notify the police of any such requests.

An important piece of legislation that aims to lessen the social ill of dowries, which has long been a problem in India, is the *Dowry Prohibition Act of 1961*. Even with the laws in place, incidents of violence and harassment related to dowries continue to occur across the nation, highlighting the need for improved enforcement of the law and increased public knowledge of it.

It is also important to note that the Presumption of Dowry Death is covered by '*Section 113B of the Indian Evidence Act of 1872*'. It is established that a woman who passes away as a result of a dowry demand was subjected to abuse or harassment just before she passed away. After then, the court will hold that person responsible for her demise.

To comprehend the meaning of the phrase "soon" under this provision, it is crucial to understand the case of "*Kamesh Panjiyar v. State of Bihar*"<sup>28</sup>. In this case, the dead was mistreated by the husband and his family after they failed to provide the additional dowry they had demanded—a she-buffalo. Following the wife's discovery dead from a neck injury, the session court ruled that the death was due to dowry, and the husband was sentenced to ten years in jail. The Supreme Court maintained the ruling, ruling that the session judge's penalty was appropriate and that sufficient evidence of the woman's suffering shortly before her death establishes dowry death

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<sup>27</sup> Id at 25.

<sup>28</sup> 2005 (2) SCC 388

under **Section 304B**.

In the "*Paniben v. State of Gujarat*"<sup>29</sup> case, the Supreme Court found her mother-in-law guilty of dowry death based on the dying testament of a deceased woman. While the victim was sleeping, the accused drenched her in kerosene oil, setting her ablaze. She shouted out for assistance when she woke up, and her husband and other family members responded, taking her to the hospital where she was unable to be rescued due to the severity of her injuries. She said her mother-in-law had lit her on fire in her final statement.

Due to dowry demands, "*Pawan Kumar v. Haryana*"<sup>30</sup>'s victim, Urmil, returned to her parents' home a few days after her marriage. She died as a result of the harsh treatment and harassment she received from her husband and in-laws. The spouse was found guilty and given a jail sentence along with other penalties under *Sections 304B, 306, and 498A of the Indian Penal Code*. The court decided that requesting a dowry is illegal in and of itself and that wanting to purchase a bike or refrigerator is akin to requesting a dowry. The convictions of the other two appellants were quashed.

In "*State of Punjab v. Gurmit Singh*"<sup>31</sup>, the defendant was charged under Section 304B with resulting in the death of Gurjit Kaur, the spouse of Paramjit Singh. The responder argued that since he was not related to the deceased, he could not face legal consequences. The court decided that although he was not able to be punished under Section 304B because he could not fit the description of a relative, he might be charged for any other offence under other sections. After examining the definition of "relative," the case determined that only those related by blood, adoption, or marriage could be held accountable under Section 304B, with other people being held accountable under different laws.

## **vii. Protection of Women from Domestic Violence Act, 2005 (PWDVA)**<sup>32</sup>

India passed the historic "*Protection of Women from Domestic Violence Act, 2005*" in order to effectively shield women from domestic abuse. Below is a summary of its main features:

A "woman in a domestic relationship" is defined extensively in the Act. This comprises:

1. Wives
2. Women cohabiting as husband and wife, even in the absence of a legal union
3. Women living in the same home as mothers, sisters, daughters, widows, or any other

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<sup>29</sup> AIR 1992 SUPREME COURT 1817

<sup>30</sup> 1996 SCC (4) 17

<sup>31</sup> 1996 SCC (2) 384

<sup>32</sup> Protection of Women from Domestic Violence Act, 2005

female relative.

According to the Act, "domestic violence" includes any act, omission, or behaviour that causes harm or injury to a woman, such as:

1. Physical mistreatment
2. Verbal mistreatment (harrasment, threats)
3. Emotional abuse (seclusion, intimidation)
4. Sexual mistreatment
5. Abuse of the economy (refusal of resources)<sup>33</sup>

### Types of Relief Available:

- **Residence Rights:** Regardless of ownership, women have the right to live in a shared household.
- **Protection Orders:** Magistrates can issue orders restraining the abuser from:
  - Violence
  - Communication
  - Entering the shared household
- **Maintenance:** Women can claim financial support for themselves and their dependent children.
- **Compensation:** Compensation can be awarded for injuries or emotional distress.
- **Custody and Visitation:** Orders related to custody and visitation can be obtained.

### Key Functionaries:

- **Protection Officers:** Government officials who assist women in filing complaints, accessing legal aid, and getting medical help.
- **Service Providers:** NGOs and other organizations that can offer shelter, counseling, and legal assistance.

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<sup>33</sup> Shrishti Kausal, Protection of women from domestic violence act, *ipleaders*, (last visited on 09.03.2024), available at <https://blog.ipleaders.in/protection-of-women-from-domestic-violence-act/>

**Important Points:**

- The PWDVA is a civil remedy, focusing on victim protection and support rather than solely punishing the abuser. Criminal charges can still be pressed under the IPC for violent acts.
- The PWDVA is not exclusive. Other laws might offer additional protections.<sup>34</sup>

**Bharatiya Nyaya Sanhita, 2023**

The Indian Penal Code was modelled after British criminal law, controlling and punishing India instead of assisting or shielding it. Since our society has changed in every way, certain sections of this criminal code were no longer applicable. In an effort to uphold Indian people's rights, the Union Government of India recommended amending the criminal laws from the colonial era. To replace "*the Indian Evidence Act*", "*the Indian Penal Code*", and "*the Code of Criminal Procedure (CrPC)*", the *Minister of Home Affairs* filed three legislation in the Lok Sabha. The bills introduced were **the Bharatiya Nyaya Sanhita Bill 2023**, **Bharatiya Nagarika Suraksha Sanhita Bill 2023**, and **Bharatiya Sakshya Bill 2023** aimed to replace the IPC 1860, CrPC 1973, and Indian Evidence Act 1872 respectively.<sup>35</sup>

The main criminal code in India is the IPC 1860, which covers acts against the state, property, human body, public order, defamation, and public health. The long-standing Indian Penal Code has endured multiple amendments throughout the years to add new offences, modify existing charges, and alter the severity of punishment. In addition, a number of Law Commission reports have suggested changes to the IPC on offences against women, food adulteration, and capital punishment. With 358 provisions compared to the 511 sections of the IPC 1860, "*the Bharatiya Nyaya Sanhita Bill 2023*" was intended to change the way criminal justice is delivered in India. The *Bharatiya Nyaya Sanhita Bill* was introduced in the Lok Sabha by Minister of Home Affairs on August 11, 2023. Additionally, on December 12, 2023, '*the Bharatiya Nyaya (Second) Sanhita Bill, 2023*' was introduced in the Lok Sabha, and the BNS Bill was withdrawn. The Lok Sabha and Rajya Sabha, respectively, passed the '*Bharatiya Nyaya (Second) Sanhita Bill, 2023*' on December 20 and 21.

**Key Provisions**

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<sup>34</sup> Supra at 33.

<sup>35</sup> Bharatiya Nyaya Sanhita, 2023, PRS INDIA, *Ministry of Home Affairs*, available at <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023>

The new law prioritises crimes against women, the state, homicide, and minors.

Additionally, it brought consistency and clarity to the legal language by substituting the term "child" for phrases like "minor" and "child under the age of eighteen" throughout the statute.

Under Section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023, the new BNS laws includes "community service" as one of the penalties for a number of offences, including "public servant unlawfully engaging in trade," "non-

appearance in response to a proclamation," "attempting to commit suicide to compel or restrain exercise of lawful power," "misconduct in public by a drunken person," and defamation.

Here is a list of some of the most significant adjustments:

- **Section 2 of the BNS, 2023**, contains meanings for the terms "child" and "transgender." Additionally, the definition of "document" now includes "Electronic and digital records," highlighting their significance in modern settings. In addition to this, the definition of "movable property" has been expanded to encompass "properties of every definition, except land and things attached to the earth or permanently fastened to anything which is attached to the earth."
- **Section 48 of the BNS, 2023**, enacted a new regulation titled "Aiding outside India for Aiding in India." This implies that anyone who plans to commit an infraction in India while seated in a different nation may be prosecuted under this statute.
- **Section 69**, a new crime, "**sexual intercourse by employing deceitful means, etc.**" was depicted in the new law. It stipulates that anyone who engages in sexual activity on false pretences of marriage, job, or advancement faces up to ten years in prison and a fine. With the passage of the new BNS law, the age-based distinction for punishment in cases of young girls being sexually assaulted by gangs was eliminated.
- **Section 70(2)** stipulates that gang rape of a woman younger than eighteen years of age carries a mandatory life sentence or the death penalty.
- **Section 103** of the new law also addresses the grave problem of mob violence, death, or severe harm inflicted upon five or more people on a designated basis. The grounds could be any combination of caste, community, birthplace, sex, race, religion, or language.

The Indian Penal Code did not include the offences that were added *by the Bharatiya Nyaya Sanhita* **2023.**

Consolidate and amend the provisions relating to offences and for matters therewith or incidental thereto" is the main driving force behind this.

This law also mentions a number of additional significant modifications that result in an orderly

framework to handle the difficulties and demonstrate a dedication to justice and clarity.

## Conclusion

To sum up, the analysis of marriage offences under the purview of “*the Bharatiya Nyaya Sanhita Act*”, together with the requirements delineated in “**the Indian Penal Code of 1860**”, has yielded significant insights into the legal terrain of matrimonial conflicts and transgressions in India. When legislative laws and judicial interpretations are examined, it is clear that dowry harassment, domestic abuse, cruelty, and marital rape are only a few of the many offences that fall under the umbrella of matrimonial crimes.

There are both parallels and divergences in the ways that “**the Bharatiya Nyaya Sanhita Act**” and **the IPC 1860** tackle marriage offences. While the **Bharatiya Nyaya Sanhita Act** gives a more nuanced approach, especially with regard to marriage conflicts and family problems, the **IPC 1860** provides a larger framework for criminal offences.

Nonetheless, the frequency of marital crimes remains a major worry in Indian culture even with the availability of legal protections. Legislators, decision-makers, and the public at large must acknowledge the seriousness of these crimes and seek to implement efficient systems of intervention, prevention, and reparation. This might entail enacting stronger legislation, stepping up awareness campaigns, improving victim support services, and making attempts to subvert deeply ingrained societal norms and attitudes that encourage discrimination and marital violence.

In addition, maintaining the rights and dignity of every person within the institution of marriage requires ensuring the fair and impartial implementation of the law. In order to advance justice, equity, and accountability in situations of marital crimes, a cooperative strategy including the judiciary, law enforcement authorities, civil society organisations, and other stakeholders is necessary.

In summary, although *the Bharatiya Nyaya Sanhita Act* and *the IPC 1860* provide a platform for addressing marital crimes, it is critical to acknowledge that legislative measures on their own are insufficient to fully remove this intricate societal issue. A comprehensive strategy incorporating legal, social, cultural, and educational interventions is required to cultivate a community devoid of marital offences, where each person can coexist in the institution of marriage with equality, respect, and dignity.