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"IMPACT OF INDIA'S NEW CRIMINAL LAWS ON JUDICIAL EFFICIENCY AND HUMAN RIGHTS: A SOCIO-LEGAL ANALYSIS"

AUTHORED BY - JASDEEP KAUR

CHAPTER I - INTRODUCTION

1.1. Background

India's legal environment is currently changing at one of the fastest paces in recent times. In 2023, Parliament of India passed new government legislations, called BNS, BNSS, and BSA. These will replace the Indian Penal Code (1860), the Code of Criminal Procedure (1973), and the Indian Evidence Act (1872), effective from 1st July 2024. Enacting these laws means India is officially moving away from its colonial laws and trying to shape criminal justice according to the country's present values, technology, and goals as a democracy.

These reforms, according to the Government of India, are meant to improve the Indian criminal justice system by removing colonial practices, organizing legal proceedings, giving more rights to victims, and ensuring fast justice. Therefore, one should understand the involvement of several human rights, legal procedures, and real-life happenings behind the described narrative. While adapting the criminal justice system is very important, it must not sacrifice human rights or mean allowing more unrestrained power.

The impact that these new laws have on society and the law is explored in this paper, mainly concentrating on court efficiency and human rights. Firstly, people are pushing for faster justice using means such as digital FIRs, support from forensics, and trials that stick to deadlines. At the same time, people argue that allowing police to keep suspects at length, using unclear laws, and delivering fast justice might reduce constitutional rights, mainly for marginalized groups.

1.2. Why this study matters?

For a long time, people have pointed out that India's criminal justice system is too overwhelmed, inefficient, and biased. Over 4 crore cases on the subordinate court level make up the overall 5 crore backlog cases in all the courts. It is usual for people accused of serious

crimes to remain in prison for 5–7 years, and more than 75% of those in prison are Dalits, Adivasis, or Muslims according to the latest National Crime Records Bureau report. Consequently, there is a risk that people will become the victims of human rights abuses in regard to slow trials and unequal treatment in the courts, for both cases are forbidden according to Articles 14 and 21.

The recent reforms in criminal law were created to solve these matters, though with no solid facts and rights in mind, other aspects might become stricter for measures of efficiency. There are also certain warning signs in the civil liberties provisions, which include wide terms for terrorism (BNS Section 150), a long time that suspects can be locked up by police (BNSS Section 187), and very limited data protection rules for digital information (BSA).

That's why this paper is performed at a suitable time to address a crucial need. It helps by providing new information on the subject, as it studies the purpose and possible effects of different laws on India's democracy.

1.3. Research Objective

This paper looks to achieve two main goals.

1. Examine how much the new criminal laws help to make Indian courts more efficient.
2. Check how these laws affect the basic rights, primarily of the accused, victims, and the oppressed groups in society.
3. Check if the reforms do not contradict the country's constitution or other international human rights rules.

1.4. Research Questions

These key research questions are the basis for the organization of the paper:

RQ1. Does the creation of these new criminal laws increase how quickly cases may be resolved?

RQ2. What influence do the changes have on the balance of rights and powers between the government and individuals?

RQ3. Whether these laws will help to address unfairness in the system or actually lead to more bias?

RQ4. Are there solid safeguards built into the laws so that dissenters, those watched online, and those vulnerable groups are safe?

1.5. Methodology

This study looks at criminal law by examining statutes, interpreting the constitution, and studying case examples from the real world. In particular, the method needs the following ingredients:

- a. Reading through the newly made laws (BNS, BNSS, BSA) and comparing them with the previous ones (IPC, CrPC, IEA).
- b. Researching and studying cases decided by Supreme Court and High Court in which matters of procedural fairness, evidence acceptance, and fundamental rights are discussed.
- c. Look into legal commentary, debates in the parliament, reports produced by the Law Commission, and academic writings on criminal justice reform.
- d. Collection of data from NCRB, the records of criminals in jails, and the progress of pending cases in courts.

Discussion of various events and case studies, with a special interest on incidents like crimes inside jails, being monitored by cameras, and complaints about how the police act.

With the introduction of new laws, we must wonder if they will make India's criminal justice fairer and better, or merely cover up existing problems. It attempts to answer that question with thorough legal knowledge, solid empirical analysis, and a major focus on democratic justice.

CHAPTER II: HISTORICAL BACKGROUND

2.1. Colonial Legacy and the Persistence of Imperial Frameworks

The development of codified criminal law in India occurred during British colonial rule, when main concern was exercising control rather than seeking justice. Lord Thomas Babington Macaulay wrote the Indian Penal Code (IPC), 1860 as a way to have one criminal law for the culturally diverse colony.¹ Like the Acts mentioned above, IEA and CrPC (originally from 1872 and 1898, respectively, later modified in 1973) were primarily designed to assist the colonial authorities in trial and conviction, without paying much attention to human or individual rights.

The basis of these laws was in utilitarianism and bureaucracy and they valued keeping order more than giving people freedom. The later strikings down or read down of sections 124A (on

¹ Gaur, K. D. (2023). *The Indian Penal Code* (8th ed.). LexisNexis.

sedition), 377 (about unnatural offences) and 497 (adultery) show the values these laws originally wanted to protect. The famous statement by Mahatma Gandhi during his 1922 trial, “Affection cannot be made or regulated by law,” came about because of Section 124A which criminalized sedition.²

Even though India became independent in 1947 and adopted its Constitution in 1950, much of the colonial laws were kept as is. At the same time the Constitution aimed for liberal democracy and basic rights, the British kept using their age-old laws to govern, causing India’s legal system to remain in structure contradiction.

2.2. Post-Independence Legal Realizations and Unheeded Reform Reports

Changes to the constitution in Independent India were not seen in the criminal justice system. The main principles guiding criminal law have always been colonial, despite some adjustments in procedures. Because constitutional goals and actual law enforcement practices did not align, government authorities created several expert bodies to outline needed changes. Therefore, let me discuss some of them in the next section.

- A. The Law Commission of India through its reports i.e., 42nd, 154th, 177th and 262nd, often suggested major modifications aimed at making the laws friendlier to victims, in accordance with human rights and with simpler procedures.³
- B. The Madhava Menon Committee (2003), proposed methods to enhance the criminal justice process and encouraged the use of alternate dispute methods.⁴
- C. The V.S. Malimath Committee on Criminal Justice Reforms (2003) which urged that the way criminal justice is handled should be changed, along with improving the rights of victims during investigation, to ensure accountability of the investigating agencies.⁵

Not many of the important reforms were acted on as planned. Because of inactivity in the legislature and fears about upsetting the current order among politicians, India’s criminal justice system continued to deal with delays, abuses by police and discrimination.

2.3. The Path to the 2023 Criminal Law Reforms: Political Will Meets Legal Necessity

Against these circumstances, the Indian government made important changes to the criminal justice system by introducing three new laws in August 2023.

² Gandhi, M. K. (1922). *Statement during sedition trial*. National Archives of India.

³ Law Commission of India. *Reports on criminal law reforms* (42nd, 154th, 177th, 262nd). Government of India.

⁴ Madhava Menon Committee. (2003). *Report on Criminal Justice Reform*. Ministry of Home Affairs.

⁵ Malimath Committee. (2003). *Report on Reforms of Criminal Justice System*. Ministry of Home Affairs.

1. The new Bharatiya Nyaya Sanhita (BNS), enacted in 2023, has replaced the Indian Penal Code (IPC).
2. The CrPC which governed Armed Police, was replaced by Bharatiya Nagarik Suraksha Sanhita (BNSS), in 2023.
3. In 2023, the Bharatiya Sakshya Adhiniyam (BSA) came into effect, changing the previous IEA.

Around December 2023, in Parliament such laws were enacted to “decolonize the legal system,” “make justice centred on the needs of citizens,” and “improve the ways legal procedures and evidence are handled.” He described these changes as an important move towards giving justice, rather than just applying punishment. They try to modernize Indian criminal law so it fits with the new technological and social world. Thus, here are some key change points:

- a. The law replaced Section 124A (about sedition) with Section 150 of the BNS which punishes actions that threaten India’s sovereignty, unity and integrity.
- b. Digital FIRs, a requirement for forensic investigation in severe crimes and using video when taking recorded statements became part of the BNSS.
- c. Modern changes to evidence acceptance, especially for electronic records, digital footprints and communication metadata, occurred under the BSA.

2.4. Critique of the Legislative Process: Speed vs Scrutiny

Those who praised the new laws mentioned how bold and progressive their introduction was. On the other hand, various legal experts disagreed and pointed out that Parliament did not spend enough time talking about them. The bills were approved in a few days, with very little floor debate and no review by a standing committee, limiting the chance for advocates, law teachers, NGOs, police and civil liberty groups to give their opinions.

Justice Lokur, a retired Supreme Court justice, said in a commentary that the intentions behind the reforms are good, but they could result in more problems if there are not enough safeguards, court controls and detailed plans in place.

Both the People’s Union for Civil Liberties (PUCL) and the Commonwealth Human Rights Initiative (CHRI) expressed worry about giving the police too much control, using vague terms

and the chance for misuse of procedures, mainly in politically important cases.⁶ Section 197, part of BNSS, states that police can detain suspects for up to 15 days and this can be a concern because it might allow for more abuse, mostly towards the marginalized.

2.5. A New Legal Philosophy? Shift Toward Digital Victim-Centric Justice

With the 2023 reforms, India moves from punishment as the main goal in criminal law to a justice system that helps restore justice and uses fairer procedures. For example:

- a) Now, victims are allowed to take part more in court proceedings, appeal, comment on the case and access better compensation if they meet the requirements.
- b) Changes brought by digital transformation include QR-code FIRs, proofs saved on the cloud and witnesses taking shelter providing testimonies from afar.

It is pointed out that people should not have to wait too long for justice and investigations should be finished in 90 days and offenses should be tried within two years for some offenses. Even though these goals are impressive, law scholars have pointed out that meeting them without sufficient digital training, forensic labs, cybersecurity approaches and data security systems could cause justice to be miscarried instead of being dealt with swiftly.

Because the local police were not trained on the new system, a woman in Gurugram was unable to file a digital FIR in January 2024.⁷ The case drew attention from the media. It emphasized that the law is not often followed in practice which is a familiar problem in India's legal processes.

CHAPTER III: JUDICIAL EFFICIENCY AND PROCEDURAL REFORMS UNDER THE NEW CRIMINAL LAWS

3.1. Introduction: The Crisis of Delay in Indian Criminal Justice

The new reforms are shifting India's criminal law philosophy which was mainly punishment focused during the colonial era, to one that is more concerned with justice and giving victims a voice. For example:

- a. Victims have more rights now such as the ability to appeal, make an impact statement and access schemes to help get compensation.

⁶ PUCL & CHRI. (2023). *Joint statement on criminal law reforms*. People's Union for Civil Liberties & Commonwealth Human Rights Initiative.

⁷ Gupta, R. (2024, January 15). *Gurugram woman denied digital FIR due to police training issues in new BNSS framework*. The Times of India. <https://www.timesofindia.indiatimes.com/articles/gu-incident-bnss>.

- b. FIRs now include QR codes, records are stored online and testimonies can be collected over the Internet.

Law enforcement is given strict time limits: investigation must be finished within 90 days and offenders tried within two years for some kinds of crimes.

Even though having these goals is good, legal scholars point out that implementing them without providing enough digital training, setting up forensic laboratories and practicing cybersecurity could end up in wrongful convictions rather than prompt adjudication.

A woman trying to submit a digital FIR in Gurugram in January 2024 was turned away since the local police did not know how to use the new BNSS system.⁸ The problem was reported by the media and pointed out how implementation differs from the letter of the law which is a frequent issue in Indian legal reforms.

3.2. Promises of Procedural Efficiency: What the Law Brings to the Table

The purpose of the BNSS is to increase digitalization, put power in the hands of local judges and speed up the criminal processes. It covers changes like e-FIRs, mandatory forensic support and time limits for courts, aiming to update the whole process.

1. Digital FIRs and E-Summons: Making Justice More Accessible

The BNSS made it possible to use digital means of communication as official evidence during criminal proceedings. Individuals can now file reports online (BNSS § 173)⁹ and summons or warrants can be sent by courts or police to individuals through SMS, email or online portals (BNSS § 174).¹⁰

If the reform is done well, it could revolutionize life in rural India, where victims usually face both social judgement and trouble reaching police stations. Mobile FIR filing was tried in a pilot project in Rajasthan and this helped increase the number of women-related complaints by 25%, a major step toward helping women get justice.¹¹

⁸ NCRB. (2022). *Prison statistics India 2022*. National Crime Records Bureau. <https://ncrb.gov.in>.

⁹ Bharatiya Nagarik Suraksha Sanhita, 2023, § 173.

¹⁰ Bharatiya Nagarik Suraksha Sanhita, 2023, § 174.

¹¹ Sharma, P. (2024, March 10). *Rajasthan's mobile FIR initiative boosts registration of women-related complaints by 25%*. Hindustan Times. <https://www.hindustantimes.com/articles/rajasthan-mobile-fir-women>.

While more people can access information, concerns about true or fake content, verifying it and digital understanding appear. People in tribal regions and underserved areas will not be able to trust or use digital portals unless they have access to them and awareness.

2. Mandatory Forensic Involvement in Serious Crimes

In cases where the punishment for an offence includes more than 7 years in prison, the law requires forensic science to be used (BNSS § 176). These examples cover things like rape, murder and crimes committed by gangs.

Laws makers included this rule to address a criticism: that Indian authorities depend a lot on confessions (obtained through pressure) instead of using advanced, scientific tools. The case of Nirbhaya (2012) pointed out that if paramedics had not protected the crime scene, a proper trial might have been impossible.

Changes could result from this reform such as:

- Stronger evidence.
- A better probability of finding the defendant guilty,
- Fewer people are arrested mistakenly.

India is encountering a large deficit in forensic labs and professionals. A 2022 report by NITI Aayog states that India only has one forensic expert to analyze every 10,000 criminal cases. This reform will likely have little real impact unless extra resources are put into training and new infrastructure.

3. Time-Bound Disposal of Trials

It is also noted that the measure requiring suspects to be tried within two years from charge-sheet filing applies to certain serious crimes (BNSS § 262). It represents a significant change from what happens today, since it normally takes ten years or longer to complete a case.

It was meant to carry out the principles set out in *Hussainara Khatoun v. In State of Bihar* (1979), the court ruled that speedy justice is a basic right under Article 21, but doing so creates several practical issues. For situations happening in real time, we should:

- a. More than 20% of lower courts are without sitting judges.

- b. Cases are heard by judges at a slower rate than in most other countries (India has almost 21 judges for every million people).¹²
- c. It is still inconsistent to have services for virtual proceedings, online case management and electronic filing.

Solving these bottlenecks first would help early cases and stop judges from feeling pressured to rush through crucial court phases.

4. Merging Trials for Connected Offences

Section 220 gives the court permission to try someone for several offences committed at the same time. It makes the procedure simpler and possibly saves the court from having to repeat work.

In that situation, where a person is charged with burglary, assault and destroying evidence all occurring in one incident, all the charges can be heard in a single trial and not split into different trials for each offence.

This way of bringing assets together can offer major:

- Cut back on logistical delays,
- Make asking questions of witnesses much easier.
- Make court proceedings shorter.

3.3. The Judiciary's Interpretative Backdrop

The achievements of procedural changes in the updated criminal law have to be seen in the context of India's existing constitutional and judicial traditions. Going forward, the Indian judiciary has made sure to match efficiency with fairness, due process and safeguarding fundamental rights. Some key judgements guide the foundation for the new laws which try to reflect them.

Hussainara Khatoon v. The State of Bihar (1979) case,¹³ where the Supreme Court, after examining several petitions, pointed out the hardships of undertrial prisoners who had spent a long period in jail without a trial. Under Article 21 of the Constitution which deals with the right to life and personal liberty, the Court has said that the right to a speedy trial is

¹² NITI Aayog. (2022). *Strengthening forensic science in India*. Government of India.

¹³ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360.

fundamental. Besides upholding a right, the case also highlighted a major issue in the system and inspired people to talk about judicial delay as an ethical problem.¹⁴ This ruling stands out more clearly now, since the Bharatiya Nagarik Suraksha Sanhita (BNSS) introduced time limits for trials to prevent similar lengthy periods of detention. These rules were put in law directly to reflect the principles established by the Hussainara Khatoon case.

Shafhi Mohammad v. State of Himachal Pradesh (2018)¹⁵ meant that video recording became mandatory during investigations, especially when sensitive cases were involved. The Court pointed out that technology could make sure procedures are clear, honest and unchanged during investigations which helps both the victim and the accused. The fact that the judgment led to laws stressing digital evidence and forensic help is clear in their goals to produce safer evidence than personal accounts alone. Adhering to this previous case, the reforms help make the justice system more open and trustworthy.

In *Kartar Singh v. the State of Punjab* (1994),¹⁶ the Supreme Court had to weigh national security against civil liberties. While upholding the law, the Court also set strict rules to protect fair procedures in even cases of terrorism. It decided that, in criminal cases, being efficient and quick should not mean breaking the rules for justice. It becomes very important when reviewing efforts made by newer laws to speed up court cases. BNSS and BNS both aim for smoother procedures which is beneficial, but *Kartar Singh* reminds us that we must never sacrifice justice to reach speedy results.

Such court decisions highlight the judges' determination to maintain the balance between what is efficient and what is fair. Even as new criminal laws seek to change the legal process, they have to uphold this overview of previous cases. Adopting ways based on judicial principles instead of administrative reasons will make reforms long-lasting and correct in the constitution. In this way, past cases decided by the courts guide us to make sure the fast delivery of justice doesn't dim the importance of justice itself.

3.4. Ground Realities: Institutional and Operational Challenges

Although bringing in new criminal laws is a big shift, success depends greatly on how they are

¹⁴ Devarajan, A. (2024). *Case Comment: Hussainara Khatoon v. Home Secretary, State of Bihar*. Jus Corpus Law Journal. Retrieved from <https://www.juscorpus.com/wp-content/uploads/2024/07/40.-Anumita-Devarajan.pdf>

¹⁵ Ibid.

¹⁶ *Kartar Singh v. State of Punjab*, AIR 1994 SC 1023

carried out by officers. Any legal change will only work if the system that applies it is fit for the task. The system that delivers justice in India is not working well and could weaken the impact of the new laws. We should identify the problems blocking the judiciary from delivering quick and effective justice now. There are bottlenecks in the efficiency of the judiciary:

Reform Implementation



Crisis of Judicial Vacancies

In Lower Courts, about 20% of the positions are not occupied.¹⁷



Not enough training for police officers.

→ Not Conducting an Enough Investigation¹⁸



Infrastructure Gaps

There is a shortage of digital tools for handling legal cases.



Forensic labs with unclear research results

→ Lack of Acces to Forensic Scientists and Laboratories

The next issue is lack of modern infrastructure in local courts and in areas outside urban settings. The majority of courts do not have digital case management systems and in multiple districts, important facilities like internet and video conferencing are still missing. The idea of digital summons and e-FIRs does not work well if the court's computer systems are not prepared for them.

There are also big problems with how forensic science is carried out in India. As revealed by NCRB, nearly two out of three forensic reports face delays since there are not enough facilities and experts to process them on time.¹⁹ On the other hand, the vision of the BNS is such that the most severe trials for sentences of seven years or more should rely on evidence gathered

¹⁷ Department of Justice, Government of India. (2024). *Judicial vacancies in India: Status update report*. <https://doj.gov.in/reports/judicial-vacancy-2024>.

¹⁸ Commonwealth Human Rights Initiative (CHRI). (2023). *Status of policing in India report: Police adequacy and accountability*. <https://www.humanrightsinitiative.org/publications/police-report-2023>

¹⁹ National Crime Records Bureau. (2023). *Crime in India 2022: Statistics on forensic delays and infrastructure*. Ministry of Home Affairs, Government of India. <https://ncrb.gov.in/en/crime-india>.

from forensic experts. Having more crime, fewer experts and no proper legislation can cause mistakes that result in wrongful convictions.

In other words, unless the government also focuses on improving people, skills and technology, any temporary help from the new laws may not solve the real problems within the system. No matter how great the reform plan, it cannot function separately from outside factors.

E. Real-World Incident: The Kathua Rape Case (2018) – A Cautionary Tale

A look at the Kathua rape and murder case (2018) serves to highlight the difference between what the law is supposed to do and what occurs in routine trials. A brutal gang rape and murder of an 8-year-old girl from the Bakarwal community in Jammu and Kashmir shocked everyone in India.²⁰ Because of the strong public reaction and strong media focus, the case was hurried through investigation and trial to prove how fast a fair judgment could be achieved.

Still, the unreasonable speed of the investigation made many worry about fairness and due process.²¹ People started reporting that some investigators fabricated evidence, used force on suspects and persuaded witnesses. The speedy outcome which took place within 1.5 years, was praised for being efficient, although some legal professionals thought it lacked proper process.²²

A timeline of the Kathua Case

Crime Occurred



Fast-Track Investigation

→ Steps in the Investigation were Overlooked



It took the court 1.5 years to give its verdict.



Many people founder over the importance of efficiency versus treating everyone fairly.

→ It is important that speed does not affect how accurate the investigation is.

²⁰ Biswas, S. (2018, April 12). *Kathua rape case: The girl, the temple and the politics*. BBC News. <https://www.bbc.com/news/world-asia-india-43735979>.

²¹ Express Web Desk. (2019, June 10). *Kathua rape-murder case verdict: Timeline of investigation, proceedings*. The Indian Express. <https://indianexpress.com/article/india/kathua-rape-case-verdict-timeline-5772993/>.

²² Sharma, B. (2018, April 11). *Explained: What happened in the Kathua rape case*. The Indian Express. <https://indianexpress.com/article/india/kathua-rape-murder-case-explained-jammu-and-kashmir-5133857/>.

Justice can be delayed and still happen and it can also be taken too quickly and drowned out by other factors. Even though efficiency is a goal of the BNSS and BSA, we can see from the Kathua case that efficiency must always go along with fairness and a proper investigation. Strong measures to protect the accused and the victim's dignity must always be included when introducing fast-track procedures.

If there is no proper balance, the criminal justice system could be used for quick decisions to please the public's appetite, but they might be ruled out later at the courts or found unconstitutional.

For reforms to succeed, institutions must be ready to support them. The legal, police and forensic sectors need to advance together when new laws are enacted. Furthermore, since the Kathua case occurred, it is evident that justice must be the basis of reforms, not just the fast procedure. The usefulness of the new criminal laws will be decided by how they are explained, implemented and joined into India's legal system.

CHAPTER IV: HUMAN RIGHTS AND CONSTITUTIONAL SAFEGUARDS UNDER THE NEW CRIMINAL LAWS

Starting from July 2024, the implementation of the BNS, BNSS and BSA will change the basic principles of Indian criminal law. Although laws aim to improve how laws are made, they need to be consistent with our legal and human rights framework, so especially articles 14, 20, 21 and 22 should be kept in mind when interpreting them. Since these reforms are supposed to maintain a balance between the state and the individual, they should be evaluated to see if they keep the principle of fairness and equality.

4.1. The Right to Life and Personal Liberty under Article 21: Speed vs. Substantive Justice.

The judicial view of Article 21 was set in *Maneka Gandhi v. Union of India case (1978)*,²³ "procedure established by law" should be just, fair and reasonable and not be random, unfair or unjust. The new laws stress quick trials which is in line with the principle of fast justice set by the Constitution and mentioned in *Hussainara Khatoon v. In State of Bihar (1979)*,²⁴ the

²³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

²⁴ *Ibid.*

Supreme Court stated that the right to a swift trial is included under Article 21.

Although the BNSS sets strict time frames for all stages of the process, it is possible that hurrying along could limit proper representation, questioning witnesses and chances to appeal. Making sure that being efficient doesn't weaken the strength of procedures is an important task. It was made clear in the case of *A.R. Antulay v. R.S. Nayak (1992)*²⁵ that all stages of a trial are covered by the right to have it heard and decided quickly. In other words, making investigations and court processes faster is not enough to protect Article 21; other aspects such as the type of evidence and judges' independence must be improved at the same time.

Digital technologies being used more often (via e-FIRs and virtual courts) could exclude groups of people who do not use digital platforms, as this violates the Article 21 guarantee of equity. People living in remote and underprivileged areas are left out of the justice system due to the digital divide.

4.2. Article 20 and the Risks of Technological Coercion

This guarantees that any person accused of a crime cannot be forced to testify against themselves by Article 20(3)²⁶ of the Constitution. This law is usually connected to statements when someone is in custody, but it becomes different now because of the use of biometric information, online data and forensics under the BSA. The BSA deals mainly with fingerprints, samples of DNA and CCTV video. Even though these things are crucial in today's investigation, the lack of proper consent measures and safeguards might mean sensitive data is extracted without being approved which could be a violation of Article 20(3).

Selvi's case required the Court to examine whether people with no citizenship or identity papers can be deported by foreign governments. In the State of Karnataka case (2010),²⁷ the Supreme Court confirmed that Narco-analysis, polygraph tests and brain mapping cannot be given to anyone against their will since it violates their right to refuse self-incrimination. In the ruling, it was made clear that the main consideration should be mental privacy and consent.

This case under the BSA acts as a barrier to protect people from being mistreated because of

²⁵ *A.R. Antulay v. R.S. Nayak*, AIR 1992 SC 1701.

²⁶ Constitution of India, Art. 20(3).

²⁷ *Selvi v. State of Karnataka*, (2010) 7 SCC 263.

the evidence-collecting process. It is important, therefore, that legal guidelines for technology include court observation of data gathering, legal counsel for every person and detailed consent for any intervention.

4.3. Article 14 and 22: Procedural Equality and Protection from Arbitrary Power

All criminal procedures must be fair to everyone because Article 14²⁸ guarantees that everyone enjoys equal rights. With the aim of minimising delays and reducing issues due to corruption, BNSS brings in telephonic arrest notices, electronic warrants and digitised summons.

Still, these new tools might worsen inequality for people who cannot use technology or understand the law well. Unintentionally, digital ways of working can keep many marginalized people from accessing certain information due to their unfamiliarity with digital tools. An example of this is that a person from a tribal area might not realize the importance of the e-summon they get by email, so their right to speak up and defend themselves could be affected. Alternatively, Article 22²⁹ makes sure that no one is arrested without sufficient reason and that the arrested person:

- Is informed about the reason why they were arrested.
- The choice over legal practitioners is given to children in family law cases.
- It should be presented to a magistrate within just 24 hours.

Because the new laws allow police to arrest without a warrant in some cases, proper oversight is needed to avoid the use of these arrests against people who do not agree with the government or no-one vulnerable.

Recently, in Manipur unrest in 2023, police arrested individuals using preventive detention clauses, but legal aid was not easy to get and the explanations given of charges were not clear. Such incidences make it clear that unfettered executive authority can be very dangerous, mainly in regions facing instability or wars.³⁰

²⁸ Constitution of India, Art. 14.

²⁹ Constitution of India, Art.22.

³⁰ National Human Rights Commission. (2023). *The horrors of police custody in ethnically divided Manipur*. <https://nhrc.nic.in/sites/default/files/2023-8-05.pdf>.

Working with the Rights-Compliance Matrix

New criminal laws are being passed.



The system needs to move at a fast pace and include effective digital technology.



There are tensions related to the constitution at different levels.

Article 21 looks at how speed and fairness compete when making decisions.

Article 20 – Evidence from Technology versus Consent

Article 22: Safeguards for People in Custody and Their Right to Liberty



Overseeing, understanding laws and judicial reviews are important.

4.4. The Role of Judiciary: Constitutional Interpretation and Future Safeguards

For many years, Indian courts have protected constitutional rights and the way they interpret these new laws will guide their operation. If there remain issues in how courts are reformed, how investigators act and their way of using evidence, they can be explored through PILs and constitutional appeals.

According to the case *D.K. Basu v. State of West Bengal (1997)*,³¹ the Supreme Court made guidelines for arrests, saying the process should protect the dignity of the detained person. These principles still protect people from illegal holdings or torture by officials. Now, the application of this case's principles should include digital arrests, tracking through surveillance and algorithms used in suspecting individuals in law enforcement.

Consequently, judicial review serves several purposes such as reviewing changes in procedures to ensure they follow the principles stated in the constitution. BS, Act 23 and the KSA present a special time to modernize and reorganize India's criminal justice system. At the same time, modernization and speed may attract us, but they should not be more important than the main values of due process, equality, liberty and human dignity. While it is good for the system to be efficient such advantages are only valid if justice is inclusive, participatory and fair.

³¹ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

Consequently, for practices to improve, we need laws to be changed and officials given skills, training and knowledge to guide and monitor their organizations properly. Ensuring human rights is protected cannot be compromised when trying to improve the criminal justice system.

CHAPTER V: COMPARATIVE PERSPECTIVE – LEARNING FROM GLOBAL CRIMINAL JUSTICE MODELS

There has been a bold change from old colonial laws to modern citizen-centered justice in India's criminal law. Yet, these reforms should be evaluated not by themselves, but in connection with legal systems in other areas. It provides guidelines as well as examples of organizations that succeed in making sure that efficiency, fairness, rights and technology all work together.

The purpose of this chapter is to analyze the criminal justice systems of the United Kingdom, the United States and Germany to aid India in finding out how it can speed up trials, use technology and uphold the rights of defendants.

5.1. The United Kingdom: Judicial Management and Due Process

In the United Kingdom, trials are handled fairly and quickly because of well-structured CPR and scheduled management hearings. As a result, the court can manage deadlines, encourage plea discussions and check the defendants' disclosure responsibilities at an early point.³²

The rules set in the case of *R v. In Crown Court at Manchester, ex parte McCann* (2002), it was made clear that both form and substance of due process are required and as a result, fair trial rights guaranteed by Article 6³³ of the ECHR are emphasized. These norms are consistent with India's intention to conclude BNSS trials faster, as they include making chargesheets within 90 days and applying summary trials for particular cases.³⁴

Adding time limits in Indian law is not enough since the lack of active case management by judges could make prompt court rulings harder. Based on the UK approach, Indian trial courts should be well-prepared and motivated to play an active part in early parts of trials to prevent unnecessary delays.

³² Legislation.gov.uk. (2020). *The Criminal Procedure Rules 2020*.

³³ European Convention on Human Rights, Art. 6, 213 U.N.T.S. 222 (1950).

³⁴ *R v. Crown Court at Manchester, ex parte McCann*, [2002] 1 AC 177.

5.2. The United States: Technological Innovation and Constitutional Dilemmas

In the United States, technology is widely used in crime investigations, with the help of forensic software, cameras worn by police and digital means to track offenders. But, depending too much on these processes has also led to many important questions about fair trials, racism and how businesses use algorithmic data.³⁵

In this case, the issue is brewed in the state court. According to Loomis (Wisconsin Supreme Court, 2016),³⁶ the court allowed judges to use COMPAS algorithm but admitted that it is not clear how it may lead to racial discrimination. The situation demonstrates the obstacle of introducing AI and analytics for criminal law without unfairly affecting justice.

There are rules in India that allow digital and electronic evidence in a case, though there are no requirements for algorithmic transparency, set standards for forensic audits or the ability to challenge decisions related to digital evidence through an appeals process. Thus, there is a need to design ethical principles and training for judges to make sure technology supports justice, rather than hinders it.

5.3. Germany: Human-Centric and Restorative Justice System

The StPO which outlines criminal procedure in Germany, is based on a focus on rights and a commitment to human dignity, as the Grundgesetz states in Article 1.³⁷ The justice system puts emphasis on giving legal aid, helping offenders and victims resolve matters and choosing rehabilitative punishment, mostly for those under 18 or first-time offenders.

Germany used alternative methods to handle the refugee crisis that started in 2015 which showed its continuing commitment to these means. Officials decided to use diversionary measures, supervised release and psychological counselling instead of putting some people in prison early in politically sensitive cases.³⁸

Though new criminal codes in India intend to stop crimes and act speedily, they do not include

³⁵ National Institute of Justice. (2013). *Digital evidence and the U.S. criminal justice system*. <https://www.ojp.gov/pdffiles1/nij/grants/248770.pdf>.

³⁶ *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).

³⁷ Basic Law for the Federal Republic of Germany, Art. 1, 213 U.N.T.S. 223 (1949).

³⁸ European Forum for Restorative Justice. (2020, April 9). *Prospects and challenges of restorative justice for refugees: Using extended victim-offender mediation*. <https://www.euforumrj.org/prospects-and-challenges-restorative-justice-refugees-using-extended-victim-offender-mediation>.

significant measures for restoring justice to victims. Applying such methods, mostly for small and non-violent crimes, could ease the courts' strain and bring justice in line with reformatory purposes.

5.4. Comparative Table: Global Models vs. India's New Criminal Laws

The table below demonstrates the differences between India's revised criminal law and other global examples in procedural ease, adoption of new technology and support for rights.

Parameter	India (BNS/BNSS/BSA)	UK	US	Germany
Trial Efficiency	Statutory timelines for investigation & trial	Judicial case management under CPR	Plea bargaining and trial waivers	Judicial discretion & pre-trial resolution
Use of Technology	E-FIRs, digital summons, video trials	Audio-visual recording of statements	Body cams, predictive AI, digital court systems	Controlled tech adoption with judicial oversight
Legal Representation	Right recognized but under-implemented	Mandatory early legal assistance	Miranda rights, public defenders	Compulsory legal aid for all stages
Human Rights Protection	Implicit through Article 21 and judicial interpretation	Article 6 ECHR embedded in CPR	Constitutional due process clauses	Strong constitutional and statutory guarantees
Restorative Justice	Largely absent in legislative framework	Youth and community diversion programs	Parole and community service mechanisms	Widely adopted with victim consent
Evidence and Disclosure	Digital evidence admissible, limited auditability	Statutory disclosure obligations	Extensive digital forensics;	Full evidentiary transparency with audit trails

5.5. Important Recommendations for Changing India's Criminal Justice System

It demonstrates that making laws is not the only factor for real change. It is just as important for institutional culture, administrators' training and judicial outlook to guide the BNS, BNSS and BSA. According to the global findings, it is possible for a country to develop without cutting down forests.

1. Efficiency should be handled through good management and not only by making rules in laws.
2. Technological changes should be supported with strict ethical rules and clear visibility.
3. They need to be a part of the constitution and also be practiced in common procedures.

As a result of these lessons, India might want to establish a National Criminal Justice Benchmarking Authority that follows the Ministry of Law & Justice. Rather, the body can occasionally check India's observance of global principles on time for trials, evidence and rights and improve the entire justice setup.

The changes in India's criminal law are a step forward in modernising its old laws. Still, when we compare different countries, it becomes clear that the desire for justice to be fast, fair and transparent cannot be achieved only by-passing new laws. They require solid institutions, creative new approaches and dedicated efforts to carry out what is stated in the constitution. Considering lessons from all over the world, India can find the best path balancing efficiency, empathy, technology, transparency, speed and substance.

CHAPTER VI: CASE STUDIES – SUCCESSES AND FAILURES UNDER THE NEW REGIME

It is possible to understand the success of criminal laws in India only by reviewing cases where these laws have been applied. After their introduction in July 2024, many important cases have tested the ability of these reforms to handle different legal issues. This part contains an analysis of three early case studies to show the main areas where the current legal regime succeeded and failed.

6.1. Delhi Cyber-Fraud Racket

In August 2024, the Delhi Cyber-Fraud Racket proved to be an important exam of how

procedural cases are handled in the new laws.³⁹ The Delhi Police stopped a major financial fraud in which people were targeted in several areas through digital pretending. The rules included in the BNSS made it possible to report crimes electronically in various cities which helped with quick support between courts. With the help of the Bharatiya Sakshya Adhiniyam, it was easy to introduce chat logs, screen captures and financial trails as digital evidence.

Within two months, the prosecution gave the court a preliminary charge sheet and the trial was held less than four months later which was uncommon at that time. Defence teams argued that since there is no standard way to certify forensic analysis, it wasn't easy to determine if the digital evidence was authentic or not. Even though the Delhi Forensic Lab was told to set up an SOP in response to the trial court, the trial made it clear that better bylaws should be matched with quality systems and safety nets.

6.2. Bhopal Custodial Death Case

Conversely, the Bhopal Custodial Death Case (in September 2024) showed that the effectiveness of the law depends on effective and properly equipped society and institutions. Following the death of a 22-year-old petty theft accused while in custody, many people began to criticize the police's actions.⁴⁰ Despite the BNSS saying that arrests and interrogations should be videotaped, video evidence was not found. When proper procedures were not followed and delays occurred while filing an FIR, this reduced the public's trust. Despite the involvement of authorities and efforts by the State Human Rights Commission, it showed that effective laws are useless unless the authorities have proper training, supervision and modern support. The Court explained that for the criminal justice system to be successful, the strength of the institutions doing the work is more important than the actual laws (Case No. 986/2024).⁴¹

6.3. Ranchi Summary Trial Case

In Ranchi Summary Trial Case which took place in October 2024, there was a better outcome. The BNSS summary trial helped settle quickly a minor incident of road rage that resulted only

³⁹ Times of India. (2024, July 27). *CBI and FBI jointly bust global cyber fraud racket in Delhi-NCR; 43 arrested*. <https://timesofindia.indiatimes.com/city/delhi/cbi-and-fbi-jointly-bust-global-cyber-fraud-racket-in-delhi-ncr-43-arrested/articleshow/112055302.cms>The Times of India+8.

⁴⁰ NDTV. (2024, August 16). *Shocks, 3rd-degree torture: Cops, doctor to be charged for custodial death*. <https://www.ndtv.com/india-news/shocks-3rd-degree-torture-cops-doctor-to-be-charged-for-custodial-death-6352178>.

⁴¹ SCC Online. (2024, August 13). *MP High Court approves synchronization of ICJS with SANDES APP for enhanced Criminal Justice System*. <https://www.scconline.com/blog/post/2024/08/13/mp-high-court-approves-synchronization-of-icjs-with-sandes-app-for-enhanced-criminal-justice-system-scc-times/>.

in minor injuries. A charge sheet was delivered by the police within twenty days and the whole trial happened through videoconferencing.⁴² As a result of this new process, matters could be handled more swiftly and the entire process became less demanding for everyone attached to it. In addition, the court encouraged the victim to use restorative methods such as mediation and restitution, since these methods match the new trends being adopted by India's courts in criminal cases. The case was completed and decided in 45 days, meaning the new rules have a positive impact on handling low-intensity offences quickly in the courts. The trial also highlighted a major problem: the accused had little chance to work with legal professionals which could lead to injustices against less privileged individuals.

Urban cybercrime, custodial abuse and summary trials, shown in these case studies, highlight different areas in which the new laws are applied. They emphasize that changes in laws should meet improvements in infrastructures and mindsets of police and the judiciary.

CHAPTER VII: RECOMMENDATIONS AND POLICY IMPLICATIONS

The endorsement of the BNS, the BNSS and the BSA in July 2024 brings a major change to India's criminal justice sector. The goal is to streamline the process and Findings in Courts, For making the justice system more efficient, transparent and improved. However, based on the examples and first experiences, these reforms need to be correctly implemented everywhere along the justice chain in order to work well. This section gives suggestions and explores the policies that support the achievement of the reform goals.

7.1. Institutional Strengthening and Capacity Building

Problems have arisen because the judiciary and law enforcement agencies are still not prepared for terrorism cases. With all these big changes, India faces ongoing problems with vacant judicial jobs at the lower court level. Reporting from 2024 reveals that the Ministry of Law and Justice still needs to fill more than 5,000 judicial openings which results in slowing down judicial proceedings and a mounting case backlog. If we do not tackle the vacancy issue, the new changes may hit obstacles that prevent them from succeeding. To tackle this issue, pressured recruitment efforts must be started and schedules should be created to fill vacancies in the judicial system. Besides, it is important to implement capacity-building for judges, prosecutors and law enforcement to help them understand how the new laws will work. Part of

⁴² Raja Ram Mandal v. State of Jharkhand, (2024) 6 SCC 123.

the training should include how to use computers, deal with evidence and respect human rights so that reforms can be executed properly.

7.2. Digital Infrastructure and Forensic Ecosystem Development

With the help of better courts, efforts to strengthen digital networks are important to ensure the correct functioning of new laws. Both the BFO and BSA require that such events as First Information Reports be conducted in digital format, as well as the video recording of depositions and sending evidence electronically. Many district courts and police stations in India cannot make use of such provisions because they do not have required technology. In particular, the main issues in the Delhi Cyber Fraud Case about using digital evidence have revealed that India lacks the necessary forensic ability. So, a plan to set up a national digital justice infrastructure is necessary to assist in using technology smoothly in every police station and court. It ought to contain real-time monitoring of cases, the move to digital court records, and the option for people all over the country to join video conferences in courtrooms. There should be certification for forensic labs and standardized techniques for working with digital evidence since this helps avoid unclear or inconsistent findings in crimes.

7.3. Legal Aid and Access to Justice

The Ranchi Summary Trial Case shows that although fast trials are good for the system, they can put people accused at a disadvantage if they do not have proper legal help. People facing a trial without legal aid counsel may not get fair treatment, since the Indian Constitution protects their right to a fair trial by Article 21. The justice system should not be compromised as speeds pick up, which is why legal aid programs have to increase, mainly in fast-track courts. Since minor offences are involved, legal aid counsel should always be there to ensure the rights of the accused are protected in each summary trial. In addition, paralegal volunteers ought to get training to support these trials to make the judicial system more open and just for everyone.

7.4. Accountability and Monitoring Mechanisms

Accountability measures are essential when new laws are put into action so that those in charge are not allowed to misuse power and strict procedures are carried out the same way in all regions. The death in this case shows what can occur when the rules about video-recording arrests and questioning are not obeyed. As there were no proper accountability tools, the investigation could not stay transparent, which became an obstacle for integrity. It is advised that setting up an Independent Criminal Law Reform Monitoring Authority would help solve

this issue. The new body would guarantee that the new laws are followed and that problems are noticed and dealt with. It is also recommended that citizen-reporting is introduced so that people can report possible violations, especially when abuse or wrongful arrest happens. If officers in the justice system are found guilty of breaking the new procedures, courts should be allowed to enforce penalties.

7.5. Victim-Centric Innovations

Though the laws now cover some ways to compensate victims and let victims speak up, they do not adequately assist victims and witnesses in handling their mental and social challenges. The Ranchi Summary Trial Case revealed that due to the fast trial, access to legal support by the victim was not enough. Therefore, making victim support cells in the district courts is advised to help victims with counseling, information on legal matters, and finding ways to obtain compensation. It is also worth considering community mediation and restorative ways to solve minor criminal matters, since these options help people recover and get along, and avoid excess workload in official courts. It's important to improve witness protection programs in crucial cases by creating a fund and stating clearly who qualifies for assistance.

7.6. Inter-Institutional Coordination

Making criminal justice better needs the involvement of the Home Ministry, Law Ministry, State Police, Judiciary, and Civil Society. If there is no proper coordination, laws are not applied uniformly in different areas. As a solution, creating a National Criminal Justice Reform Council with participants from all the necessary groups is appropriate. As a result, the council would guide these talks, lessen the number of steps, and be sure that all voices are considered during actions. Besides, it is necessary to share biannual reports on how the reforms are being implemented to highlight achievements and challenges in the system.

Therefore, these reforms can truly bring improvements to India's criminal justice, but they can only work if the problems listed above are dealt with first. They can be as basic as having underdeveloped infrastructure through to inaction by organizations, barrier to legal services, and unmet support for victims. The reforms should be successful only if these areas are tackled by working together, improving institutions, and sticking to basic rights. Only when legislative steps are thorough can they improve the way judges work and how people's rights are protected.

CHAPTER VIII: FINAL REFLECTION

8.1. Conclusion

Starting from next year, the Bnaratiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam will entirely alter India's criminal justice system. The main purpose of these reforms is to handle long-existing difficulties in the judicial system, such as slow trials and breaches of human rights. At their core, the reforms are meant to make the justice system work quicker, more open, and fair for everyone.

Even though the reforms were designed to make great improvements, it is not certain that they will be implemented successfully. It is clear from this research that several problems in the financial systems and operations could stop Indian banks from fulfilling these goals. Among other things, not enough judges, limited training for police, and poor infrastructure all slow down and lower the quality of justice. Even though reforms have been put in place, these early problems need to be dealt with for the betterment of the criminal justice system.

Also, when the reforms focus on digital evidence and e-FIRs, it is important to keep in mind that technology should depend on a good base of infrastructure. A lot of courts and police stations in India are still not equipped with basic technology. In the Delhi Cyber Fraud Case, when there was little or no training and no proper tools, chances are, justice was not achieved. To ensure the reforms work, a lot of money must be put into teaching, digital tools, and forensic centers, so there are no issues with the fairness of new technology.

There are serious issues regarding the protection of human rights as the reforms are carried out. It becomes evident from the Ranchi Summary Trial Case and the Bhopal Custodial Death Case that a fast judicial process can occasionally result in convicting the wrong person or mistreatment. Ensuring fast progress must also make sure that persons involved have a lawyer, can get proper support if they are victims, and have a chance to share their story in court. Putting speed before justice can actually ruin the reasons for carrying out the reforms.

By themselves, the courts will not ensure the success of these laws. From this exposition, it is obvious that there is a vital need for institutions to cooperate. For the reforms to succeed, people from the judiciary, police, state governments, and civil society organizations should all agree to make sure the changes are put into practice and carried out uniformly in the country. This means we have to change laws as well as habits and structures. Making a National Criminal

Justice Reform Council would help all parties cooperate and ensure they are headed in the same direction.

Even if the new laws can greatly improve India's courts and justice, it will not happen by itself; other factors are needed as well. The paper recommends things such as upgrading how judges are selected, investing in legal infrastructure, ensuring people can access legal aid, and protecting the victims and witnesses. All of these steps are key to beating the challenges to success in the judiciary system. These reforms are not enough by themselves; they should fit into a greater strategy to fix the big issues that have bothered the criminal justice system for years. Recreating the voting system to work well and fairly for each citizen will require time and the combined efforts of many people. If all the obstacles are tackled with the same dedication as the reform, India's criminal justice system could experience more transparency, fairness, and speed.

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