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# **UNDERSTANDING NEW CRIMINAL LAWS AND THE FUTURE OF CRIMINAL JUSTICE**

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## **ABSTRACT**

This research explores the evolution of criminal laws and the future of criminal justice in the context of society and its impact on the justice system. The study highlights critical reforms in law enforcement and various challenges they pose. It also provides various recommendations to focus on policy-making, enhancing accountability, and creation an equitable and effective criminal justice system. This study aims to develop a fair, transparent, and adaptive criminal justice system that meets the modern challenges of law enforcement and provides a comprehensive framework for future advancements.

## **INTRODUCTION**

The criminal justice system is a cornerstone of societal order, designed to prevent crime, ensure justice, and uphold the rule of law. It is challenged heavily by increasing challenges of societal dynamics and the demand for systemic reforms. Over the past decade the push for reforms has intensified which is mainly fueled by public demand for greater accountability, transparency, fairness in the system. High profile cases of police misconduct have exposed significant gaps prompting the calls for change.

Policy makers and scholars are trying to modernize legal frameworks while balancing the same with community trust. This research paper aims to explore many challenges in shaping the future of criminal justice.

## **EVOLUTION OF CRIMINAL LAWS**

- HISTORICAL PERSPECTIVE-

- i. The jurisprudence of Ancient India, which was shaped by the concept of 'Dharma', prescribed various rules of right conduct.
  - ii. The codes or rules of conduct can be traced to various manuals that explained the Vedic scriptures, such as 'The Puranas and 'Smritis'.
  - iii. The King had no independent authority but derived his powers from 'Dharma' which he was expected to uphold.
  - iv. The distinction between a civil wrong and a criminal offense was clear.
  - v. Followed a criminal law that classified all offenses on the basis of the penalty which each merited, including retaliation (blood for blood), specific penalties for theft and robbery and discretionary penalties.
- CRIMINAL JUSTICE SYSTEM IN ITS PRESENT FORM-
- i. The Criminal Justice System in India follows the legal procedures established by the British during the pre-independence era.
  - ii. An Indian Penal Code (IPC) defining crime and prescribing appropriate punishments was adopted in 1860, prepared by the first [Law Commission of India](#).
  - iii. It was developed in line with the English criminal law.
  - iv. Code of Criminal Procedure was enacted in 1861 and established the rules to be followed in all stages. This was amended in 1973.
  - v. The NN Vohra Committee, set up in 1993, observed increasing criminalization of politics, talked of the unholy nexus.
  - vi. It was an effort to push the reforms in the criminal justice system.
  - vii. In 2000, the Government of India formed a panel headed by the former Chief Justice of Kerala and Karnataka, Justice V.S. Malimath, to suggest an overhaul of the century-old criminal justice system.
  - viii. In 2003, the Justice Malimath Committee submitted a report with 158 recommendations.
  - ix. The Committee opined that the existing system **"weighed in favour of the accused and did not adequately focus on justice to the victims of crime."**

## STRUCTURE OF INDIAN CRIMINAL JUSTICE SYSTEM

- The criminal justice system is responsible for ensuring that offenders are brought to justice and that victims are provided with justice.

- The system also ensures that those accused of criminal activities are treated fairly and are given their due rights.
- India's criminal justice system is based on the [Indian Penal Code \(IPC\)](#) and [Criminal Procedure Code](#), which will soon be replaced by [Bharatiya Nyaya Sanhita](#) and [Bharatiya Nagarik Suraksha Sanhita](#) respectively.
- **Main Pillars:**
  - **Police:** Responsible for investigating crimes, apprehending suspects, and enforcing the law. They operate under the control of individual states.
  - **Judiciary:** Upholds the law by interpreting it and delivering judgments in criminal cases.
    - The [Supreme Court](#) at the federal level and [High Courts](#) in each state from the top tiers, with lower courts handling various caseloads.
  - **Correction System:** Manages **prisons and jails**, focusing on punishment and, ideally, **rehabilitation of offenders**.

## INTRODUCTION OF NEW CRIMINAL LAWS

On 1 July 2024, the Indian government introduced three new criminal laws—the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS) and the Bharatiya Sakshya Adhiniyam (BSA). The BNS, BNSS and BSA laws replaces the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act, respectively, marking a transformative period in the Indian legal system.

Collectively, these laws seek to modernise and better align the Indian legal system with today's societal needs. They seek to consolidate and update some of the traditional legal provisions, making them more accessible and understandable to the general public and legal practitioners alike.

Key highlights of the new criminal laws-

- **Objective:** The new laws aim to replace colonial-era punishments with a justice-focused approach, integrating technological advancements in police investigations and court procedures.
- **New Offences:** New offenses include terrorism, mob lynching, organized crime, and enhanced punishments for crimes against women and children.
- **Steps for Smooth Transition:**



- States are free to bring in their own amendments to some provisions of the Bharatiya Nagrik Suraksha Sanhita (BNSS).
- The Bharatiya Nyaya Sanhita (BNS) may also be amended soon to incorporate a section on sexual crimes against men and transgender persons.
  - For the time being police officers are being asked to invoke other allied sections under the BNS, such as wrongful confinement and physical hurt, if they get such complaints until an amendment is brought to correct this anomaly.

The IPC and CrPC will run concurrently along with the new laws as several cases are still pending in courts and some crimes that took place before 1st July 2024 that are reported later will have to be registered under the IPC.

First information reports (FIRs) can now be filed online through the Crime and Criminal Tracking Network Systems (CCTNS), allowing e-FIRs and zero FIRs in multiple languages without needing to visit a police station.

Training and hand-holding have been done for all States to help them adapt to the new system.

While the Home Ministry is testing eSakshya, a mobile app for police to record and upload crime scene evidence, various states have developed their own systems based on their capabilities.

## THE NEW CRIMINAL LAWS

**The Bharatiya Nyaya Sanhita, 2023**, is a comprehensive effort to redefine and refocus the penal code. With several sections being amended, repealed, or added, the law introduces a nuanced approach to offenses, penalizing actions that endanger the sovereignty, unity, and integrity of India. It also addresses contemporary challenges such as terrorism and organized crime, distinguishing between major and petty offenses and prescribing stringent penalties for the former.

**The Bharatiya Nagarik Suraksha Sanhita, 2023**, seeks to humanize our criminal justice system. By timelines for investigations, it aims to make justice more accessible and responsive to the needs of the people. It replaces outdated terminology with a more people-friendly language, reflecting a commitment to a humane approach. In cases involving heinous offences,

the proposed legislation emphasizes the necessity of a mandatory visit by the forensic team. This strategic provision aims to bolster the investigative process, ensuring that a specialized team conducts an on-site examination to collect crucial evidence. By mandating such visits, the legislation seeks to enhance the thoroughness and accuracy of criminal investigations, ultimately contributing to a more robust legal framework centered around contemporary standards of justice.

**The Bharatiya Sakshya Adhiniyam, 2023**, recognizes the growing role of technology in legal proceedings. In a contemporary legal landscape where [technology](#) plays a pivotal role, this law recognizes electronic evidence as any information generated or transmitted by any device or system capable of being stored or retrieved. This broad definition encompasses a wide range of [digital](#) data, from emails and text messages to multimedia files, acknowledging the diverse forms of evidence relevant to modern cases, and emphasizing factors such as authenticity and integrity. This inclusion is crucial in maintaining the credibility of electronic information presented in court, ensuring that technological advancements do not compromise the reliability of legal proceedings. Special provisions for the admissibility of DNA evidence and the acceptance of expert opinions as evidence further bolster the Act's commitment to a modern and effective legal framework.

The criminal law modernization symbolizes more than just a legal transformation; it reinforces a commitment to ensuring justice resonates with the society's changing needs. This legislative stride positions India on the path toward a more equitable, accessible, and evolved legal framework. The process of legal reform has commenced, and these ground-breaking laws indicate a future where justice is not only delivered but is inclusive and reflective of our nation's dynamic ethos.

## CHALLENGES IN IMPLEMENTATION

The implementation of India's new criminal laws, replacing the colonial-era IPC, Evidence Act, and CrPC, presents several challenges.

- **Training and Skilling:** Ensuring comprehensive training for 3,000 officers across various districts, who will then train police officers and lawyers.
- **Balancing Old and New Provisions:** Maintaining clarity between old and new legal provisions, especially in cases where section numbers have changed.

- Forensics Infrastructure: Deploying and managing 900 Forensic Science Laboratory vans and ensuring mandatory forensic examinations in relevant cases.
- Technology Integration: Successfully implementing online modules like the Inter-operable Criminal Justice System (ICJS) in Chandigarh as a model for other states
- Ensuring Uniformity: Achieving uniform understanding and application of the new laws across all states and union territories.
- Public Awareness and Acceptance: Educating the public about the new laws and managing resistance or confusion related to the transition.
- Judicial Training: Specifically preparing the judiciary, including judges and court officials, for the new legal framework.

The government has fast-tracked implementation before training and preparing the law-enforcement machinery for it. At every level, including the police, the legal fraternity, and even the judiciary, there is likely to be confusion. The law enforcement system, including the judiciary, is grossly lacking in infrastructure, and it will now have to cope with the new demands made on it

While the government has said that all these are victim-centric reforms, there are concerns that the police have been given more powers. The police can now hold a suspect for a longer period than before. Though the Supreme Court has suspended all sedition cases, and the government has claimed that it has done away with the sedition law, it has come back in a new form. A worry is that the new laws can be wielded with greater effect to curb citizens' rights.

## **FUTURE OF INDIAN CRIMINAL JUSTICE SYSTEM**

The introduction of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam in 2023 is expected to have a profound impact on India's criminal justice system. These reforms are designed to enhance efficiency, improve conviction rates, and ensure the protection of citizens' rights.

### **1. Improving Conviction Rates**

One of the primary goals of the new laws is to improve conviction rates by making the legal process more efficient and reliable. The integration of digital and forensic evidence plays a crucial role in this regard. By providing clear guidelines for the collection and presentation of electronic records, the new laws ensure that such evidence is admissible and credible in court. This is particularly important in cases involving cybercrimes and financial frauds, where digital

evidence is often pivotal.

## 2. Use of Scientific and Forensic Evidence

The mandatory involvement of forensic teams in serious crimes, as stipulated by the Bharatiya Sakshya Adhiniyam, is expected to significantly enhance the quality of investigations. Forensic experts can provide critical insights that help establish the facts of a case, reducing the likelihood of wrongful convictions and ensuring that justice is served. For example, the use of DNA evidence has been instrumental in solving cold cases and exonerating the innocent, as seen in numerous instances worldwide.

## 3. Mobile Forensic Labs and Quick Analysis

To further bolster the use of forensic evidence, the government has introduced mobile forensic labs that can quickly reach crime scenes and provide timely analysis. These labs are equipped with the latest technology to perform on-the-spot testing and analysis, reducing the time taken to process evidence and improving the overall efficiency of the criminal justice system. This initiative has been successfully implemented in several states, leading to faster resolution of cases and higher conviction rates.

The new laws also place a strong emphasis on protecting the rights of citizens, particularly victims of crime. The Bharatiya Nyaya Sanhita includes provisions for victim compensation and support, ensuring that victims receive the necessary assistance and justice. Additionally, the laws mandate transparency and accountability in law enforcement, with measures such as videography of search and seizure operations and digital tracking of cases.

To ensure that the new laws achieve their intended objectives, robust monitoring and evaluation mechanisms must be put in place. This includes setting up independent bodies to oversee the implementation process, regular audits, and feedback systems to identify and rectify issues promptly. Data-driven approaches can help in assessing the impact of the reforms and making necessary adjustments.

These reforms are not just a cosmetic update but a comprehensive reworking of India's criminal laws to better align with contemporary realities. The new laws aim to address the long-standing inefficiencies and inadequacies of the existing statutes, which have been criticised for being outdated and unresponsive to the needs of modern society. The drive for these changes was

fueled by the necessity to enhance legal procedures, integrate technological advancements, and ensure a more robust protection of citizens' rights.

The Bharatiya Nyaya Sanhita focuses on substantive criminal law, aiming to simplify and update the legal provisions to reflect current societal values and technological advancements. The Bharatiya Nagarik Suraksha Sanhita overhauls procedural aspects, ensuring quicker and more efficient justice delivery. Meanwhile, the Bharatiya Sakshya Adhiniyam modernises the rules of evidence to include digital and electronic records, which are increasingly relevant in today's digital age.

These reforms are anticipated to have a profound impact on various sectors, from law enforcement and judiciary to the general public. By introducing measures like digitalisation of processes, videography in search and seizure, and forensic science integration, the new laws aim to enhance transparency, accountability, and efficiency within the criminal justice system.

## CONCLUSION

The evolving criminal laws reflect the profound societal changes particularly those addressing cybercrime, artificial intelligence, and international terrorism. It also showcases the justice system and its efforts to adapt to an increasingly advanced world. These laws represent both a response to emerging threats and an opportunity to redefine justice in many ways that prioritize equity, accountability and efficiency.

In the future, the criminal justice system must evolve into a system that emphasizes rehabilitation and restorative justice to support societal reintegration for offenders, particularly in cases of non-violent crimes. Ultimately, the future of criminal justice will depend on the ability of policymakers, legal practitioners, and society at large to navigate the complexities of change. The new criminal laws ensure to address challenges of today but also anticipates the needs of tomorrow.

## REFERENCES

Wikipedia

www.Ipleaders.com

Bare Acts-BSA, BNSS, BNS

