

---

# Sophia Model United Nations 2024



AIPPM

---

---

# A letter from the Executive Board.

Dear Esteemed Delegates,

On behalf of the Executive Board of the Model United Nations, it is with great pleasure and anticipation that we extend our warmest welcome to each and every one of you to our prestigious conference. As you embark on this journey of diplomacy, negotiation, and collaboration, we are thrilled to have you join us in addressing some of the most pressing issues facing our world today.

We are particularly honoured to convene this committee to deliberate on the critical topic of The Bharatiya Nyaya Sanhita Bill, 2023, it is a legislative proposal aimed at overhauling India's criminal justice system. It seeks to replace the Indian Penal Code (IPC), 1860, by modernising and contextualising criminal laws to better align with contemporary societal values and norms. The bill introduces new definitions, reclassifies offences, and proposes more stringent punishments for various crimes. This committee will specifically discuss the BNS with regards to rape laws and marital rape as a crime. We urge you to approach this committee session with an open mind, a spirit of cooperation, and a dedication to finding common ground. Through constructive dialogue and respectful exchange of ideas, we believe that together, we can explore innovative approaches and formulate strategies to address the multifaceted challenges posed by this controversy.

As delegates representing diverse perspectives, backgrounds, and experiences, your insights and perspectives will enrich our discussions and enhance the quality of our deliberations. We encourage you to actively engage with your fellow delegates, to listen attentively, to express your viewpoints thoughtfully, and to work towards consensus-based outcomes that uphold the principles of justice, equality, and human dignity.

In the days ahead, we hope that you will seize this opportunity to forge meaningful connections, to cultivate your diplomatic skills, and to inspire positive change. Remember that you are not just delegates in a simulation; you are ambassadors of hope, agents of progress, and champions of peace.

---

---

Once again, we extend our sincerest welcome to the Model United Nations conference. May your participation be enriching, enlightening, and empowering. Together, let us strive to make a difference, one resolution at a time.

Warm regards,

Co-Chairperson: Ektha Raju

Co-Chairperson: Sunidhi Sampige

Moderator: Sakshi Jain

---



---

## RAPE

### *As a concept through the years*

Rape is a profoundly serious and violent crime that involves non-consensual sexual activity. The term "rape" originates from the Latin word "rapio," meaning "to seize." This crime is characterised by the absence of consent, which is a critical element in its definition. Consent must be given freely and voluntarily, without coercion, threat, or deceit. The Indian Penal Code (IPC) under Section 375 specifies that rape involves a man engaging in sexual activity with a woman without her consent, against her will, or under circumstances that impair her ability to give valid consent, such as intoxication or mental incapacity. Through constant evolution of rape laws in India reflects the country's efforts to address and mitigate this grievous crime through legislative amendments and judicial interpretations. Before Independence the IPC of 1860 was the first comprehensive criminal code in India, which included provisions for rape under Section 375.

However, the definition and scope were limited and primarily focused on protecting women's modesty rather than their autonomy (physical) and rights. Over time the brutality of cases being brought before court like the Mathura Rape Case (1972) involving the custodial rape of a young tribal girl by policemen which led to significant public outcry and protests. This case highlighted the inadequacies in the existing laws and the judicial system, prompting demands for reforms. The resulting Criminal Law Amendment Act of 1983 introduced several important changes, including the inclusion of custodial rape and shifting the burden of proof to the accused in certain circumstances. The Nirbhaya Case (2012) a brutal gang rape and murder of a young woman in Delhi, known as the Nirbhaya case, sparked nationwide protests and a global outcry. This led to the Criminal Law (Amendment) Act, 2013, which broadened the definition of rape, introduced harsher penalties, and included provisions for faster trials and enhanced victim compensation. The amendment also redefined consent, emphasising it as an unequivocal voluntary agreement through words, gestures, or any form of non-verbal communication. In current times according to the National Crime Records Bureau (NCRB) figures for 2019, 88 rapes occur on average every day in India.

The conviction rate, on the other hand, is as low as 27.8%. This indicates that just 28 people out of 100 are found guilty. According to the NCRB, the rate of crimes against women grew from 58.8 percent in 2018 to 62.4 percent in 2019.

---

---

There were 32,033 rape cases reported in 2019, with Rajasthan having the highest rape crime rate with 5,997 rapes reported. Uttar Pradesh had the most instances with 3,065 reported, followed by Madhya Pradesh with 2,485, Maharashtra with 2,299, and Kerala with 2,023. In 2019, there were 1,253 rape cases registered in delhi. In response to continued incidents of sexual violence, further amendments were made in 2018 following high-profile cases like those in Unnao and Kathua. These amendments increased the minimum punishment for rape and introduced the death penalty for the rape of girls under 12. It also aimed to improve the legal process and support for victims.

### **Bharatiya Nyaya Sanhita 2023( BNS)**

The Bharatiya Nyaya Sanhita Bill, 2023, is a legislative proposal aimed at overhauling India's criminal justice system. It seeks to replace the Indian Penal Code (IPC), 1860, by modernising and contextualising criminal laws to better align with contemporary societal values and norms. The bill introduces new definitions, reclassifies offences, and proposes more stringent punishments for various crimes. It emphasises a victim-centric approach, aims to expedite legal processes, and ensures more comprehensive justice delivery. The Bharatiya Nyaya Sanhita Bill represents a significant step towards legal reform in India, addressing both procedural and substantive aspects of criminal law. As of June 2024, the Bharatiya Nyaya Sanhita Bill, 2023, is under consideration in the Indian Parliament. The bill aims to replace the Indian Penal Code (IPC), 1860, and has generated significant debate and discussion among lawmakers, legal experts, and the public. It is currently being reviewed by parliamentary committees and has not yet been passed into law. The process involves scrutiny of its provisions, amendments based on feedback, and eventual voting in both houses of Parliament. The bill represents a significant overhaul of India's criminal justice system, focusing on modernising and streamlining legal procedures. The Ministry of Home Affairs has set July 1, 2024, as the implementation date for new criminal laws, replacing the existing Indian Penal Code, Criminal Procedure Code, and Indian Evidence Act.

In IPC section 375 and in BNS section 63 the term“ rape” has been defined and in both these statutes , there has been no change in the definition except in exception (2) of section 63 in BNS which states Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape , wherein section 375 of the IPC it was under fifteen years of age.

---

---

There has been insignificant change for the following reasons...

- There has been no address to the heinous kind of rape that is “marital rape”
- The constitution fails to address it as a term itself
- Age limit restriction to rape in the institution of marriage. (18 yrs)
- Questionable progression of the act from time in age to current times.
- No clarity on how one who is above the age of 18 in a marriage fallen victim of rape in a marriage to seek redressal from the court.

### **What is the problem at hand?**

The non-inclusivity and recognition “marital rape” as a kind of rape to which grounds must be defined and redressal must be provided. The very well crafted and continuously evolving constitution fails identify the term marital rape and holds no platform for victims of such to avail protection under law. The complexity of what a victim to marital rape must go through not only to void the marriage on these grounds but to also punish the guilty is a big question mark as this crime has many aspects to it, ranging from marriage to domestic violence to rape being a crime itself and further maintenance to the wife on voiding the marriage but whether it will remain as maintenance or will amount to as penalty/damages or will both be provided is unknown of.

Firstly , can “rape” in a marriage amount to domestic violence and can it be considered justified under the circumstances and boundaries of what merely “violence” is to the Indian constitution ? I believe it is highly unacceptable and that violence is a part of the broader heinous act of rape.

The many aspects to prove that one has fallen victim to marital rape is extremely complex. However, Marital rape is illegal in 50 American States, 3 Australian States, New Zealand, Canada, Israel, France, Sweden, Denmark, Norway, Soviet Union, Poland and Czechoslovakia and several others. In the United Kingdom, which the present Code largely draws from, has also removed the exception pursuant to a judgement rendered by the House of Lords in *R v. R* in the year 1991.

Therefore, the Code that was made by the rulers then, has itself abolished the exception given to husbands. In UK under Sexual Offences Act 2003 they have recognised and made marital or spousal rape illegal and punishable.

---

---

There are countries that are providing methods to identify and criminalise this offence and taking inspiration or an initiative to incorporate them into our laws or create a platform that the aggrieved can approach is extremely vital. This topic is all the more controversial as the laws are a revamp to modern times and yet it has failed to address sensitive yet complex issues as such.

### **Victim Protection**

Providing comprehensive support systems for victims of rape is a vital aspect of effective rape laws. The BNS mandates immediate first-aid and medical treatment for victims free of cost, emphasising the need for medical and psychological assistance. Moreover, the law includes provisions for victim compensation and the establishment of a Witness Protection Scheme to ensure the safety of those testifying against offenders. These measures are designed to alleviate the immediate and long-term impact of sexual violence on victims.

### **Trial Procedures**

Ensuring fair and speedy trials while protecting the privacy and dignity of victims is another critical area. The BNS outlines procedures for compensating victims if offenders are not identified or if the trial ends in acquittal. It also includes provisions for the State or District Legal Services Authority to award compensation and provide interim relief. The privacy of victims is safeguarded through these mechanisms, and the dignity of the victim is prioritised during the trial process.

### **Punishments and Deterrence**

Balancing punitive measures with rehabilitation opportunities for offenders is essential in the context of rape laws. The BNS prescribes rigorous imprisonment of no less than ten years, which can extend to life imprisonment, for those convicted of rape. Specific provisions are included for aggravated cases, such as rape committed by police officers, public servants, or during communal violence, which attract harsher penalties. The aim is to ensure that punishments serve as a deterrent while also considering rehabilitation for offenders where appropriate.

---



---

## Conclusion

It is indeed upsetting that such an anachronistic provision has failed to be addressed and struck down and deemed to be defined and set punishment for , however one of the ways forward to this would be to bestow our faith in the judiciary to do justice to the challenging cases that further fall in court and to provide justice deserved to the victim.

Now how deserving can the justice be is our biggest worry as according to our view we see no fair amount of redressal to an heinous act as such being provided to victims and with growing times and the cases falling in court it did seem necessary to address. The effectiveness and adequacy of rape laws and criminal proceedings hinge on a robust legal framework that defines rape comprehensively, establishes clear consent standards, provides victim protection, ensures fair trials, and balances punitive measures with rehabilitation.

The provisions in the Bharatiya Nagrik Suraksha Sanhita address many of these critical areas, aiming to deliver justice while protecting and upholding the dignity of victims. Ongoing evaluation and reform are essential to adapt to societal changes and ensure that these laws effectively combat sexual violence. So it lies upon the fellow debaters to thoroughly research on this sensitive topic and make sure to uphold the sanctity of the issue while debating your way through the three days of the conference. An adequate amount of information from the executive board has been collected for a smooth start of your personal research so we hope to experience the brilliance of each one of you all in this conference.

All the best delegates, See you all soon!

---