



## Misuse of laws in India and the necessity to protect against fake cases: A critical analysis of the BNS, BNSS, and BSA

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### Abstract

The legal system in India has been gradually developing the problem of the abuse of laws particularly in the matters concerning fake cases. Defamation cases and defamation and baseless cases pervert justice and reduce public confidence in the legal system. Knowing this problem India has brought drastic legal changes in form of Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya (BS). These changes are aimed at legalising procedures for functioning of the law, as well as the rights of citizens and preventing the abuse of legislation. This paper is on one, the abuse of laws in India, two, the provisions of these new laws and three, the measures that can be taken to protect the legal system and persons from abuse of law.

**Keywords:** Misuse of laws, fake cases, BNS, BNSS, and BSA

### Introduction

The courts in India follow one of the most complicated and biggest legal systems in the world for right of the individuals and justice. However, the provisions of the law for personal benefits or to intimidate others has been the order of the day. These abuses frustrate justice and destroy the character and the capacity to earn a living of the victim.

Three new laws proposed are Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), Bharatiya Sakshya (BS); all of which have been introduced to mitigate some of the main concerns relating to Legal Abuse particularly with reference to the fake cases and vexatious proceedings. The objective of these reforms is to enhance the legal instrumentalism, legal rationality and legal transparency.

As for this paper, the focus is on the following questions: What laws exist in India? What is misconstruction and misuse of laws, fake cases and why these issues should be taken into consideration for legal change? It also evaluates the extent to which the BNS, BNSS and BS are able to prevent the abuse of laws.

### Misuse of Laws in India: Types and Causes

The abuse is the act of using the legal provisions in fading the intended legal provisions with the aim of achieving the self-end at the expense of justice. This means that there is a twisting of the legal process with many legitimate grievances dragged through the mud and many innocent individuals surrounded and accused. Some common forms of misuse include:

#### 1. False Complaints and Allegations

False reporting, especially in areas of sexual harassment, dowry, and domestic violence are some of the most severe legal abuses in India. Some of these complaints are made with an intention to blackmail people, threaten them or even revenge. For example:

- **False Rape Allegations** : It is common to hear women make up charges under Section 376 of the IPC with an aim of tarnishing another person's image or as a revenge tool.

- **False Dowry Harassment Claims**: Section 498A is used to settle scores or in other words, to extort money by filing a dowry harassment case.

#### 2. Exploiting Ambiguities in Laws

- Some of the laws are general or ambiguous, which means that persons can take advantage of these clauses. For instance:
  - **Section 498A (Dowry Harassment)**: While its purpose was to shield women from acts of dowry harassment, this law has been abused in many cases as an instrument of private vengeance, or for monetary blackmail, often by filing complaints against the husband and his relatives.
  - **The Domestic Violence Act (2005)**: Although the law was established to protect women against domestic violence, the act is abused by people to institute false charges making it hard for real victims to seek the protection they require.

#### 3. Frivolous Civil Suits

Another is frivolous litigation. Civil litigants who have no strong grounds sometimes take legal action on issues such as property rights, nuisance or other issues in order to force the other side to pay them money. Such cases include situations where the claimant provided false information or/and where facts stated by him/her are overstated.

#### 4. Defamation Laws

The law of defamation provided under section 499 of the IPC is widely applied to muzzle free speech or to threaten critics mainly in the realms of politics and business. Libel per se causes the loss of character and source of income.

#### 5. Manipulation of Bail and Arrest Procedures

At times, bail and arrest provisions are abused to intimidate the person in question. Laws such as the NSA or the UAPA are employed to arrest persons of interest without the necessary evidence and are an encroachment of the individual rights to liberty.

## The Impact of Fake Cases

The filing of fake cases has several far-reaching consequences:

### 1. Delaying Justice

The fake cases hence take their time in the legal system while the genuine cases are held back. Currently, Indian courts are burdened with so many cases, and the addition of such frivolous cases further complicates the situation hence a delay in delivery of justice.

### 2. Psychological and Financial Stress on the Accused

People get emotionally and financially drained apart from having their reputations ruined when they get framed in malicious cases. However, the social price to pay is high, and so is the financial cost even if they are acquitted.

### 3. Undermining Public Trust in the Legal System

The increasing rate of fake cases is a very bad signal to the public, and it affects the credibility of the judicial system. Citizens start doubting the courts and their impartiality and non-bias and this erodes the very fabric of the rule of law and democracy.

### 4. Exploiting Vulnerable Sections of Society

Fake cases are more common among the vulnerable poor, and illiterates in the population sector. Most of these people cannot defend themselves against such allegations, and they become victims.

## The Need to Stop Fake Cases: Legal Reforms in India

To avoid the misuse of laws and to address the escalating figure of false cases, India has now introduced some changes in the form of BNS, BNSS, Bharatiya Sakshya. The anti-terrorist legislation, which was introduced in this regard, has the following objectives: These reforms are designed to respond to the problem of how to offer sufficient legal protection while avoiding its misuse.

### 1. Bharatiya Nyaya Sanhita (BNS)

The Bharatiya Nyaya Sanhita is the criminal law reform proposed to replace IPC, but the process is still under way. The BNS introduces several provisions to address the misuse of laws, including:

- **Stronger Penalties for False Cases:** The BNS also provides measures for dealing with unjustified complaints and the concept of the act is to prevent members of the public from abusing the legal system.
- **Improved Definition of Crimes:** Since in the BNS, the crimes and the respective penalties are described with clarity, there is little possibility of the abuse of this tool and all laws are applied objectively.
- **Faster Trials and Accountability:** The BNS also points out the issues of speed with trial and other enhanced processes, and, therefore, the fake cases cannot protract justice.

### 2. Bharatiya Nagarik Suraksha Sanhita (BNSS)

The issues of citizens' security and individual rights are the problems that the Bharatiya Nagarik Suraksha Sanhita is dealing with. Key provisions related to the protection against fake cases include:

- **Protection Against False Accusations:** The BNSS has provisions for some safeguards for people from such situations as the provision for the penalty where one makes a false report.

- **Reforms in Arrest and Bail Procedures :** The BNSS includes measures improving the conditions for the abuse of the provisions of bails and arrest. This has the effect of preventing individuals from being locked up in police detention unlawfully because of the use of false or malicious complaints.
- **Right to Compensation for False Cases:** The innocent parties are provided with an opportunity to recover loss sustained as a result of abuse of the legal process through the use of fakes case victims.

### 3. Bharatiya Sakshya (BS)

The Bharatiya Sakshya Act is particularly occupied with the provisions of the introduction of better and less adaptable to manipulation modern evidence laws. The BS introduces provisions to:

- **Enhance the Authenticity of Evidence:** The Act accords primacy to the electronic evidence, which makes it almost impossible to alter the evidence when in court.
- **Admissibility of Electronic Evidence:** With the introduction of technology in the business environment, it ensures that any e- earring is admissible in court to minimize on cases of fraudulent cases.
- **Preventing Fabrication of Evidence:** The BS also contemplates severe penalties for those who make up or alter evidence, thereby preventing the filing of frivolous lawsuits.

## Strategies to Protect the Legal System from Fake Cases

1. **Stronger Penalties for Filing False Complaints:** Legal reforms should be to include severe consequences on those who provide false or frivolous complaints. This could include criminal charges and compensatory damages for the falsely accused citizens as indicated below.
2. **Improved Legal Literacy:** There should be awareness created among the people that filing of fake cases has negative impacts on the individuals and the justice system.
3. **Efficient Legal Mechanisms:** The time taken to process cases and make decisions can also be shortened in order to minimize the number of fake cases that may take a long time to be Weeded out. These are quicker trials, pretrial evaluation of the merits of the case, and easier ways of throwing out a case with no merit.
4. **Greater Accountability of Law Enforcement :** Police and investigating agencies should be made to answer for fake cases that they investigate. There should be rigorous scrutiny before charges are laid and police should be trained to recognize scams quite early enough.
5. **Technological Solutions:** There is an opportunity to use digital technologies, including blockchain technology for case records, artificial intelligence for identifying patterns of fake cases, as well as e-filing of documents.

## Conclusion

The abuse of laws in India, and the increase in fake cases erode the credibility of the legal system and inflict a lot of damage to persons and societies. But now with the advent of Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita and Bharatiya Sakshya India is moving towards solving this problem. These reforms provide new measures so as to curb the filing of frivolous suits, to hasten the delivery of justice and to safeguard the rights of the accused. While these laws offer a starting point for change, they need to be applied properly, together with proper measures of protection and oversight. The challenge of maintaining the role of the legal system as the delivery of justice as and when due where due involves endless fights against the misuse of legal provisions and the cultivation of ethical practice in the profession.

In order to have a number of relevant and authoritative sources which would support the given research article, it is proposed to use such sources as legal texts, governmental reports, articles, and publications concerning the improper usage of laws, judicial reforms, and the certain provisions of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya. Below is a curated list of possible references that you could use or consult further:

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