



Rights of Victims,
Survivors of Gender-Based
Violence & Other
Marginalized Communities
Under New Criminal Laws:
Training Module

Popular education & Action Centre (PEACE)

March 2025

**RIGHTS OF VICTIMS,
SURVIVORS OF
GENDER-BASED
VIOLENCE & OTHER
MARGINALIZED
COMMUNITIES
UNDER NEW
CRIMINAL LAWS**

TRAINING MODULE

**POPULAR EDUCATION &
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MODULE OVERVIEW

Module Goal: To equip participants with a comprehensive understanding of the rights of victims and survivors of gender-based violence (GBV) and marginalised communities under the new Indian criminal laws and to enhance their ability to support and advocate for these individuals.

This module introduces the new criminal laws, equipping participants with essential knowledge for effective implementation. It emphasises protecting vulnerable populations by strengthening legal awareness and enforcement.

A victim-centered, trauma-informed approach is central, ensuring survivors' dignity, safety, and empowerment. The training fosters active learning, shared knowledge, and collaboration through discussions, case studies, and practical exercises.

By engaging in interactive sessions, participants develop a deeper understanding of legal provisions and their real-world application. This participatory approach ensures that professionals are well-prepared to uphold justice while minimizing harm to those affected by crime and violence.

FACILITATOR NOTES

Begin by acknowledging the sensitive nature of the topic and the importance of creating a safe and respectful learning environment.

Clearly articulate the link between the new laws and the potential for positive change in addressing GBV and protecting marginalized communities.

Stress the importance of participants' roles in implementing these laws and supporting survivors.

LEARNING OBJECTIVES

By the end of this module, participants will be able to:

- ⇒ Explain the key provisions of the new criminal laws (BNS, BNSS, BSA) related to GBV and marginalized communities.
- ⇒ Define GBV and its various forms, recognizing the intersectional nature of violence.
- ⇒ Identify the rights and entitlements of victims and survivors under the new laws, including access to justice, protection, and support.

- ⇒ Understand the concept of intersectionality and its impact on marginalized communities' experiences of GBV.
- ⇒ Identify and access relevant support services and develop strategies for effective advocacy.
- ⇒ Discuss the challenges in implementing the new laws and propose solutions for overcoming these hurdles.
- ⇒ Advocate for the rights of victims and survivors, promoting systemic change and social justice.

FACILITATOR GUIDELINES

UNDERSTANDING THE LEGAL LANDSCAPE

- ⇒ Overview of Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA): key provisions relevant to GBV and marginalized communities.

- ⇒ Reasons for legal reforms: addressing the shortcomings of previous laws and aligning with evolving social realities and international human rights standards.

- ⇒ Impact of the new laws on the criminal justice system: potential for increased efficiency, victim-centricity, and accountability.

- ⇒ Historical context of criminal laws and GBV in India: examining the evolution of legal frameworks and societal attitudes towards violence against women and marginalized groups.

ACTIVITIES

QUESTION & ANSWERS

- ⇒ What were the key shortcomings of the previous laws (IPC, CrPC, Evidence Act) in addressing GBV and protecting marginalized communities?
- ⇒ How do the new laws (BNS, BNSS, BSA) aim to address those shortcomings, and what are the major shifts in approach?
- ⇒ What are the main changes in the definitions of offenses related to GBV, and how do these changes impact the scope of legal protection?

⇒ Can you explain the changes related to digital evidence and how it impacts the prosecution of cyber-related GBV?

⇒ How do the new laws address the issue of marital rape?

GROUP DISCUSSION

What are the potential benefits and challenges of the new laws from the perspective of different stakeholders (victims, law enforcement, legal professionals, NGOs)?

TIMELINE ACTIVITY

Create a timeline of key legal reforms related to GBV in India, highlighting the

evolution of laws and the influence of social movements and advocacy efforts.

CASE LAW ANALYSIS

Discuss a landmark case related to GBV and analyze how the new laws might impact its outcome.

VISHAKA V. STATE OF RAJASTHAN (1997)

Vishaka v. State of Rajasthan was a pioneering case in India's legal battle against gender-based violence (GBV), specifically workplace sexual harassment. The case arose after Bhanwari Devi, a social worker fighting against child marriage, was gang-raped as retaliation.

Due to the absence of clear laws addressing workplace sexual harassment at the time, the Supreme Court issued the **Vishaka Guidelines**, establishing key principles for preventing and addressing sexual harassment at work.

IMPACT OF VISHAKA GUIDELINES

The Vishaka Guidelines laid the foundation for The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which provided a structured mechanism for addressing complaints. However, gaps in enforcement, delayed justice, and lack of awareness remained significant challenges.

IMPACT OF NEW CRIMINAL LAWS

The new criminal laws introduce stricter provisions for sexual harassment, enhanced penalties, and streamlined legal processes, which could have significantly strengthened the case's outcome if they had been in place. Potential impacts include:

- ⇒ **Stronger Legal Framework** – Explicit legal provisions define and penalize workplace harassment, ensuring clearer legal recourse.
- ⇒ **Faster Justice Delivery** – The introduction of **fast-track courts** and **victim-friendly procedures**

could reduce delays in cases like Bhanwari Devi's.

- ⇒ Greater Survivor Protection – Witness protection programs and strict penalties for retaliation may have provided better safeguards.
- ⇒ By reinforcing **victim-centric justice**, the new laws aim to create **a safer and more equitable society**, ensuring that cases like Vishaka v. State of Rajasthan receive **stronger legal backing and more effective enforcement**.

RIGHTS AND ENTITLEMENTS OF VICTIMS AND SURVIVORS

UNDERSTANDING VICTIMS' RIGHTS

Victims and survivors of crime, especially gender-based violence, have fundamental rights that ensure their dignity, safety, and access to justice. These include the right to protection, legal representation, privacy, fair treatment, and rehabilitation. Recognizing and upholding these rights is essential in delivering survivor-centered justice.

ACCESS TO JUSTICE AND SUPPORT SERVICES

Survivors are entitled to legal aid, medical assistance, psychological counselling, and shelter services. The session will explore institutional mechanisms, including one-stop crisis centers, helplines, and victim compensation schemes, ensuring survivors receive necessary support and redress.

LEGAL PROVISIONS FOR VICTIM PROTECTION

The new criminal laws provide enhanced protections, including witness protection programs, fast-track courts, and stringent penalties for intimidation or harassment

of victims. These measures help ensure survivors can safely seek justice without fear of retaliation.

EMPOWERMENT AND REINTEGRATION

Beyond legal remedies, survivors must be supported in reclaiming their **independence and agency**. Economic empowerment programs, vocational training, and community reintegration initiatives play a key role in helping survivors rebuild their lives.

ACTIVITIES

QUESTION & ANSWER

- ⇒ What are the specific rights of a victim during the investigation process, and how can these rights be enforced?
- ⇒ How can a victim access legal aid, and what types of legal assistance are available?
- ⇒ What is the process for filing a victim impact statement, and how is this statement used in sentencing and other legal decisions?
- ⇒ What are the legal provisions related to witness protection, and

how can victims and witnesses be protected from intimidation and retaliation?

⇒ What are the different types of compensation available to victims of GBV ?

RIGHTS MAPPING

Create a visual representation of victims' rights, highlighting the different stages of the legal process and the corresponding entitlements.

GROUP ACTIVITY

Develop a checklist of essential information and resources for victims, including contact details for legal aid

services, support organizations, and government agencies.

SCENARIO ANALYSIS

Present scenarios where victims' rights are violated or not adequately protected and ask participants to identify the violations and propose solutions.

FACILITATOR NOTES

WHAT ARE VICTIMS' RIGHTS DURING A TRIAL?

PART I: GENERAL CRIMINAL PROCEDURE AND THE BNSS

The CRPC [in Sec 2(wa)] defined 'victim' as a "*person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged including*" and the expression included "*his or her guardian or legal heir*". Hence, for someone to be eligible to be a victim (and to the consequent 'benefits', including compensation) under the CrPC, the

accused should have been charged. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in its definition (in Sec. 2(1)(y)) has dispensed with this requirement, which implies that charge is not a prerequisite to access the consequential benefits, in line with victim compensation regimes. **Section 18(8) also specifies that the Court may permit victims to engage their own lawyers to assist the prosecution.**

RIGHT TO GET A COPY OF THE FIRST INFORMATION REPORT (FIR) AND CHARGESHEET

⇒ While under the CrPC [Section 154(2)], ‘the informant’ was entitled to a copy of the FIR free of cost, under Section 173(2) of BNSS, such right has been expanded to the victim as well besides the informant.

⇒ Besides, if the case has been instituted on a police report, under Section 230, besides the FIR, the victim, within 14 days, is entitled to receive, free of cost, the police report; the statements recorded under sub-section (3) of section 180 of all persons; confession statements,

if any; and any other documents which were part of the police report.

⇒ However, such a right is only available “*if [the victim is] represented by the advocate.*” In the absence of a vested right to free legal aid and assistance for victims and proper implementation of this regime, for most victims, this right only exists on paper.

REFUSAL TO RECORD FIR

- ⇒ On the refusal of the officer in charge of the police to write an FIR, the CrPC provided for the mechanism to send the first information report by post to the address of the Superintendent of Police. The same right is available under Section 173(4) of the BNSS.
- ⇒ On the Superintendent of Police's denial to take up the case, the option of writing directly to the Magistrate, who has jurisdiction to take cognizance under Section 190 of CrPC read with 156(3) of CrPC exists in BNSS under Section 175(3) as well.

⇒ Besides the above options, the right of the victim/complainant to directly prefer a complaint to a Magistrate who can either enquire himself or direct investigation by the police [u/S. 200 CrPC] continues under S.223 of the BNSS.

ZERO FIRS

- ⇒ Under Section 173, BNS has institutionalised the concept of zero FIRs i.e. one can register an FIR at any police station irrespective of where the offence took place.
- ⇒ While this right previously exists and was mandated by the [Central Government](#) and through Courts' jurisprudence including in cases like [Lalita Kumari v. Government of Uttar Pradesh](#), non-registration of FIRs was a major issue that will surely be addressed to certain extent by this clause.

RIGHT TO BE INFORMED DURING THE STAGE OF INVESTIGATION

- ⇒ BNSS does give a more expanded right to be informed to both the victim and the informant.
- ⇒ S.193(3) and S.193(4) requires the police to inform the victim and the informant of the progress in the investigation within ninety days including through electronic mode, but here too the requirement of “*if [the victim is] represented by the advocate.*” is present.

RIGHT IN CASE OF CLOSURE REPORT

- ⇒ Under Sec 157(2) of CrPC, the police was only mandated to inform just the witness/informant in case of decision to stop further investigation or in case of filing of closure report.
- ⇒ BNSS does not expand this right to the victim.
- ⇒ The Hon'ble Supreme Court in [Bhagwant Singh v. Commissioner of Police](#), (1985) 2 SCC 537 had held that where the Magistrate decides not to take cognizance based on the report filed under Section 173(2)(i), notice must be issued, and an

opportunity of a hearing must be provided to the informant. The Court, however, recognized the discretion granted to the Magistrate to issue notice and give a right to hearing to the victim/next of kin of the victim, at par with the informant.

⇒ This is a missed opportunity to crystallize this right on behalf of the victims.

PLEA BARGAINING AND SATISFACTORY DISPOSITION OF THE CASE

In cases where the accused makes an application for plea bargaining, the BNSS has retained the right of the victim to participate in these proceedings (under Section 265D, CrPC and now S. 291, BNSS). The Court is required to make sure that the proceedings are voluntary.

WITHDRAWAL OF PROSECUTION

⇒ Sec. 321 of the CrPC allows the prosecutor to withdraw the prosecution of a case, at any time

before the judgment is pronounced,
with the consent of the Court.

⇒ Section 360 of the BNSS has added
another requirement for such
withdrawal, i.e. such withdrawal can
only take place after hearing the
victim.

PART II: SPECIAL PROVISIONS FOR VICTIMS OF IDENTITY- BASED VIOLENCE

- ⇒ In cases of identity-based violence, special rights have been vested in victims in recognition of their vulnerability.
- ⇒ For instance, taking into account, the difficulties faced by victims of caste atrocities in accessing justice, the [SC/ST \(Prevention of Atrocities\) Act, 1989](#) was amended in 2016 and Section 15A added to safeguard the rights of victims of atrocities, their dependents and witnesses to ensure justice.

⇒ Section 15A provides the following rights to victims:

→ to be treated with fairness, respect and dignity and with reasonable accommodation as.

→ to have timely updates and advance notice of any court proceedings

→ to summon parties, documents and examine witness

→ to be heard at any proceedings in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written

- submission on conviction,
acquittal or sentencing
- the travelling and
maintenance expenses during
investigation, inquiry and trial
 - the social-economic
rehabilitation
 - Relocation.
 - Confidentiality during the
proceeding and in the court
records
 - To free copy of FIR and
immediate relief in cash or in
kind
 - Police protection

- relief in respect of death or injury or damage to property;
- food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- maintenance expenses.

⇒ Similarly, in *[Tehseen S. Poonawalla v. Union of India](#)*, (2018) 9 SCC 501, the Court guaranteed the following rights to victims of mob violence:

- Right to timely notice of all Court proceedings
- Right to be heard at the trial in respect of applications such

as bail, discharge, release and parole filed by the accused persons

- Right to file written submissions on conviction, acquittal or sentencing
- Right to free legal aid and engaging any advocate of his/her choice from the free legal aid panel.

NAVIGATING THE CRIMINAL JUSTICE SYSTEM: A VICTIM-CENTRIC APPROACH

FACILITATION NOTES

UNDERSTANDING THE CRIMINAL JUSTICE SYSTEM

The journey to justice involves multiple stakeholders, each with a distinct role:

- ⇒ Police: Register complaints, conduct investigations, and ensure victim protection.

- ⇒ Judiciary: Hear cases, ensure fair trials, and deliver verdicts.

⇒ Legal Aid Services: Provide free legal assistance to survivors.

⇒ Support Organizations: Offer shelter, counseling, and rehabilitation.

Survivors often face delays, intimidation, and lack of sensitivity from law enforcement and judicial officers. A victim-centric approach seeks to address these challenges by ensuring accessible, efficient, and survivor-friendly legal procedures.

VICTIM RIGHTS AND LEGAL PROTECTIONS

Under the new laws, survivors are entitled to:

- ⇒ Filing an FIR without delay or bias
 - Police must register complaints and take immediate action.
- ⇒ Anonymity and confidentiality – Survivors' identities are protected in sensitive cases.
- ⇒ Free legal aid and fast-track trials – Ensuring speedy justice.
- ⇒ Protection from intimidation – Witness protection programs safeguard survivors and their families.
- ⇒ Compensation and rehabilitation support – Financial aid and social services for survivors.

Many survivors are unaware of these rights, making it essential for legal professionals, law enforcement, and community workers to educate and empower them.

ACTIVITIES

MOCK TRIAL

Enact a simplified court proceeding for a GBV case, focusing on the roles of different actors and the challenges faced by the victim.

Objective:

The mock trial is designed to provide participants with a hands-on experience of how gender-based violence (GBV) cases proceed in court. It will highlight the roles of different actors, legal procedures, and the challenges faced by victims in seeking justice. The exercise will also emphasize

victim-sensitive, trauma-informed approaches in judicial proceedings.

Mock Trial Scenario:

A woman, Ayesha (28), works as a domestic helper. She was sexually assaulted by her employer, a well-connected businessman. When she filed a police complaint, she faced intimidation, social stigma, and legal hurdles. The case has now reached trial.

Key Issues:

- ⇒ The survivor's struggle for justice against a powerful perpetrator.
- ⇒ Societal biases and victim-blaming narratives during the proceedings.

⇒ The role of legal protections, support mechanisms, and judicial sensitivity.

Roles and Responsibilities:

Participants will be assigned different roles to enact a realistic yet simplified courtroom trial.

→ **Survivor (Ayesha):** Shares her testimony about the incident, the trauma faced, and the challenges in seeking justice. Highlights fears of retaliation and emotional distress.

→ **Defense Lawyer (Representing the Accused):** Challenges the survivor's credibility using common victim-blaming tactics. Argues that there is no strong physical evidence

and that the survivor is fabricating the case for financial gain.

→ **Prosecution Lawyer**

(Representing the State/Victim):

Presents witness statements, forensic evidence, and medical reports. Counters victim-blaming narratives with legal arguments emphasizing survivor rights.

→ **Judge:** Ensures a fair trial, intervenes when arguments become biased or unethical. Follows new legal provisions protecting survivors' dignity. Gives a final ruling based on legal arguments and evidence.

- **Police Officer (Investigation Officer):** Explains the investigation process, collection of evidence, and legal procedures followed. Addresses delays, gaps, or biases in handling the case.
- **Witness (Neighbour or Friend of Survivor):** Provides an independent account of the survivor's state after the incident. Either supports or contradicts the survivor's testimony.
- **Court Reporter:** Takes notes of key arguments, witness statements, and judge's observations.
- **Jury (Observers/Participants):** After hearing the case, they discuss

the strengths and weaknesses of the arguments. Provide feedback on how justice was or wasn't served.

Popular Education and Action Centre (PEACE)

Popular Education and Action Centre (PEACE) is a collective dedicated to strengthening grassroots social action through popular education. We challenge the superficial use of participation in dominant development paradigms, emphasising true empowerment for marginalised communities. Our approach equips people with knowledge and capacity to reclaim agency, challenge entrenched power structures, and transform their realities.



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