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RETHINKING SEXUAL OFFENCE LAW UNDER THE BHARTIYA NYAYA SANHITA, 2023: CONSENT, GENDER NEUTRALITY, AND CONSTITUTIONAL EQUALITY

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ABSTRACT:

The Bharatiya Nyaya Sanhita, 2023, has replaced the Indian Penal Code, 1860 (BNS), which is marketed as a contemporary and decolonized criminal law reform. Its handling of sexual offenses, however, shows a significant amount of historical continuity. The BNS purposefully maintains a woman-centric definition of rape even if it uses gender-neutral wording for other sexual offenses. Rather of providing a clear affirmative criterion of voluntary agreement, the law still conceptualizes consent largely in terms of conditions that render it invalid. This method fails to address issues of evidential clarity and sexual autonomy. Rather than being based on a constant constitutional commitment to equality and dignity, the selective adoption of gender neutrality seems more pragmatic. Comparative viewpoints from Canada and England and Wales show that robust victim protection and gender-neutral victim identification may coexist. The BNS's insufficient equality foundation is exposed by the ongoing exclusion of some victims from the legal definition of rape, which has both symbolic and constitutional ramifications.

Keywords: Bharatiya Nyaya Sanhita, Sexual Offence Law Reform, Consent Doctrine, Gender Neutrality, Constitutional Equality, Sexual Autonomy, Dignity

1. INTRODUCTION:

The Indian Penal Code (IPC), 1860 is replaced with the Bharatiya Nyaya Sanhita, 2023 (BNS), which has been hailed as a revolutionary change to the country's criminal code. However, the Act represents both continuity and change in the area of sexual offenses. It essentially replicates the statutory definition of consent and the post-2013 structure of rape legislation, which has been restructured under a new framework. Meanwhile, previous binary presumptions about sexuality and victimization have been challenged by developing constitutional law on dignity,

autonomy, privacy, and gender identity.¹ Such contradiction is especially evident in the limited application of the gender-neutral writing in BNS, 2023. Even the positive clauses in terms of any person, the fundamental crime of rape is still structured on the assumption of a male perpetrator and a woman as the victim. This legislative assumption is frequently justified as an essential reaction to the pervasive, gendered realism of sexual assault against women. However, in a constitutional structure steadfast to both formal and functional equality, it also calls into question doctrinal reason and identical civic respect. In light of this, the paper inspects whether a fashionable criminal law may maintain an oppression hierarchy while claiming to be faithful to constitutional principles. In order to react to this question, it conducts a proportional analysis of how nations like Canada, England, and Wales have balanced sexual offence laws with fairness assurances and gender-neutral lawmaking design. The goal is not to propose transplantation but slightly to shed light on the normative assumptions ingrained in India's existing framework.²

2. Methodology and Analytical Framework

The methodological design of the weekly is divided into four sections. The Bharatiya Nyaya Sanhita's provisions are first closely interpreted doctrinally, with countless of them maintaining the structural context of revisions made under the Indian Penal Code. The legislative wording, inside consistency, and continuity with previous jurisprudence are the main worries of this stage. Second, with special regard to equality, non-discrimination, dignity, and personal liberty, the study places these clauses within the constitutional framework of Articles 14, 15, and 21 of the Indian Constitution. The purpose is to determine whether the legislation complies with important constitutional obligations. Third, the study inspects how sexual offence laws create susceptibility, balance power dynamics, and allocate gratitude among variously placed persons by drawing on feminist and queer legal theory. Finally, rather than accepting these states as models for shortest relocating, it includes a brief qualified analysis based on progresses in Canada and England and Wales.³

¹ Bharatiya Nyaya Sanhita, 2023, 63–73, No. 45 of 2023, Acts of Parliament (India).

² Indian Penal Code, No. 45 of 1860, § 375 Acts of Parliament (India) (rape), as amended by Criminal Law (Amendment) Act, 2013, No. 13 of 2013 Acts of Parliament (India).

³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).

3. Consent below the BNS: Continuity, Clarification, & the Restrictions of a Reactive Model

The post-2013 lawmaking notion of consent is substantially maintained by the Bharatiya Nyaya Sanhita. Consent is definite as a definite, voluntary agreement stated verbally or via behavior in Section 63, Explanation 2. The legislative recalibration that followed determined public criticism of resistance-based reasoning, which occasionally disordered the lack of somatic fight with acquiescence, is reflected in this statement. It is already obvious that lacking agreement does not entail the existence of physical resistance, as has been affirmed by judicial rulings prior to classification in 2023. Through this, instead of it being a completely new norm, legislative textualization brings together an emergent doctrinal pathway. Continuity, however, does not mean conceptual completeness. The statutory building remains largely reactive; rather than constantly structuring the crime on the basis of assenting, communicative contract as an organizing principle, it enumerates circumstances which vitiate agreement, including force, fear, incapacity or fallacy.⁴ To this structure decision, there are adjudicatory consequences of authority. The emphasis of the evidentiary inquiry regarding the requested sensible belief of the accused is no longer on an overall investigation of the accused conduct⁵, but a counting of her conduct, whether she fought back and her reaction to the event, when the investigation is put largely in the context of whether the agreement was vitiated. It possesses an unpredictable practical doctrinal effect. The factual site of the legislative construction can survive to repeat analogous schemes in adjudication, despite it categorically denying the presence of mental resistance. The law in this intelligence takes the risk of supporting precisely the assumptions it purports to transcend on the plane of legal examination.⁶ To this structure decision, there are adjudicatory consequences of authority. The emphasis of the evidentiary inquiry regarding the requested sensible belief of the accused is no longer on an overall investigation of the accused conduct, but a counting of her conduct, whether she fought back and her reaction to the event, when the investigation is put largely in the context of whether the agreement was vitiated. It possesses an unpredictable practical doctrinal effect. The factual site of the legislative construction can survive to repeat analogous schemes in adjudication, despite it categorically denying the presence of mental resistance. The law in this intelligence takes the risk of

⁴ Nat'l Legal Servs. Auth. v. Union of India, (2014) 5 S.C.C. 438 (India).

⁵ Navtej Singh Johar v. Union of India, (2018) 10 S.C.C. 1 (India).

⁶ H.L.A. Hart, The Concept of Law 79–99 (3d ed. 2012), CDN Bookey (February 01, 2026, 8:00 P.M.), [The Concept of Law](#).

supporting precisely the assumptions it purports to transcend on the plane of legal examination.⁷

4. Gender Neutrality in the BNS: Contributory Inclusion & the Rape Exception

The discerning application of a gender-neutral language in the chapter on sexual offenses in the BNS, 2023 is just one of the most combative elements of that text. Such words as *lexes* or *whoever* are now applicable in several sections meaning that it is not only women who are persecuted as a result of sexuality and that constitutional protection transcends binary identities.⁸ This transformation is, in part, the consequence of a realization of wider patterns of vulnerability and destruction. Nevertheless, this incisiveness does not impale smear to rape, which is the main offense.⁹ In Section 63, the conventional formula of victim being womanlike and criminal being implicitly man is preserved. As a result, the legislation maintains a gender-specific framework at the heart of its sensual offense regime while manufacture gestures toward neutrality in its additional sections.¹⁰ Two main influences are usually put forth. The first is protective: it is claimed that rape laws should continue to focus on women as wounded since sexual assault is fundamentally gendered and women endure to be unreasonably susceptible. The second is practical: some argue that whole gender neutrality might make condemning tactics more difficult or raise issues of abuse. Despite having descriptive power, neither assertion directly addresses the constitutional question of equal legal acknowledgement in a system created on rights. It is tough to assume that neutrality inevitably declines protection because of comparative experience. While losses are standard in gender-neutral language and assisted by similar offenses with comparable alarms, the statutory definition of rape in England and Wales upholds a gender-specific idea of the crook. Regarding the dissimilarity, Canada has encompassed an entirely gender-neutral approach, implementing its sexual beating law on the different liberty and positive permission. These unequal policies demonstrate that effective protection of women can be along with thorough legalization. The way in which neutrality is constructed depends on legislative architecture and substantive protection is not necessarily

⁷ A. MacKinnon, *Toward a Feminist Theory of the State* 171–83 (1989) *Feminismnewterms* (February 01, 2026, 8:00 P.M.), [mackinnon-1989-toward-a-feminist-theory-of-the-state-copie.pdf](#)

⁸ Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *Stan. L. Rev.* 1241 (1991), *JSTOR* (February 01, 2026, 8:00 P.M.), [Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color on JSTOR](#)

⁹ *Bharatiya Nyaya Sanhita, 2023*, § 63 Explanation 2 Acts of Parliament (India).

¹⁰ *Criminal Law (Amendment) Act, 2013*, No. 13 of 2013, § 9 Acts of Parliament (India).

endangered.¹¹ Art. 14 and 21 of the Indian Constitution require a gender exclusive definition of rape to be considered and judged in terms of reliability with equality and dignity.¹² Although Art. 21 has been widely interpreted to embrace the notion of dignity, privacy and autonomy in deciding, Art. 14 guarantees equality before the law. Thus, a legislative model limiting the major sexual violation to a man-perpetrator/ woman-victim self-motivation has to be scrutinized critically on constitutional perspective.¹³

5. Constitutional Equality, Sexual Autonomy, and the Problem of Exclusion

Any constitutional test of the BNS, the sexual offense structure of 2023, must be considered on two basic pillars of protection, equal protection through Art. 14 and safeguarding of autonomy and dignity through Art. 21 of the Indian Constitution. It can be suggested that this type of plan is an effort to deal with the empirically gendered nature of sexual assault and constitutes substantive equality. Nevertheless, the excessive dependence on the shielding reasoning exposes the risk of cementing assumptions regarding the agency and vulnerability and fosters the continuation of the inequalities, which constitutional theory is supposed to eliminate. Equality and dignity guarantee of the constitution can have a better alignment in a paradigm of universal sexual autonomy which recognizes everybody as persons with rights and takes note of structural gendered harm.¹⁴ Under Article 14, there is reasonable categorization that is permissible provided it is found on understandable differences and is related logically to the objective of the law. It does not tolerate institutional denial of the equality of civic status or discrimination. In a broad meaning as in the current jurisprudence, Art. 21 ensures the right of every individual to their privacy, bodily integrity and freedom of choice. Such a strategy supports autonomy as one of the core rights, which does not depend on gender identification. Personality protects both pivotal autonomy and corporeal integrity, rather than affiliation to a particular group. In *Justice K.S. Puttaswamy v. Union of India*, recognized privacy and individual liberty as aspects of dignity that were very fundamental as stipulated in Art. 21 of the Indian Constitution and offered authoritative support to this meaning. The Court pointed out that individual choice is one component of constitutional freedom that cannot be ignored, especially on matters that are personal and intimate. It accomplished this by expressing a theory

¹¹ State of Punjab v. Gurmit Singh, (1996) 2 S.C.C. 384, 394–95 (India).

¹² Kaini Rajan v. State of Kerala, (2013) 9 S.C.C. 113, 125–27 (India).

¹³ Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608, 616–18 (India).

¹⁴ Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 S.C.C. 191, 198–201 (India).

on rights, where autonomy is taken to be one of the core values, instead of a privilege that is conferred.¹⁵ This stance was reinforced by subsequent rulings. The Court upheld the idea that selecting a spouse is a matter of personal choice in *Shafin Jahan v. Asokan K.M.* According to the ruling in *Suchita Srivastava v. Chandigarh Administration*, reproductive choices are protected by the constitution and bodily integrity. Criminal law shouldn't recognize or defend sexual autonomy differently based on gender if it is protected in this wide and universal meaning.¹⁶ Criminal law also has an expressive purpose: it conveys the harms that the legal system views as fundamental or archetypal. Restricting rape to women influences the symbolic acknowledgment of harm as well as sentence decisions. Although the Indian Constitution's Article 15(3) allows for specific protections for women, it is more likely to be interpreted as allowing for additional protection than as permitting categorical exclusion.¹⁷ The Supreme Court warned in *Anuj Garg v. Hotel Association of India* and *Air India v. Nergesh Meerza* that protective laws shouldn't reinforce paternalistic presumptions or prejudices. When taken as a whole, these rulings imply that policies intended to alleviate vulnerability cannot be based on rigid ideas about gender roles. The gendered reality of sexual assault and the equal recognition of sexual autonomy as a human right would therefore be balanced in a constitutionally sound approach.¹⁸

Sexual Offence Law under the Bharatiya Nyaya Sanhita (2023)

Theme	Bharatiya Nyaya Sanhita (BNS), 2023 – Position & Key Provisions	Key Issues / Critiques	Constitutional Lens (Equality / Non-discrimination)
Legal Regime Shift	The BNS, 2023 replaces the Indian Penal Code (IPC) as the primary criminal code from	Transition to a new code raises interpretative and implementation challenges.	The new code must conform to constitutional guarantees of equality, non-

¹⁵ Bharatiya Nyaya Sanhita, 2023, § 69 Acts of Parliament (India).

¹⁶ Bharatiya Nyaya Sanhita, 2023, § 63 Explanation 2 Acts of Parliament (India).

¹⁷ Aparna Chandra, *The Myth of Misuse: Criminal Law, Gender, and Evidence*, 55 *Econ. & Pol. Wkly.* 35 (2020) NLSIU (February 01, 2026, 8:00 P.M.) [Dr. Aparna Chandra - National Law School of India University](#).

¹⁸ Bharatiya Nyaya Sanhita, 2023, § 63 Acts of Parliament (India).

	1 July 2024. It consolidates and amends offences & penalties, including sexual offences.		discrimination and fundamental rights.
Definition of Consent	BNS defines <i>consent</i> in sexual offences as an <i>unequivocal voluntary agreement</i> communicated through words/gestures, without merely failing to resist.	Critics note that definitions often remain aligned with older IPC interpretations rather than fully modern standards emphasizing affirmative consent.	A modern consent standard strengthens personal autonomy, aligned with Article 21.
Age & Consent (Statutory Protection)	BNS retained age limit frameworks consistent with POCSO; it criminalizes sexual acts with persons under 18 irrespective of purported consent (also Section 63 definitions).	Interplay with POCSO continues to raise interpretative issues in practice; courts weigh statutory protection vs consensual behavior in adult relationships.	Age-based protection aligns with constitutional objectives of protecting minors (Article 15/21).
Gender Neutrality of Sexual Offences	Some BNS sections make offences gender-neutral (e.g., procurement of	Core sexual offences like rape, sexual harassment and stalking remain gendered in text,	Restricting definitions to binary sex roles without explicit inclusion of men, transgender and

	child for prostitution)	with victim restricted to women and perpetrators to men in several clauses.	non-binary victims may conflict with equality and non-discrimination principles (Articles 14, 15).
Removal of Section 377 Equivalent	The BNS does not contain an equivalent to IPC Section 377; consensual non-violent same-sex/non-normative sexual acts are not criminalised per se.	This creates a gap: non-consensual sexual violence affecting male adults or sexual minorities lacks specific provisions, undermining gender-neutral protection.	Could strain constitutional protections against discrimination based on sex and sexual orientation; exact legal alignment unclear without parliamentary amendment or judicial interpretation.
New Offences Linked to Consent Misrepresentation	Section 69 BNS criminalizes sexual intercourse obtained by false promise of marriage or deceit — punishable up to 10 years and fine.	Debate persists whether such provisions intrude on private consensual relations lacking coercion (commentary on scope)	Criminalizing consensual acts based on social morality rather than harm may raise equality and liberty concerns under Article 21.
Exclusion of Acts and Legal Exceptions	BNS includes detailed consent & exception provisions (Sections 28–33), addressing consent under	The coherence between these general provisions and specific sexual offence clauses is	Well-defined exceptions can enhance fairness, but must be interpreted consistently with fundamental rights.

	fear/misconception and other contexts.	yet to be tested in courts.	
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Sources: The law-creating text that is the official text of the Bharatiya Nyaya Sanhita, as reproduced in IPC, is the primary source of information deployed in this study. The NDTV intelligence provides some background to the discussion of perfection of structure and partial movement towards gender-neutral drafting of sexual offences. The evaluations conducted by Legal Service India provide important criticism to the existence of a gender-determined meaning of rape. Explanation that has been published in Navbharat Times monitors the controversy that surrounds the withdrawal of a running similar to Section 377 and its effects.

6. Feminist and Queer Critiques: Power, Recognition, and the Limits of Binary Victimhood

Egalitarianist legal theorists have tended to view women-centered sensual crime legislation as responding to historical physical causes, including the historical marginalization of women in the criminal justice system, the official distrust of complainants, and underreporting. Gender-specific recruiting, by this lookout, is a remedial provision which is aimed at fighting methodical disadvantage rather than an equal departure. Consequently, these rules are often explained as expressions of substantive equality rather than just that of formal non-prejudice.¹⁹ It is mentioned that tailored design of legislation, instead of simply imitating abstract neutrality, must indicate the social reality of harm in situations when sexual assault unequally and evidently harms women.²⁰ This contradiction is emphasized by the BNS' sparse usage of gender-neutral vocabulary. The fundamental offense of rape still presumes a male offender and a female victim, even if certain clauses relate to "any person." Although it is frequently defended as shielding women from structural violence, this poses problems for equal legal recognition and constitutional consistency.²¹ Using comparative examples from Canada and England and Wales, the question is whether contemporary criminal law can uphold a hierarchy of victims while still adhering to constitutional values.²² The fact that sexual assault is

¹⁹ Casemine, [Section 69 BNS Targets Deceit \(Not Disappointment\): Consensual Relationships and Implausible "Promise to Marry" Allegations Warrant FIR Quashment at the Threshold: Karnataka High Court | CaseMine](#) (last visited on February 01, 2026).

²⁰ Sexual Offences Act 2003, c. 42, § 1 (U.K.).

²¹ Sexual Offences Act 2003, c. 42, § 1 (U.K.).

²² Criminal Code, R.S.C. 1985, c. C-46, §§ 265–66 (Can.).

frequently gendered is not disputed by these criticisms. Rather, they challenge whether limiting the most serious sexual offense under the law to one gender is justified based only on variations in incidence. It is challenging to defend the upholding of such a hierarchy of acknowledgment for injury in a constitutional framework based on dignity.²³

7. Comparative Perspectives: Consent, Neutrality, and Safeguards in England & Wales and Canada

Comparative comparison is useful not because foreign laws should be completely implemented but rather because it refutes arguments frequently made in Indian discussions, including the notions that affirmative consent requirements are unrealistic and that gender-neutral rape laws will compromise women's safety. According to the Sexual Offences Act 2003, consent in England and Wales is a voluntary agreement made by an individual who is capable and free to make their own decisions. The Act requires courts to consider the relevant circumstances rather than making assumptions by outlining evidence and conclusive presumptions of non-consent in certain scenarios.²⁴ The victim is described as "another person" in gender-neutral terminology, despite the fact that rape is restricted to penile penetration. Serious infractions are addressed without leaving conceptual gaps thanks to related offenses like assault by penetration.²⁵ The Criminal Code has a more self-centered stance. When there is any uncertainty, the accused is supposed to take reasonable measures to find out the complainant's voluntary assent, which is known as consent. The Supreme Court of Canada rejected the concept of implicit consent in *R v. Ewanchuk* and demanded evidence of a real, subjective agreement.²⁶ When combined, these models demonstrate that recognizing victims in a comprehensive manner and arranging consent according to affirmative principles may function without compromising women's protection. They challenge the notion that the current framework in India is the sole feasible architecture.²⁷

Comparative Architecture of Sexual Offence Law

²³ *R. v. Ewanchuk*, [1999] 1 S.C.R. 330, ¶¶ 26–31 (Can.).

²⁴ *Bharatiya Nyaya Sanhita*, 2023, §§ 67–73 Acts of Parliament (India).

²⁵ Constitution of India arts. 14, 15, 21, Acts of Parliament (India).

²⁶ Martha Nussbaum, *Objectification*, 24 *Phil. & Pub. Aff.* 249 (1995), Wiley (February 01, 2026, 8:00 P.M.)

[Objectification - NUSSBAUM - 1995 - Philosophy & Public Affairs - Wiley Online Library.](#)

²⁷ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1, 21–25 (India).

Feature	India – BNS 2023	England & Wales – Sexual Offences Act 2003	Canada – Criminal Code
Definition of Rape	Gender-specific (man → woman)	Perpetrator gendered, victim neutral	Fully gender-neutral
Consent Definition	Unequivocal voluntary agreement	Freedom & capacity-based	Voluntary agreement + reasonable steps
Affirmative Consent	Reactive model	Structured presumptions	Strong affirmative model
Treatment of Deception	Separate offence (§69)	Context-based	Misrepresentation analyzed under consent
Expressive Function	Women-centered	Mixed structure	Autonomy-centered

8. Legislative Anxiety, Misuse Narratives, and Risk-Averse Reform

The growing "misapplication" debate about sexual offense legislature must also be spoke in any thorough evaluation of the BNS, 2023. Thin drafting choices and opposition to broader gender-neutral recognition are usually justified by claims of false complaints or tit-for-tat prosecutions. Even when truthful evidence of universal abuse is motionless up for discussion, such accusations regularly serve as a policy restraint, influencing lawmaking strategy. This approach to risk organization is demonstrated in Subdivision 69. The clause designates legislative caution in expanding the conceptual reach of rape into personal or relational conditions by treating sexual contact achieved via deceit as a distinct offense rather than integrating it into rape. Careful constitutional and criminological analysis is required to govern if this is a constraint motivated by apprehension or a coherent doctrinal tuning.²⁸ These subjects have at times been judicial sharp. Courts have emphasized the need to prove a fraudulent intent at the time of making a commitment and have warned them not to transform an unsuccessful corporation into a criminal matter. This change in doctrine is relevant to the perpetuation of the line between transgression of morals and criminal responsibility as well as ducking

²⁸ Joseph Shine v. Union of India, (2019) 3 S.C.C. 39, 90–96 (India).

overcriminalization. Nonetheless, a wide misapplication tale can prove to have unexpected consequences.²⁹ It runs the risk of indoctrinating pre-determined philosophies into consideration of signs where doubt in defiant of complainants are institutionalized in adjudicatory rational. Such a recalculation of the burden of reliability can be done in a manner that will punish the individuals who seek legal redress. An answer found in the constitution would bolster procedural defenses and not curtail the amount of credit. This would entail setting up court-specific standards of consent measurement and willpower, strengthening the standards of the study, and remedies of malicious prosecution. Strict evidentiary criteria are a better technique to address concerns about waste than to restrict substantive meanings in ways that would exclude actual victims and lessen the expressive role of sexual crime laws.³⁰

9. CONCLUSION:

A mixed method to change is best signified by the Bharatiya Nyaya Sanhita. It maintains the post-2013 agenda for consent and rape, adds new wrongdoings to fill up apparent gaps, and uses gender-neutral language in a few places. Its most important decisions, however, are those that remain inviolate. Rape is still only defined as connecting women as victims, and consent is not restored around a precisely stated helpful norm. As a result, there is a obvious conflict between improver rhetoric and an equality-based constitutional scheme.³¹

Two goals must be pursued concurrently by a cogent framework of sexual offense law: it must address females' structural vulnerabilities and state that bodily autonomy and self-respect are worldwide constitutional principles. Combative experience of England and Wales and Canada demonstrates that autonomy-based norms on consent, appropriately tuned frameworks of offenses, and broad-based recognition can co-exist without cooperating protection. The BNS, in its turn, indicates a largely reactive sympathetic of consent as well as incomplete neutrality. Future judicial clarification or a change in law should be to guarantee equal civic status, demystify the precedence of affirmative autonomy, and carry the vibrant role of the law closer

²⁹ Brenda Cossman, *Sexual Citizens: The Legal and Cultural Regulation of Sex and Belonging* 52–70 (2007) Springer Nature Link (February 01, 2026, 8:00 P.M.) [Brenda Cossman, Sexual Citizens: The Legal and Cultural Regulation of Sex and Belonging | Feminist Legal Studies | Springer Nature Link](#)

³⁰ Shafin Jahan v. Asokan K.M., (2018) 16 S.C.C. 368, 385–87 (India).

³¹ Andrew Ashworth & Jeremy Horder, *Principles of Criminal Law* 25–28 (9th ed. 2019) OXFORD (February 01, 2026, 8:00 P.M.) [Ashworth's Principles of Criminal Law - Jeremy Horder - Oxford University Press](#)

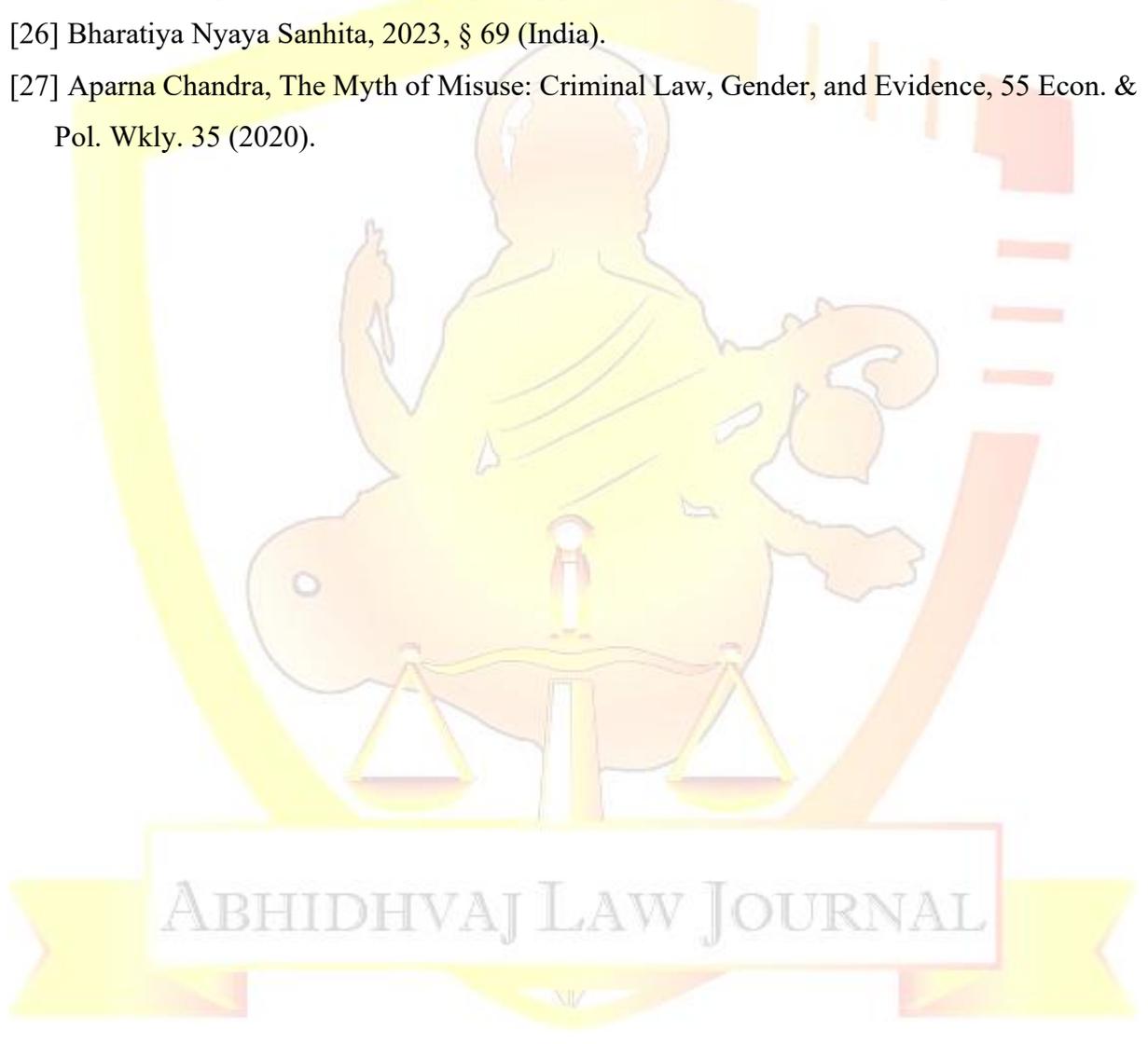
to its constitutional guarantees of substantive similarity and dignity should it be to receive its transformative potential.³²

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- [3] Catharine A. MacKinnon, *Toward a Feminist Theory of the State* 171–83 (1989).
- [4] Bharatiya Nyaya Sanhita, 2023, § 63 Explanation 2 (India) (defining consent as an unequivocal voluntary agreement communicated by words, gestures, or any form of verbal or non-verbal communication)."
- [5] Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *Stan. L. Rev.* 1241 (1991).
- [6] Criminal Law (Amendment) Act, 2013, No. 13 of 2013, § 9 (India).
- [7] Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 S.C.C. 608, 616–18 (India).
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- [18] Bharatiya Nyaya Sanhita, 2023, § 70 (India).
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³² Kimberlé Crenshaw, *mapping the margins: intersectionality, identity politics and violence against women of color*, JSTOR (February 01, 2026, 8:00 P.M.) [Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color on JSTOR](#)

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- [22] Sexual Offences Act 2003, c. 42, §§ 75–76 (U.K.).
- [23] Criminal Code, R.S.C. 1985, c. C-46, §§ 273.1–2 (Can.).
- [24] Criminal Code, R.S.C. 1985, c. C-46, § 273.1 (Can.) (consent definition) and § 273.2 (reasonable steps)..
- [25] See, e.g., Karnataka High Court decision interpreting Bharatiya Nyaya Sanhita, 2023, § 69 (India) (reported Jan. 2026) (requiring proof of deceptive intent at inception).
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