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OVERVIEW AND CRITICAL ANALYSIS OF RECENT CHANGES IN CRIMINAL LAW

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INTRODUCTION

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) signifies a transformative step in India's legal landscape. By replacing colonial-era laws like the Indian Penal Code (1860), Code of Criminal Procedure (1873), and Indian Evidence Act (1872), these new legislations aim to align India's criminal justice system with the aspirations of a modern, democratic society. The reforms are rooted in the principles of inclusivity, fairness, and efficiency, ensuring that justice is accessible to every citizen, irrespective of their socio-economic background.

One of the key highlights of these laws is their emphasis on speedy justice, which has been a long-standing challenge in India's judicial system. With provisions for time-bound investigations and trials, the new framework seeks to address systemic delays that have historically plagued courts. For instance, the introduction of e-FIRs, digital evidence management, and videography during critical procedures reflects a forward-thinking approach that leverages technology to enhance judicial efficiency. These measures are expected to significantly reduce case backlogs and improve the overall quality of justice delivery.

Additionally, the reforms take a victim-centric approach, prioritizing the rights and welfare of victims over punitive measures alone. Enhanced penalties for crimes against women, children, and marginalized groups demonstrate a commitment to protecting vulnerable sections of society. The inclusion of community service as a penalty for minor offences reflects a shift

towards rehabilitation and restorative justice, fostering social harmony while addressing criminal behavior effectively. These changes underscore the government's intent to create a legal system that is both humane and progressive.

The new laws also focus on strengthening national security by addressing emerging threats such as terrorism, cybercrime, and organized crime. With stringent provisions against mob lynching and crimes that threaten India's sovereignty, these legislations aim to safeguard public order while ensuring justice for all. The emphasis on modern forensic techniques and digital integration further enhances investigative capabilities, making it easier for law enforcement agencies to tackle complex cases¹.

In essence, these reforms represent not just a departure from colonial-era practices but also an alignment with India's constitutional values and democratic aspirations. By prioritizing inclusivity, efficiency, and technological integration, the Parliament has laid the foundation for a legal framework that resonates with contemporary societal needs. The new laws are expected to empower citizens, restore faith in the judicial system, and uphold the principles of justice enshrined in the Indian Constitution².

MAJOR REFORMS IN EACH OF THE ENACTMENTS

BHARATIYA NYAYA SANHITA, 2023{BNS ,2023}:

INDIAN PENAL CODE

The Bharatiya Nyaya Sanhita, 2023 (BNS) represents a landmark reform in India's criminal justice system, replacing the colonial-era Indian Penal Code (IPC) of 1860. This comprehensive legislation redefines and modernizes criminal laws to address contemporary challenges, ensuring alignment with the aspirations of a democratic and citizen-centric society. With amendments, repeals, and additions to several sections, the BNS introduces a nuanced approach to penalizing offences that threaten India's sovereignty, unity, and integrity. It also prioritizes addressing modern issues such as terrorism, organized crime, and mob lynching

¹ Overview of Criminal law reviews << <https://prindia.org/billtrack/overview-of-criminal-law-reforms>>>, accessed on 06/04/2025.

² Ibid.

while distinguishing between major and minor offences and prescribing stringent penalties for severe crimes.

The enactment of the BNS reflects the need for a thorough overhaul of outdated criminal laws that no longer serve the needs of modern India. After seven decades of democratic experience, the government recognized the necessity of adapting these laws to contemporary societal and technological advancements. The BNS aims to streamline legal procedures and eliminate provisions rooted in colonial prejudices. By emphasizing justice over punishment, it seeks to establish a system that is humane, restorative, and rehabilitative while upholding human rights and respecting individual dignity³.

A core focus of the BNS is addressing systemic delays in justice delivery. The maxim "*Justice delayed is justice denied*" underscores the distress caused by prolonged legal procedures, large case backlogs, low conviction rates, and inadequate use of technology in investigations and forensics.

In essence, the Bharatiya Nyaya Sanhita marks a transformative shift in India's criminal justice system by prioritizing accessibility, efficiency, and alignment with constitutional principles. Its enactment signals a decisive move away from punitive practices toward a justice-oriented approach that addresses contemporary challenges while fostering trust between citizens and the state.

Key reforms

- Offences against the body
- Death caused by Negligence
- Sexual offences against women
- Sedition
- Terrorism: Terrorism includes an act that intends to
- Mob lynching

³ Srikrishna Deva Rao, Reform in Criminal Law-The need and Way Forward, <<
https://mcrhrdi.gov.in/splfc2023/week9/Reform%20in%20Criminal%20Law-%20the%20need%20and%20way%20forward_-%20Lecture%20at%20MCR%20HRD%20Institute.pdf>>, accessed on 07/04/2025.

- Community service: has been added as a form of punishment. (Sections 202, 209, 226, proviso to Section 303(2), 355 & 356(2)].
- Removal of provision for 'Adultery'
- Removal of provision for 'Unnatural offences'

Overall, the Bharatiya Nyaya Sanhita represents a transformative step in modernizing India's criminal justice system. With its focus on efficiency, inclusivity, and societal harmony, it promises far-reaching benefits for both the legal framework and the social fabric of the nation.

BHARATIYA NAGARIK SURAKSHA SANHITA ,2023: {BNSS,2023}

THE CRIMINAL PROCEDURE CODE

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) represents a significant reform in India's criminal justice system, replacing the Code of Criminal Procedure (CrPC) of 1973. This legislation is a response to the evolving needs and aspirations of Indian society, reflecting decades of democratic experience. By modernizing and adapting criminal laws, the BNSS aims to create a more efficient, transparent, and citizen-centric legal framework⁴.

In conclusion, the Bharatiya Nagarik Suraksha Sanhita, 2023, heralds a transformative shift in India's legal landscape by prioritizing transparency, accountability, and efficiency. It marks a decisive move toward a modernized criminal justice system that is both empathetic to citizens' needs and responsive to contemporary challenges.

Key Reforms

- Undertrial detention -NOT APPLICABLE TO CRIMES Death as a punishment. (Part 479).
- Additionally, this clause will not apply to: A) crimes carrying a life sentence; and B) individuals accused of many crimes.
- Electronic mode trials

⁴ Lt Gen Gurmit Singh, Implementation of Three Criminal Laws,<<
<https://cdnbbsr.s3waas.gov.in/s3978d76676f5e7918f81d28e7d092ca0d/uploads/2024/09/202409121617245976.pdf>>>, accessed on 08/04/2025.

- The accused's medical examination, the forensic investigation, the fingerprints and signatures, and other deadlines include
- First Information Report
- Trial without the perpetrator present
- The introduction of the "preliminary inquiry" concept and the Zero FIR
- The general authority granted for the attachment and forfeiture of property; the openness of the documentation of search and seizure; modifications to the process concerning police detention; and the rights of witnesses and victims
- Technology use, E-FIR, and identifiable cases
- Mercy petitions, prosecution sanctions, samples without arrest, and police authority to hold or remove someone

While these changes represent a much-needed overhaul of the criminal justice system, their success depends on effective implementation and adherence to the provisions in both letter and spirit. The BNSS has the potential to address systemic issues like delays, backlogs, and inefficiencies while fostering trust in the judicial process. However, its impact will hinge on how well these reforms are executed at every level of governance.

In conclusion, the Bharatiya Nagarik Suraksha Sanhita, 2023 is a transformative step toward creating a modernized legal framework that prioritizes transparency, accountability, and inclusivity. By addressing contemporary challenges and focusing on victim-centric justice delivery, it promises to strengthen India's democratic values while ensuring fairness and equity for all citizens.

BHARATIYA SAKSHYA ADHINIYAM, 2023 {BSA, 2023}:

THE INDIAN EVIDENCE ACT

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) marks a significant evolution in India's evidence laws by recognizing the pivotal role of technology in modern legal proceedings. In a digital era where electronic data is integral to investigations and trials, the BSA broadens the definition of evidence to include electronic records such as emails, text messages, multimedia files, and other digital documents. This comprehensive approach emphasizes factors like

authenticity and integrity, ensuring that technological advancements enhance rather than compromise the reliability of legal proceedings.

The legislation also introduces special provisions for DNA evidence and expert opinions, further strengthening its commitment to fair and speedy trials. By incorporating advanced forensic techniques and expanding the scope of admissible evidence, the BSA aims to create a modernized legal framework that aligns with contemporary standards of justice. This shift reflects a broader move away from punitive practices toward restorative and rehabilitative approaches within the criminal justice system.

The Bharatiya Sakshya Adhiniyam replaces the colonial-era Indian Evidence Act of 1872, addressing gaps in the existing law that failed to account for technological advancements over recent decades. As an "adjective law," it provides methodologies for operationalizing substantive or procedural laws, adapting them to meet current societal needs. The inclusion of digital evidence as primary evidence underscores its relevance in addressing cybercrimes and other technology-related offences.

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) introduces a transformative shift in India's evidence laws by replacing the Indian Evidence Act of 1872. The term *Sakshya*, meaning evidence or witness, reflects the legislation's focus on modernizing and adapting the legal framework to address contemporary challenges, particularly those arising from advancements in technology. The outdated provisions of the old Act have been replaced with rules that align with the complexities of today's judicial landscape.

The BSA acknowledges the growing role of technology in legal proceedings by recognizing electronic evidence as admissible under law. This includes emails, server logs, digital records stored on computers, smartphones, cloud platforms, locational evidence, and voicemail messages. Sections 61, 62, and 63 establish a comprehensive framework for the admissibility of electronic records, granting them equal legal validity and enforceability as traditional documents⁵.

⁵ Ramanand Garge, Vivekanand International Foundation, Legal Reform in Criminal Justice System of India-A much Awaited Overhaul for time bound Justice, << <https://www.vifindia.org/article/2024/february/15/legal-reform-in-criminal-justice-system-of-india>>>, accessed on 08/04/2025.

Key Reforms

- Documentary evidence
- Oral evidence
- Admissibility of Electronic or Digital Records as Evidence
- Secondary evidence The New Adhiniyam expands secondary evidence to include;
 - [i] oral and written admissions, and
 - [ii] the testimony of a person who has examined the document and is skilled in the examination of documents
- Joint trials

In conclusion, the BSA heralds a new era in India's legal landscape by embracing technological advancements, promoting inclusivity, and aligning the justice system with contemporary societal needs. Its implementation will play a crucial role in ensuring fairness and accessibility in judicial proceedings while strengthening India's commitment to progressive legal reforms.

The Bharatiya Sakshya Adhiniyam, 2023 represents a transformative approach to India's criminal justice system by integrating modern technology into legal processes. It provides law enforcement agencies and the judiciary with a comprehensive framework for managing digital evidence while addressing challenges posed by outdated physical methods.

Critical Analysis

i) Problem on Conceptual Level

A critical analysis of the BNS reveals the existence of potential conceptual problems that have the ability to impede the successful implementation of the system. According to the findings of academic research, in order to successfully change an existing legal system, it is necessary to conduct a rigorous and critical investigation of the rules, concepts, and philosophies that are inherent to the present system. It is necessary to give careful consideration to both the compatible and dissimilar aspects of the BNS in comparison to the Indian Penal Code and any other applicable laws in order to guarantee efficient administration and execution.

ii) Problem on Implementation Levels

In order to successfully apply these new rules, legal experts, law enforcement personnel, and judicial officers will need to undergo comprehensive training and make necessary adjustments. The degree to which these many stakeholders comprehend and implement the newly enacted laws is a crucial factor that will determine the success of this regulatory revolution. In the absence of sufficient planning, the transitional period may be characterized by misapplications and inconsistencies that undermine the goals of the laws.

iii) Priority of Cases and Capacity of the System

In spite of the commendable objective of accelerating the administration of justice, the stringent timelines that are set by the new rules have the potential to worsen case backlogs in a system that is already operating at capacity. These specified timescales may turn out to be unreasonable if there are not equivalent increases in the capability, infrastructure, and resources of the administrative branch. The pressure that is being put on to reach these deadlines has the potential to affect the quality of the investigations and decisions that are being made by the judiciary.

iv) Overcriminalization and ambiguity-

New laws may criminalize behaviour that is vague or not inherently harmful, leading to abuse of power. Ambiguous definitions (e.g., "sedition" or "public order") can lead to subjective interpretations.

CONCLUSIONS

With the passage of three new criminal laws in 2023, India's criminal justice system has undergone a dramatic upheaval. These new laws are known as the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA). These laws have taken the place of the Indian Penal Code (1860), the Code of Criminal Procedure (1973), and the Indian Evidence Act (1872), all of which were enacted throughout the course of the colonial era.

- i) Removing provisions that have been outdated- One of the most revolutionary aspects of the new laws is that they acknowledge the shifting social dynamics and, as a result, they eliminate sections that are no longer relevant. For example, the BNS has eliminated clauses such as "adultery," which reflects the progression of human rights and the changing perspectives of society.
- ii) Approaches to punishments that are progressive- The establishment of "Community Service" as an alternative sentencing option inside the BNS is a considerable shift from the conventional methods of punishment that have been utilized in the past.
- iii) An approach to deal with modern crimes- The new rules incorporate elements that are expressly aimed at combating current crimes, which demonstrates that they take a forward-looking perspective. This new legal framework, which contains additional chapters on cybercrime and terrorism, provides a more precise definition of these offences than the old legal framework did.
- iv) Delivery of justice in hurry- The new laws place a significant emphasis on administration of justice in a more expedient manner, which is a revolutionary aspect. Within forty-five days of the conclusion of the arguments, the BNSS requires that the courts make verdicts, and within sixty days of the first hearing, the accusations that will be brought in a trial must be formulated. This temporal discipline is a considerable break from the open-ended timetables that were previously used, which frequently resulted in lengthy court battles.
- v) Accountability that are improved- In accordance with the new rules, the mandated videotaping of police raids and seizures brings about a level of transparency in police operations that has never been accomplished before. The purpose of this provision, in conjunction with the compulsory presence of forensic experts at crime scenes for significant offences, is to improve the quality of evidence collecting and to increase the accountability of law enforcement agencies.

PROPOSALS FOR AN EFFICIENT AND SUCCESSFUL IMPLEMENTATION

- i) Comprehensive Instruction and the Development of Capabilities- It is recommended that a nationwide comprehensive training program be implemented for all parties involved in the criminal justice system in order to meet the issues that are associated with the shift.

- ii) New Developments- Developing specialized training modules involves developing comprehensive training modules for judges, prosecutors, defence attorneys, police officers, and forensic experts. These modules should concentrate on the new rules, procedures, and philosophical shifts that have been implemented in the legal framework.
- iii) Online Tools- Creating easily accessible online learning tools that enable legal practitioners to acquaint themselves with the new legislation at their own pace, complemented by regular updates and clarifications, is the goal of digital learning platforms.
- iv) Mock Trials and Simulations- Before the new laws are completely implemented, it is important to conduct mock trials and procedural simulations in order to provide practical experience in applying the new laws into practice.
- v) Continuing Legal Education: All practicing legal practitioners should be required to participate in continuing legal education courses that are centred on the newly enacted criminal statutes.
- vi) Infrastructure Improvements and Resource Improvements- It is vital to make substantial investments in infrastructure and resources in order to support the ambitious timeframes and procedural improvements that are included in the new regulations by ensuring that it is done expeditiously.
- vii) Modern Technology- New Technology should include the implementation of comprehensive digital case management systems across all courts in order to simplify procedures, cut down on paperwork, and improve administrative effectiveness.
- viii) Establishing Forensic Techniques- Building forensic capacity involves establishing state-of-the-art forensic laboratories in each and every district. These laboratories should be staffed with qualified individuals who are able to execute forensic studies in a timely manner and correctly.