



A Critical Analysis of the Structural and Doctrinal Changes Introduced by the New Criminal Law Framework

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Abstract

This paper takes a serious look at the structural and doctrinal changes brought in by the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA), which together remove the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC) and the Indian Evidence Act developed during the colonial period. The study focuses on how well these reforms have achieved in simplifying legal provisions, integration of new technologies and dealing with new kinds of crime. The focus is being specifically provided to the procedural reforms, including time bound trials, e-FIRs and mandatory forensic evidence as well as formal recognition of electronic and digital evidence. In the paper, the doctrinal changes such as a redefinition of the sedition, the creation of new offences and their impact on the constitutional rights are examined. The reactions of the stakeholders, the concerns expressed by the lawyers and jurists, and civil society groups are also considered to estimate the practical and normative implementation difficulties. The framework aims at the improvement of the justice delivery process, making it more efficient and focusing on the citizens, but the ultimate effectiveness of the framework relies on infrastructure, law knowledge, and institutional responsibility.

Keywords: Bharatiya Nyaya Sanhita, Criminal Law Reform, BNSS, BSA, Sedition, Digital Evidence, Procedural Justice, Constitutional Rights.

1. INTRODUCTION

The Indian criminal justice system has so far followed three major colonial laws: the Indian Penal Code of 1860 (IPC), the Code of Criminal Procedure 1973 (CrPC) and Indian Evidence



Act 1872. The laws were developed under a British colonial regime and enshrined the definitive and procedural language of criminal jurisprudence in India but have since been derided as being oversaturated, heavy-handed and inappropriately unresponsive as to the social-legal condition of the post-independence India (Khan & Sultana, 2021). Although the given codes were performing their bottom-up job, researchers and legal experts have observed that the postcolonial Indian nation even decades after the proclamation of independence did not or could not indigenize or decolonize these institutions of law.

In an attempt to curb such historical worries, the Government of India proposed a major criminal law transformation in the year 2023. (BNS), 2023, (BNSS), 2023, and (BSA), 2023 are three new legislations of which replace the IPC, CrPC and the Indian Evidence Act respectively; to make it more modern, simple and Indian. During the announcement of the bills at the Parliament of India, the Union Home Minister, Amit Shah, said that the reform would focus on justice rather than punishment and that the new legislations target to eliminate the colonial stamp and serve the requirements of the justice system in the 21st century (National Legal Development Agency, 2015).

These reforms are drastic in terms of their structure and doctrine. They include a structure overlay of digital processes (e-FIRs and virtual collection of evidence), time-limited requirements in terms of investigation and trials and more victim-focussed measures. Doctrinally, the modifications include redefinition of some crimes (e.g., changing of sedition with a broader crime committed of "acts endangering sovereignty") and adding new crimes that previously unseen in the earlier legislation such as organized crime and mob lynching. Such a transformation is an expression of the expectations, as well as fears of a republic struggling to hold a balance between democracy and security (Mitsilegas, 2022).

This research paper aims to critically examine the legal, procedural and doctrinal changes that have occurred with the advent of these new criminal laws. The paper will also explore how the reforms are coherent, constitutional, and implementable by reading the primary texts, parliamentary statements, the views of the judiciary, and the comments of the experts. In addition, it investigates the question of whether by these reforms the legal system is actually decolonized or that rather than disposing of punitive traditions, they are packaged with nationalism discourse.

With this doctrinal and analytical approach, the paper aims to add to the academic debate of criminal law amendment in India and evaluate whether the reform is capable of meeting the democratic ideals of justice, equity, and minimalism of criminal proceedings.

2. THE BHARATIYA NYAYA SANHITA (BNS) AND ISSUES IN INDIA

The Indian Penal Code (IPC) was replaced on July 1, 2024, by the newly redesigned BNS law in the Indian subcontinent. It became effective on December 25, 2023. Mostly, it aims to change some parts of Indian legislation so that they highlight issues like human rights, cybercrime, and environmental law. The reforms offer a better picture of criminal offenses and come up with less complex processes. It also came up with new stiffer sentences on harsh crimes committed against women and children. Restorative justice mostly used at the BNS enlightens reform and rehabilitation rather than punishments. The BNS presents the right community service and offers the concepts of contract killing, kidnapping, cybercrimes and financial swindling. But the BNS has a number of problems and as a fact it has failed to discriminate in most domains so justifying the usefulness of the law. It lacks any significant or serious laxity that would allow BNS to combat violations related to the internet. The 2000 Information Technology Act is rather brief and makes no mention of digital crimes. Furthermore, these rules do not explicitly mention transgender individuals, who are entirely excluded from the distinction between males and women. A transgender person being attacked or bullied does not constitute rape. Additionally, it is deceptive when it comes to attacks between people of the same sex. The BNS is seen as a wide criminal legislation that creates uncertainty and contains notions related to terrorism charges. Both the BNS and the UAPA introduce terrorism, and there is no appropriate distinction between the two. These are unethical and parallel clauses that offer the police officers the leverage against which they should apply specific laws (Bhagamma, 2023). These are likely to be effective in leading to random enforcement and injustice in the systems of handling justice.

3. THE BHARATIYA SAKSHYA ADHINIYAM (BSA) AND CHALLENGES IN INDIA

The law which is of criminal nature but is mainly worried about relevancy, admissibility and evaluation of the law proceedings in India is BSA. It was given as the largest replacement of the Indian evidence Act of the year 1872 (IEA). The digital and electronic evidence was a

supportive factor in the positive realisation of modernisation of BSA because it is regarded as primary evidence in the court of law (Stahn, 2019). The BSA will have its own certification and implementation problem that will affect the general success of the law. BSA contains an overwhelming number of electronic records but has provisions on how to deal with some of these challenges on admissibility of electronic records. Electronic devices cannot be given a good protection against tempering. These certification and legal process delays are more legitimately verified, yet they have the power to supersede other clauses. Because of the ever-evolving digital landscape and dynamic nature of technology, constantly changing rules are necessary. Force is the means by which various facts can be unearthed and found for all time. They also have similar statutes, which state that the burden of proof rests with the party who loses his case. If one of the parties is willing to file a lawsuit, he must have some evidence to back up his claims, but in this case, the party does not have any evidence showing this 7. Original papers, copies that have been verified against original documents that have not been signed by parties, and surrogates of documents are all included in this secondary area of evidence. Additionally, other terms that evoked India's colonial past were eliminated, such as the United Kingdom Parliament, Pleader, Barrister, and the Crown Representative's manifestation, and were replaced with more recent terms, such as Ambassador. Another problem could be that it took the word "crazy" and made someone mentally ill. Officials and individuals alike should be aware of their rights and obligations. Otherwise, funding, resources and enforcement besides may be lacking to apply BSA on a national scale. The legislative system should change in respect to new technology development (Veresha & Karpuntsov, 2025). In general, it has been more or less trying to balance the world and the progress in technology.

4. BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS) AND ISSUES IN INDIA

The Code of Criminal Procedure (CrPC) was replaced by the BNSS. The more detailed procedures and outlines addressed by the CrPC include criminal case trial, investigation, and adjudication. It falls under the category of criminal laws that will be revised in 2023. It also includes setting time restrictions for examinations, forensic investigations, and bail for inmates awaiting trial. In order to gather evidence, a forensic expert must undoubtedly visit the scene

of the crime. If a state lacks a personal forensic expert, another state may be able to assist. According to the BNSS standards, the victim of rape has seven days to make a decision and thirty days to do so. Bail, police custody, property attachment, police powers, preliminary investigation, and civil liberties are only a few of the many criticisms levelled about the BNSS. The BNSS effectively limits the plea negotiation window and makes the bail process more difficult. It explicitly deprives one of bail when several charges have been posed against them. It gives the police 15 days of custody power but in the event that police fail to utilize the given 15 days the victim may not be released on bail during the full period of custody. The BNSS does not give any time within which to attach property. It lacks proper protection in the case of Prevention of Money Laundering Act (PMLA). Additionally, the law permits police to seize and attach property before a trial and to require victims to produce digital devices during an investigation. The requirement to conduct a preliminary investigation before filing a formal complaint is another issue with this statute that could impede the administration of justice (Nasution & Febrian, 2020). This law aims at addressing the issues in order to make the justice system more efficient and faster. But it takes ages to deliver justice due to its high pendency, procedure and due to its complex concept. Moreover, it fails to warrant the extent of technology in the legal system and they fail to involve forensics that takes time in delaying the investigation. It had also some challenges in the process of BNSS implementation. The transition process has been complicated, and it has encountered some problems as a result of various laws and framework practices in different states. In order to enable and comply with the requirements, the infrastructure needs to be improved further; but, due to a lack of resources, it was unable to fulfil expectations (Genlin, 2021). The entire inquiry is slowed down by the evidence collecting process, which also enforced the investigation collection technique that requires police investigation and research to implement. Key players and others may need to be trained on the new procedure.

5. STRUCTURAL REFORMS IN THE NEW CRIMINAL LAW FRAMEWORK

In 2023, the Bharatiya Nyaya Sanhita (BNS), the (BNSS) and the (BSA) came into place. It was among most remarkable reforms to the system of criminal law of India since independence. The move is not merely on the issue of redefining substantive offences but also in making the

structure and procedure of the criminal justice system much more efficient (Farmer, 2016). A detailed examination of the structurally most significant changes is given below:

Codification and simplification of provisions

The current efforts to have the (BNS), 2023 that repealed the Indian Penal Code (IPC) of 1860, are one step closer in simplifying the criminal laws of India. The old penal code was not liked by people because it was very tricky to comprehend, it had very old language terms and it was made up of repetitions of each other. The attempt to shake off archaic expressions, legal contradictions by means of placing crimes in more logical order has been made by the BNS. As an example, the crime against women and children, the public order and the national security have been clearly categorized. In addition, there are emerging crimes such as mob lynching, organised crimes, and the terrorist activity that were well spelt out. These crimes used to be addressed through various laws or rules previously. This codification of the structure is aimed at simplifying the criminal law by enabling police officers, lawyers and the common citizen to have an easy time applying and knowing it (Zainullin, 2023). The law is interested in simplifying in order to a make thing easier to understand and follow and therefore, making brevity and clarity expensive.

Changes in procedural architecture

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 which supersedes the Code of Criminal Procedure, alters the way things are done to make criminal proceedings faster and fair. Another significant aspect of the new system is that there are strict deadlines regarding investigations and trials. Now investigation agencies are required to complete their investigation in 90 days on serious crime and also the courts have to complete their cases in two years. This is a huge move in a system that is overplaced with cases and time wastage in the courts. The BNSS also enables citizens to record FIRs at any police station anywhere within the country. This is referred to as "Zero FIR." It also gives individuals the opportunity to list e-FIRs over the Internet. The rule provides women, inhabitants of distant localities, and victims who find it difficult to access services with greater power. The other important development is that forensics should be carried out in the serious offences. This is meant to strengthen the evidence. These alterations in the mode of doing things indicate that legal process is no longer a colonial,

congested process, but is more modern, efficient and tuned with the sensitivity of the victims (Mitsilegas, 2022).

Digital transformation and e-evidence standards

The Bharatiya Sakshya Adhiniyam (BSA), 2023, that replaces Indian Evidence Act, 1872, is making history as it officially admits the digital aspect of the criminal justice system. According to the BSA, emails, WhatsApp messages, social networks and cloud-based information also qualify as an acceptable form of evidence. This reform makes Indian evidence rules closer to international standards and it addresses the increasing relevance of cybercrimes and online transactions. The rule also allows the usage of electronic signatures, digital seals, and even documents validation on the blockchain. This makes technical devices better in the court. The courts are now able to conduct video conference hearings and record depositions of witnesses remotely and apply directly to get their electronic records (Balobanova et al., 2022). These changes are supposed to hasten the process, reduce the fear of witnesses and simplify paperwork. Nevertheless, this will succeed only when technology is prepared at the lower level, as in police station or trial court where digital infrastructure is emerging.

Institutional reforms: police accountability and investigative procedures

The new system of the criminal law is constructed on the basis of institutional reforms aiming at a police accountability and ensuring the investigations are fair. According to the BNSS, areas where crime occurred, searching and collecting evidence and key elements of witness interrogation are supposed to be recorded. This makes all this open and reduces the possibility of intimidation or destruction of evidence. It is also compulsory that all officers in police should have their names and badge numbers on their duty. These assist in establishing a duty and accountability culture. There is also an increased growth in the rights of victims. They are now able to track the progress of their complaints and update themselves in digitally ways and ensure that they do not miss out on the investigation. Such institutional activities are intended to correct long-standing ills such as violence in custody, belated chargesheets and shake-up in the manner of operations. The greater purpose is to establish a culture of law enforcement that is not only effective but also respects constitutional rights and commendation of the masses. Nonetheless, all these transformations will require continued training, monitoring and policy support to be sustainable (Steel, 2016).

6. CRITICAL EVALUATION AND STAKEHOLDER RESPONSE

The new framework of the criminal law in India is composed of the (BNSS), the (BNS), and the (BSA). It has generated widespread controversy amongst the legal scholars as well as the civil society members and the lawyers. According to the administration, such changes render the justice system less colonial and prioritise justice over punishment but on closer examination, various groups hold varying views (Conaghan & Russell, 2023).

Constitutional and Human Rights Concerns

One of the largest sources of disagreement is whether some redefined crimes are legal under the constitution. As a case in point, Section 150 of the BNS replaces sedition (Section 124A IPC) with acts which involve threatening the sovereignty, unity and integrity of India. Sedition provision of IPC was highly condemned by the court (Kedar Nath Singh v. Although the revised text of its version contained less ambiguous wordings (State of Bihar, 1962), they could be applied similarly.

Concerns Raised:

- **Overbroad Definitions:** The word such as the word sovereignty or unity is not defined accurately, and that is why it can be implemented in any form.
- **Violation of Fundamental Rights:** According to some lawyers these rules can go against Article 19(1) (a) (freedom of speech) and Article 21 (the right to life and personal freedom).

Table 1: Constitutional Rights Concerns in New Provisions (Government of India, 2023)

Provision	Key Concern	Relevant Constitutional Right
BNS Section 150 (replacing sedition)	Vagueness and overreach	Article 19(1)(a)
BNSS provisions on police custody	Extension from 15 to 90 days in serious crimes	Article 21 – Protection against arbitrariness

Use of digital evidence (BSA)	Privacy, data misuse risks	Article 21 – Right to Privacy (Puttaswamy v. Union of India, 2017)
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Impact on Marginalized Groups and Victims’ Rights

Marginal groups feel the impact of the procedural and substantive criminal law disproportionately: Dalits, tribals, religious minorities, and women. Although the new laws are aimed at the higher protection of the victims because of the enlarged penalties and statement of the victim, there are still much more serious matters under those laws:

- Risk of over-policing in underprivileged communities due to ambiguous provisions.
- Digital procedures (e-FIR, digital trial records) may exclude those without technological access or literacy.

Table 2: Impact on Marginalized Groups and Victims (National Judicial Academy India, 2023)

Group Affected	Positive Provisions	Concerns
Women victims	Clearer provisions for sexual offences	Lack of gender-sensitive procedural safeguards
Tribals / Rural poor	Access to justice via e-filing	Digital divide and procedural exclusion
Minorities	Expansion of UAPA-like language in BNS	Fear of profiling and abuse under “national security” provisions
Juveniles / First offenders	Emphasis on reform and community service in minor offences	No concrete rehabilitation roadmap

Implementation Challenges and Law Enforcement Preparedness

Arguably one of the greatest challenges of reform success is institutional preparedness. Police departments, courts and forensic laboratories experience acute infrastructural, training and resource shortages in terms of technical tools of the trade (Simester et al., 2019).

- Lack of awareness: To the early year of 2025, the vast majority of the police and magistrates do not know anything about the new codes.
- Training Gaps: The policemen and judicial officers in 20+ lakhs strength have to be reoriented on a large-scale.
- Overburdened Judiciary: The reforms can only cause further burden in procedures unless judicial vacancies and case backlogs are addressed.

Table 3: Key Implementation Challenges Post-Decriminalization and Recommended Solutions

Challenge	Explanation	Suggested Measures
Lack of training	Police and judiciary not trained in interpreting new provisions	Compulsory refresher courses and legal manuals
Technological unpreparedness	Digital FIR, evidence, e-trials need IT infrastructure	Centralized funding and digital literacy drives
Institutional inertia	Resistance to procedural change	Administrative accountability and pilot schemes

7. CONCLUSION

The Bharatiya Nagarik Suraksha Sanhita (BNSS), the (BNS), and the (BSA) have set an era of the criminal justice system of India. The time these laws represent a genuine move to modernize and decolonize the legal infrastructure that in decades managed criminal jurisprudence in the country. It is through structural changes which include digital integration, time-limited processes, codification of newly issued crimes, better accountability measures that the new

framework hopes to achieve justice that is more accessible, efficient, and people-friendly. Similarly, doctrinal change and the redefinition of sedition, the formal acknowledgement of organized crime and the heightened attention to the issue of victimisation function as evidence of a growing sensitivity to the current socio-political economic and legal landscape. Nevertheless, the effectiveness of these reforms does not only depend on the intent that is shown by legislature but also how these reforms are firmly implemented. The problems, like infrastructural shortage, insufficient training of police personnel and judicial officials, and chances of procedural abuse, should also be acted upon. In addition, constitutional review cannot end and the reforms must be constantly scrutinized so that they do not undermine the basic worthy principles in the name of national interest or expediency. The contribution of the stakeholders, the judicial supervision, and the empirical assessment will become crucial to the fulfillment of the transformative power of the new criminal laws. Overall, in addition to the substance of the new law, its actual success will be determined by the quality and quality of its application.

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