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REFORMS IN THE INDIAN CRIMINAL JUSTICE SYSTEM: COLONIAL LEGACIES, NEW LEGISLATION, AND ONGOING CHALLENGES

~ *Mahek Thacker*

ABSTRACT

India's criminal justice architecture – built on the British-era Indian Penal Code (IPC) of 1860, the 1973 Code of Criminal Procedure (CrPC), and the 1872 Evidence Act – underwent its most radical overhaul since independence in July 2024. Three new central statutes (Bharatiya Nyaya Sanhita (BNS) 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, and Bharatiya Sakshya Adhiniyam (BSA) 2023) replaced the IPC, CrPC, and Evidence Act, introducing modernized offences and procedures. These reforms aim to address chronic problems (overloaded courts, high undertrial populations, outdated laws, and low conviction rates) through faster trial timelines, digital evidence integration, victim-centred provisions, and new offences (gang rape of minors, mob lynching, false promise of marriage, etc.). However, significant systemic issues remain – police capacity and accountability, forensic infrastructure, prison overcrowding, and institutional capacity – raising concerns that legislative change alone may not realize its promise without extensive training, investment, and safeguards. This paper reviews the genesis, content, and context of these reforms, synthesizes recent literature, and discusses their early reception and outstanding challenges.

KEYWORDS: Criminal justice reform, Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, Bharatiya Sakshya Adhiniyam, colonial legacy, undertrial prisoners, forensic investigation, victim rights, court delays, police modernization.

INTRODUCTION

India's criminal justice system has long been criticized for delay, systemic bias, and outdated laws. Even today, the substantive and procedural core of criminal law – the IPC (1860), CrPC

(1973), and Evidence Act (1872) – remained largely intact for 160+ years after independence. Recognizing that colonial-era statutes no longer adequately served contemporary India, Parliament enacted a trifecta of new criminal laws in late 2023, effective 1 July 2024. The *Bharatiya Nyaya Sanhita, 2023* (BNS) replaced the IPC; the *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS) replaced the CrPC; and the *Bharatiya Sakshya Adhinyam, 2023* (BSA) replaced the Evidence Act. Official rhetoric hailed the reforms as “victim-centric” and the most modern criminal laws in the world. Indeed, the government stressed new tools – e.g. mandatory forensic investigation in serious crimes, digital (e-FIR) reporting, electronic case management – to improve accountability and conviction rates. In sum, this overhaul aims to decolonize and modernize India’s criminal law – pruning archaic offences, codifying new crimes, integrating technology, and imposing strict timelines to expedite justice. Yet reformers warn that without parallel investment in institutions, the law alone cannot solve deep-seated problems.

COLONIAL LEGACY AND THE NEED FOR REFORM

India’s criminal law has deep colonial origins. The IPC was enacted in 1860 (coming into force 1862) as a Macaulay-driven code to consolidate British rule. It is in fact the world’s longest-surviving criminal code; it remained on the books for 164 years until July 2024. Likewise, the CrPC of 1973 continued the British-era model for prosecutions and trials (superseding earlier colonial acts). Over time, courts have incrementally interpreted these laws (e.g. on arrests, bail, protection of prisoners’ rights), but core features endured. Scholars note that many colonial-era provisions reflected the priorities of imperial governance rather than individual rights. For example, under the old IPC, courts often treated Europeans and Indians differently – colonial judges sometimes applied alleged biological theories to excuse British defendants. Entrenched hierarchies and broad powers (e.g. sedition laws) lingered in the statute books well into the 21st century, long after their purported justifications had lost force. Critics argue India’s justice institutions themselves – police forces, courts, prisons – also bear “shadows of colonialism,” with rigid hierarchies and punitive orientations that have outlasted colonial rule. As India’s society and technology changed rapidly, debates in law schools, courts, and commissions stressed the need to rethink the entire framework of criminal law. The new 2023 codes are a culmination of these debates and of various commission reports, marking a deliberate departure from unquestioned reliance on British-era statutes.

THE 2023 LEGAL OVERHAUL: BNS, BNSS AND BSA

STATUTORY REPLACEMENT OF THE OLD CODES

On 1 July 2024, the Indian Parliament's most ambitious criminal justice reform took effect. The BNS, BNSS, and BSA formally repealed the IPC (1860), CrPC (1973) and Evidence Act (1872) respectively. By name and ethos, the new laws shed colonial labels (e.g. *Penal* → *Nyaya*, *Procedure* → *Suraksha*, *Evidence* → *Sakshya*) and emphasize constitutional values and social contexts. The official timeline of enactment was: BNS (Act No. 45 of 2023) and BNSS (Act No. 46 of 2023) were passed by Parliament in December 2023, followed by BSA (Act No. 47 of 2023). These Acts were enforced by a July 1, 2024 notification of the President's assent. (For reference, each new code runs to roughly 350–500 sections, whereas the old IPC had 511 sections and CrPC around 500.) In effect, all pending and future criminal proceedings in India must now proceed under the new laws rather than under the IPC/CrPC/Evidence Act. This sweeping replacement is widely acknowledged as the first fundamental rewrite of India's criminal legislation since independence.

KEY THEMES AND PROMISES

The new laws reflect several explicit objectives that recurrently appear in official statements and analyst commentary:

- **MODERNIZATION AND TECHNOLOGY:** The codes integrate digital procedures throughout. For example, BNSS explicitly permits electronic filing of FIRs (“e-FIRs”) via email, WhatsApp, portals, or other modes. All courts and tribunals are authorized to conduct trials or hearings electronically (video-conferencing). Evidence Act reforms elevate electronic data (emails, chat messages, CCTV footage, metadata, etc.) to primary evidence status (no longer “secondary” requiring cumbersome certification). In short, paper-and-ink processes are supplanted by digital records wherever possible. Official statements promise that this will speed up investigations and trials. Notably, Section 176(3) of BNSS makes a crime-scene forensic examination mandatory (with video documentation) for every serious offence (seven years’ imprisonment or more). The Union Home Ministry claims such mandatory forensics should raise conviction rates (ambitiously targeting up to 90%) and create reliable evidence trails.
- **VICTIM-CENTRIC AND RIGHTS-BASED:** The new codes repeatedly emphasize victims’ interests. BNSS and BNS require judges and police to keep victims informed (e.g. 90-day status updates to complainants, formal notice of bail hearings) and bolster victim compensation schemes. Notably, both the BNS and BNSS create formal provisions for victims to participate in the process. The law defines “victims” in gender-

neutral terms, increases penalties for crimes against women and children, and mandates community service or rehabilitation alternatives for certain offenders. Traditional anomalies – such as requiring a female rape victim to personally report an assault by her separated husband, or treating male rape victims inequitably – remain only in part, but overall the statutory language now recognizes women’s and children’s rights more explicitly than before. In all three codes, Hindi-origin terms and Indian cultural values are invoked (e.g. BNS is said to pursue “*Nyaya*” rather than mere “*dand*” or punishment) as a break from colonial imprint.

- **SPEED AND EFFICIENCY:** A dominant theme in legislative debates was chronic delay. BNSS imposes stringent timelines at every stage of the criminal process, replacing the old open-ended practice. For example, charge-sheets must be filed within 60 days of arrest for serious offences, charges framed within 60 days of the first hearing, and judges are to deliver a verdict within 30–45 days of closing arguments. Many critics predicted that, if implemented, these deadlines could sharply reduce the average 2–5 year trial durations in India. Similarly, BNSS mandates courts to pronounce judgment within 45 days after trial completion. These deadlines are coupled with new incentives and duties: the jail superintendent must apply for bail when an undertrial has served half (or one-third for first-time offenders) of the maximum possible sentence. In effect, long pre-trial detention is statutorily disfavored.
- **NEW OFFENCES AND CONTEMPORARY CRIMES:** The BNS introduces or updates many substantive offences reflecting 21st-century realities. Major examples include formalizing crimes like hit-and-run vehicular death, mob lynching, enhanced *gang rape* of minors (even adding a death-penalty clause for gang rape resulting in death of a girl under 18), and organized crime alongside terrorism (adopting standards from UAPA and MCOCA). Misuse of “sedition” has been officially abolished: IPC 124A is repealed, replaced by Section 152 BNS (“Act endangering sovereignty, unity and integrity of India”). In practice, the new Section 152 proscribes “armed rebellion or subversive activities” or “encouraging separatism,” with higher minimum sentences (7 years) compared to old sedition. (Analysts note that this change mostly renames sedition as “*deshdroh*” and may actually broaden the catch-all, but at least removes a notoriously abused colonial label.) Conversely, the BNS explicitly *decriminalizes* certain outdated offences: adultery is removed outright (in line with the Supreme Court’s Joseph Shine judgment), and public insults to modesty that assumed male

perpetrators (e.g. voyeurism under old S.354C) are now fully gender-neutral. Many laws on women's safety are consolidated into one chapter and toughened: for instance, BNS §69 creates a new offence penalizing a man who deceitfully induces consensual sex by a false promise to marry. Likewise, the BNS omits Section 377 of the old IPC entirely (per prior Supreme Court rulings on consensual LGBT rights).

- **IMPLEMENTATION CONTEXT:** The government and supporters tout that these laws were consulted widely and designed to be “victim-centric” and constitutionally grounded. An Indian Express analysis notes that top leaders called the new codes the “*soul, body, and spirit*” of modern Indian justice. The laws explicitly retain and re-label many former provisions, claiming 75% of IPC content continued but streamlined into 20 chapters instead of 23. Some critics accept that this is a decolonization of form if not always substance – older provisions on public order, political crimes, etc., persist albeit under Indian names. Still, the scope of change is unprecedented: in effect, nearly every aspect of criminal law – offences, procedures, evidence – was on the table for revision.

SYSTEMIC PROBLEMS DRIVING REFORM

The legislative overhaul responded to *pressing systemic problems* that had long plagued India's justice delivery, including undertrial over-incarceration, court backlog, police dysfunction, and prison overcrowding. These issues set the context and urgency for reform:

- **CASE BACKLOG AND DELAYS:** India's courts have struggled with enormous pendency. Various reports note that *tens of millions* of cases (including civil and criminal) were pending at any time. Supreme Court jurisprudence (e.g. *Hussainara Khatoon v. Bihar*) recognized speedy trial as a constitutional right, yet in practice average trials spanned years. Institutional deficits (judicial vacancies, frequent adjournments, lack of case management) meant ordinary criminal trials routinely took 3–5 years. Under the old CrPC, there was no firm deadline for framing charges or concluding trials. These delays had dire effects: a huge proportion of India's prisoners were awaiting trial rather than serving sentences.
- **UNDERTRIAL POPULATION AND PRISONS:** Undertrial detention is perhaps the most acute crisis. According to the NCRB's Prison Statistics 2023, nearly three-quarters of all prisoners (around 74%) were undertrial at year-end. In absolute numbers, India's prisons held *over half a million inmates*, with undertrials numbering ~389,910 in 2023. This represents a reduction from 76% (2022) to 74%, but still by far the highest share

in the world. Many undertrials have been detained for periods longer than the maximum sentence they would face if convicted. These detainees are legally innocent yet live in congested jails. Prison overcrowding (occupancy around 120–130%) exacerbates human rights concerns. Conditions in many Indian prisons are poor: inadequate healthcare, nutrition, sanitation, and little rehabilitation or legal aid. These facts underscored reformers' calls to reduce unnecessary detention and improve bail norms.

- **POLICE AND INVESTIGATION WEAKNESSES:** The police in India often lack sufficient training, forensic tools, and independence. Investigations can be lengthy and amateur, relying heavily on eyewitnesses or confessions while failing to collect scientific evidence. Political or bureaucratic pressures on police can skew priorities. Low conviction rates in serious crimes (e.g. rape, murder) have been attributed not just to evidentiary gaps but also to investigation lapses and overworked prosecutors. In many jurisdictions, forensic labs are chronically backlogged. For example, one study notes BNSS's requirement of a forensic expert at every serious crime scene is aspirational given India's stretched forensic infrastructure. The government itself has acknowledged this gap: states were given up to 5 years to meet the new forensic standards, and late 2024 guidance pressed states to rapidly upgrade lab capacity.
- **JUDICIAL AND INSTITUTIONAL SHORTFALLS:** Chronic understaffing of courts – India has one of the lowest judge-to-population ratios – contributes directly to delays. Long queues for family courts and criminal courts have persisted despite incremental efforts to add judges and fast-track benches. Technological systems in courts (eCourts) have grown, but data issues (undated cases, inconsistent records) remain. Weak witness protection and victim support systems (absent or underfunded nationwide) also undermine justice, particularly for sexual violence cases. (Recent reforms do mandate witness security plans and institutionalize compensation schemes, but implementing agencies remain under-resourced.) Together, these systemic issues gave reformers impetus to legislate strong procedural fixes, even as many acknowledged that law alone cannot solve them without investment in people and infrastructure.

FEATURES OF THE BHARATIYA NYAYA SANHITA, 2023 (BNS)

The BNS – India’s new penal code – streamlines and updates substantive criminal law. The text reduces the IPC’s 511 sections to 358, arranged in 20 chapters, by merging redundant provisions and repealing obsolete sections. Key substantive changes include:

- **NEW CRIMES AND EXPANDED DEFINITIONS:** The BNS codifies crimes like terrorism, organized crime, and gang offences directly in the main code. For example, the definition of “organized crime” now explicitly covers continuous unlawful activities (kidnapping, extortion, cyber-crimes, trafficking, etc.). Offences such as *mob lynching* and certain hate crimes receive special mention. “Chain-snatching” is defined separately from generic theft. Importantly, consensual sexual crimes are overhauled: the BNS penalizes a man who has sex with a woman under “false promise of marriage” (Sec. 69 BNS), and raises minimum sentences for some offences against women.
- **REMOVAL OF COLONIAL OFFENCES:** Section 124A IPC (sedition) has been repealed. In its place, Section 152 BNS punishes “acts endangering the sovereignty, unity and integrity of India”. Analysis shows this provision retains many modes of sedition (e.g. spoken or written acts) but narrows the prohibited intents to inciting secession or armed rebellion. Thus, sedition’s name has gone, but critics argue its substance largely remains under a new label. Section 108 CrPC (surety for good behaviour for seditious publications) was also recast. Other obsolete offences are trimmed: the colonial-era provisions on solicitation, the “merit” offences (like criminal intimidation vs. assault), etc., have been re-evaluated.
- **GENDER AND EQUALITY:** The BNS adopts gender-neutral language in many places, replacing terms like “any man” with “whoever” for offences like voyeurism and stripping. It enhances penalties for crimes against women and children – for instance, introducing the death penalty for gang-rape involving a minor (a change reflecting public outcry in recent years). A standalone chapter now aggregates offences against women and children, along with stronger protective measures (for example, requiring female officers to record the FIR of a woman rape victim). However, the BNS retains the exception that marital rape is non-criminal (aside from a narrow provision when a separated husband assaults). Child marriage, incest, and other social issues largely remain under prior statutes.
- **SENTENCING AND ALTERNATIVES:** The BNS introduces community service as a judicial sentencing option for certain minor offences (e.g. petty theft, certain first-

time offences) – a significant departure from purely jail terms. Minimum punishment bars were raised for many offences (to 7 years minimum in some cases), and fines were increased to better inflation-adjusted levels. The new code also mandates probation and rehabilitation schemes for offenders where appropriate, reflecting a shift toward reintegration rather than only retribution. The government claims that these changes reflect a philosophical shift from “dand” (punishment) to “nyaya” (justice) – aligning the criminal law with rehabilitative ideals.

- **TREASON AND NATIONAL SECURITY:** While sedition was formally abolished, the BNS retains extremely serious state-security offences. Clause 120 BNS (in Hindi text, “*Deshdroh*”) is in practice a rebranded treason law: it punishes waging war against India or assisting enemies, with very harsh penalties (up to death or life imprisonment). This was controversial even pre-2023 (the Supreme Court in 2022 had essentially suspended sedition, calling it *prima facie* unconstitutional). Supporters argue Clause 120 is needed for modern threats, and that courts will interpret it narrowly (per the 1962 *Kedarnath Singh* guidelines). Critics worry it still gives the state a sweeping tool against political dissent, echoing colonial sedition’s misuse.

In sum, the BNS overhauls IPC-era substance: it decolonizes terminology, removes overtly colonial offences, and adds crimes reflecting 21st-century India. Its careful phrasing of new offences and retention of many old definitions means much jurisprudence on elements of crimes carries over, but judges will have to interpret dozens of new or amended provisions. The real test will be how courts apply concepts like “subversive activities” or “organised crime,” and whether gender-neutral language broadens or narrows legal outcomes.

FEATURES OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 (BNSS)

The BNSS fundamentally revises criminal procedure. It preserves the CrPC’s structure (investigation, arrests, bail, trial, appeals) but adds extensive detail and timetables. Major innovations include:

- **DIGITAL PROCEDURES:** Section 173 BNSS explicitly allows electronic reporting of crimes. Any person can give information about a cognizable offence orally or through electronic means (email, WhatsApp, online portal, etc.). If electronically reported, the informant must sign the report within 3 days. This “e-FIR” mechanism aims to make lodging complaints easier, especially for victims who cannot immediately reach a station. Likewise, Subsection (3) of Section 173 codifies the “*Zero FIR*”: any

police station, anywhere in India, must register the FIR without regard to territorial jurisdiction. The case is then transferred to the appropriate station. Both these measures remove old barriers to FIR registration: no longer can police turn away a victim for jurisdictional reasons or lack of a physical complaint form.

- **TIMELINES AND MANDATORY STEPS:** The BNSS prescribes fixed time limits. For offences punishable by 3–7 years, the police may preliminarily inquire up to 14 days before registering an FIR (subject to higher officer approval). After an FIR is filed, investigators must complete the report within 60–90 days for most crimes (shorter for minor ones) or seek extensions from a Magistrate. Critically, BNSS §263(1) mandates that a Sessions Court must *frame the formal charge against an accused within 60 days* from the first hearing. Similarly, judgements must be announced within 45 days of argument (extendable to 60). Delays due to case adjournments by the accused are to be excluded from these computations.
- **PRETRIAL DETENTION AND BAIL:** Police custody rules were tightened. Under BNSS, a magistrate can remand an arrested person only up to a combined 60–90 days of police custody (in total), rather than any number of 15-day blocks, effectively limiting interrogation time. Significantly, BNSS §479 replaces CrPC §436A: it provides that any undertrial detained half the maximum sentence *must* be released on bail; for *first-time offenders*, even one-third of the sentence served triggers release. This is a concrete liberalization: for example, someone facing an offence with a 6-year maximum must be bailed after 2 years (instead of 3). Jail superintendents are legally required to notify courts when these thresholds are met. Some exceptions remain (no release if multiple offences pending, or if prosecutors can justify extended detention).
- **VICTIM RIGHTS AND BAIL NOTICES:** BNSS greatly expands victim participation. The informant and victim (if distinct) both get free copies of the FIR and charge sheet. After arrest, police must inform victims of the status of the accused (bail orders, etc.). Importantly, victims of serious crimes must receive updates on investigation progress every 90 days, a change from earlier law. Courts also must inform victims or family when bail applications are heard (so they can be heard in opposition). Other protections include restrictions on handcuffing (allowed only for specified categories of dangerous or habitual offenders) and many Arrest/Remand

procedures require written reasoning. These victim-centric and procedural safeguards are intended to balance the stricter timelines and policing powers.

- **FORENSIC AND SCIENTIFIC PROCEDURE:** BNSS deeply embeds forensics into procedure. Section 176(3) (see *Lex Scripta* analysis) orders that for crimes punishable by ≥ 7 years, a forensic expert must visit the crime scene and collect evidence, recording the process on video. If no local lab exists, states must procure forensic services elsewhere. Other sections allow examining officers to compel fingerprint, handwriting, or voice samples from suspects (expanding on old CrPC rights). BNSS also mandates that scientific evidence (e.g. digital forensics, medical reports) be gathered early.
- **TRIAL MANAGEMENT:** BNSS introduces case-management tools. Trial courts must actively manage witnesses: for example, cross-examination of one co-accused's statement can be allowed even if he is not produced. Video recording of vulnerable witnesses (children, sexual offence survivors) is now standard. The BNSS also formally recognizes plea-bargaining (like CrPC Amendment 2005 did) but with new emphasis on victim compensation as part of any plea deal. Sections 529–530 permit courts to conduct entire trials or stages thereof in electronic mode, furthering digital court initiatives.

Overall, the BNSS reshapes criminal procedure around speed, science, and victim inclusion, reflecting decades of policy calls. It codifies ideas once only in guidelines (like “zero FIR” and mandatory investigation of cognizable complaints). If fully realized, it could streamline filing through appeal. But many observers caution the legislation assumes infrastructure that is still lacking – especially sufficient judges, prosecutors, police, and forensic labs – to meet these deadlines without trading off fairness.

FEATURES OF THE BHARATIYA SAKSHYA ADHINIYAM, 2023 (BSA)

The BSA is a rewrite of the Evidence Act, aimed at aligning legal rules of proof with modern reality. Broadly, it retains the former Act's structure (facts, documents, witnesses, provisions on relevancy) but adds numerous updates:

- **ELECTRONIC EVIDENCE:** The BSA's defining feature is treating electronic/digital records as primary evidence. Under the old law, electronically stored data (emails, text messages, call logs, CCTV, etc.) were often “secondary” evidence requiring a high

certification barrier (Section 65B IE Act). Now, Sections 57–63 BSA make such records self-contained primary evidence, subject to prescribed authentication. Section 63 specifically sets a dual certification process: the person in charge of the device and a qualified forensic expert must each certify the integrity and method of the record. By giving emails, computer files, and phone records direct evidentiary status, the BSA acknowledges digital forensics as central to trials.

- **DOCUMENTS AND AUTHENTICATION:** The BSA largely preserves existing rules for admitting documents, confessions, and testimonies, but with clarifications. It formally allows confessions made to police officers under certain conditions (similar to India Evidence Act amendments) and retains privileges for journalists and common informers. Many provisions on hearsay are similar to before, with minor tweaks. Crucially, the same spirit of the old law is kept: certifications (though now more structured) and scrutiny of digital prints are insisted upon to prevent tampering.
- **EXPERT EVIDENCE AND OPINION:** Section 39 BSA (parallel to old Sec.45) governs expert opinion. The BSA affirms that experts in science, engineering, medicine, or any specialized field may testify on matters requiring special knowledge. Notably, it anticipates the modern forensic context: courts are expressly allowed to rely on expert reports from the new National Forensic Sciences University and similar bodies. In practice, this means digital forensics, DNA analysis, fingerprint experts, etc., should all be readily admitted subject to cross-examination.
- **TELE-EVIDENCE AND VIDEO-RECORDINGS:** The Act permits deposition of witnesses and recording of testimonies via electronic means (for example, videoconference) and grants those recordings evidentiary weight. It also allows earlier-recorded statements (of children, for instance) to be used in place of live testimony under safeguards. These provisions dovetail with BNSS's electronic trial clause, effectively enabling courts to hold and record proceedings remotely.

In sum, the BSA is evidence law for the digital age. It updates admissibility rules mainly by incorporating technology: *e.g.*, explicit treatment of emails or GPS logs, structured digital certificates, and recognition of new types of expert knowledge. While some commentators (*e.g.* India Forum) argue it missed opportunities to resolve older ambiguities or to simplify conspiracy rules, they largely agree the BSA did not break radically new ground beyond digital

evidence. The Act's true impact will depend on how judges apply these clauses – whether digital certificates become routine or merely another technicality.

SYSTEMIC CHALLENGES AND ONGOING DEBATES

Though the 2023 statutes are far-reaching on paper, their effectiveness will hinge on implementation. Early reactions highlight both promise and concern:

- **SPEED VERSUS FAIRNESS:** Imposing strict deadlines (charge-framing in 60 days, judgment within 45 days, etc.) could drastically reduce delays, but only if courts and police can meet them. Skeptics worry that overloaded courts and understaffed police will be further strained, and that the new laws apply *only to cases filed after July 1, 2024*, leaving existing backlogs untouched. Some lawyers have pointed out that the deadlines may spawn new litigation over which offences/trials fall under the BNSS or old CrPC, especially for crimes committed just before or after the cut-off date. The system's capacity to uphold due process within compressed timeframes is thus under scrutiny. Critics also note a tension: the government touts *victim-centricity* and fairness, yet at the same time significantly expands police powers in custody and surveillance. For example, police can now spread the same 15-day interrogation window over 60–90 days and can seek longer remand each time – a change Amnesty International warns could facilitate torture. Balancing expedited justice with accused rights (e.g. against undue state power) remains a live debate.
- **IMPLEMENTATION GAP:** Similar reforms in other countries have often stumbled at the execution stage. In India, challenges loom large. Many provisions in BNSS assume trained personnel and infrastructure that are currently lacking. Forensics provides a case in point: making scene-of-crime video recordings mandatory in every serious case is laudable, but the ground reality is that many police units have no crime-scene vehicles or trained crime investigators. The government's own statements acknowledge this; a 2026 directive urged states to fix forensic lab backlogs within 3 months, after a five-year staggered compliance window. Similarly, courts may struggle with the volume and technical complexity of electronic evidence. Effective use of e-FIRs and video trials requires internet and power reliability (a concern in rural areas). Experts have pointed out that the new legal frameworks were drafted with little public insight into the committee deliberations, raising worries that some clauses reflect idealistic thinking rather than pragmatic policy design. In practice, achieving the

envisaged “digital justice” depends on digital literacy and consistent infrastructure across India’s heterogeneous states. Early reports (e.g. from police and lawyers) show confusion over which version of law applies when offences straddle the 2024 cutoff, and local amendments: some state governments (like Karnataka) even propose to tweak or clarify certain provisions, signaling non-uniform implementation.

- **RIGHTS AND VULNERABLE GROUPS:** The reforms pay lip service to rights (victim compensation, female-friendly procedures) but do not wholly transform entrenched biases. For example, the BNS explicitly forbids arresting a woman between sunset and sunrise (mirroring a CrPC provision) as a means to protect women from custodial abuse. This *gendered exemption* has drawn criticism as “paternalistic” – it protects women only, thereby implicitly signaling that men are expected to endure harsher treatment. Critics argue a truly rights-based approach would apply equal dignity to all detainees, male or female. On LGBTQ+ issues, the new codes do not explicitly address hate crimes or protections for sexual minorities, despite India’s decriminalization of consensual gay sex in 2018. This gap was noted by civil society: without statutory hate-crime provisions or clear police sensitivity training, LGBTQ+ individuals may remain vulnerable to harassment under other vague offences. Similarly, though the 2024 laws remove some blatantly sexist language, the exception for marital rape remains in place – a glaring omission for many activists. Indigenous and Dalit activists also question whether the new laws adequately address systemic caste bias in policing and prosecution; formal equality in text does not automatically erase discriminatory practices.
- **INSTITUTIONAL REFORMS NEEDED:** Beyond policing and courts, prisons and corrections are in dire need of reform. As noted, undertrials still fill 3 out of 4 prison cells. The BNSS’s bail provisions (Section 479) are a step toward preventing unduly long pre-trial detention, but broader bail-law reform (e.g. enacting a standalone Bail Act as recommended by commissions) has not been realized. The new statutes also come with policy commitments (e.g. expanding legal aid to undertrials, updating prison manuals), but state budgets and priorities will determine follow-through. The 2023 *Model Prison Manual* seeks to improve conditions and rehabilitation programs, yet actual prisons remain overcrowded and under-staffed. Forensic science modernization has official champions (e.g. National Forensic Sciences University) but backlogs grow annually. Judicial capacity is another bottleneck: India’s judge-per-million ratio is still

far below world averages, so mandated timelines may default to being aspirational targets. In sum, analysts warn that laws can enable reform but not substitute for it. Many past commissions (Malimath, etc.) made similar proposals that only partially materialized. Ultimately, success will depend on sustained political will, budgetary allocation, and inter-agency coordination – factors that are far from guaranteed.

COMPARATIVE AND FUTURE PERSPECTIVES

It is useful to situate India's reforms in a global context. Compared to other democracies, India now has one of the most detailed criminal procedure codes on paper – similar in ambition to China's recent rule-book for law enforcement. However, India also has new oversight provisions like court-mandated timelines and public accountability measures that are more typical of Western legal systems. For example, victim impact statements and state-funded compensation (both mandated under BNSS) draw on practices in Canada, Australia, and the UK. The emphasis on electronic evidence codifies longstanding Supreme Court case law (e.g. *Krishna Kumar Malik v. Haryana*, *Mukesh v. Delhi* requiring DNA and call data use). In some areas (like expanding forensic sample types), India actually leads, as few countries explicitly include voice samples in their evidence statutes.

Looking ahead, unresolved issues remain. One major open question is how the judiciary will interpret novel provisions: the Supreme Court and high courts will soon clarify ambiguous phrases in clauses like BNSS 176(3) or BSA 57–63. Early litigation may involve challenges on constitutionality (e.g. arguing that extending police custody violates Article 22) or transitional anomalies (which law applies if an act happened before but charges are framed after 1 July 2024). Academics are already analyzing whether the BNS's more severe minimum sentences could face Article 14 (equality) challenges, or whether the BNSS timelines infringe on trial rights. The legislature allowed for amendments: Parliament repealed some special-state provisions and clarified wording in the first months of 2025.

Finally, the social context will shape how reforms play out. India's polity is diverse: while the central law is uniform, its application varies widely by state. Some state governments have signalled they will legislate locally to tweak or roll back aspects of the new codes. Civil society actors (lawyer associations, rights groups) continue to advocate in courts and the media. For instance, some lawyers briefly threatened protests in mid-2024, and Amnesty International urged repeal, fearing that new offenses could be misused to stifle dissent. The BJP-led central government strongly defends the laws, calling critiques "misconceptions" and insisting the

system will be more efficient. In parliamentary debates, proponents argue that these are the fundamental laws underlying democracy and will ultimately enhance public trust in justice. It remains to be seen whether day-to-day administration will bear out this optimism.

CONCLUSION

The 2023 reforms mark a watershed in India's criminal justice history. By replacing century-old statutes with the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, India has formally broken with colonial legal structures and enshrined modern principles of justice. The new laws are comprehensive: updating substantive crimes (terrorism, lynching, deception in marriage), integrating technology (e-FIRs, digital evidence), empowering victims (compensation, information rights), and mandating speedy adjudication (strict case deadlines). Such changes are long-overdue; they reflect global best practices in many respects and codify gains that Indian courts and activists had sought for decades.

However, law on paper is only part of the story. India's criminal justice is a complex ecosystem. Overloaded courts, under-resourced police, and congested jails do not vanish because statutes change. The success of this legislative overhaul will depend on institutional transformation: rigorous training for police and judges on the new codes, massive investment in courtrooms and forensic labs, and robust accountability for human rights. In particular, without reducing pre-trial detention and improving legal aid, reforms to detention law may have limited effect. Similarly, if prosecutors and investigators are not equipped to gather scientific evidence, the mandate of mandatory forensics may remain largely aspirational.

Ultimately, India's path forward will test whether a comprehensive legal reform can overcome entrenched systemic inertia. Early experience suggests that while the new statutes have already changed the "architecture" of criminal law, real change depends on administration. The next few years will reveal whether India can close the gap between legislative promise and courtroom reality. If successful, the new framework could become a model for rapidly modernizing justice systems in large, diverse democracies; if not, it will serve as a cautionary tale on the limits of law without capacity.

REFERENCES

1. Sourabh Batar, *Criminal Justice System in India: Issues and Reforms*, 19 Redshine Arch. (2) (2025).

2. John Armour & Pravin Lele, *Law, Finance, and Politics: The Case of India*, 43 Law & Soc'y Rev. 491 (2009).
3. Meena Ketan Sahu & Chandi Prasad Khamari, *Criminal Law Reforms in India: A Study on Past, Present and Future*, 21 YMER Dig. 451 (2022).
4. A. S. Kowshikaa, *India's Criminal Justice Reform: An In-Depth Look at the New Laws*, 2 J. L. & Legal Rsch. Dev. 21 (2024).
5. Vinay Kumar & Yogendra Singh, *Investigation and Trial: Analyzing Procedural Challenges in the Indian Criminal Justice System*, 4 Int'l J. Crim. Com. & Statutory L. 196 (2024).
6. Gurpreem Monga, *A Study on Challenges Regarding Criminal Law in India*, 5 J. Int'l Com. L. & Tech. 43 (2024).
7. Balaga Lakshmi Sri, Anmol Gill, Isha Nayak & Sakshi Nampalliwar, *Reconstructing Criminal Justice in India: A Comparative Analysis of the Old and New Codes with Reference to Institutional Sensitization*, 10 Int'l J. Sci. Rsch. Eng'g & Mgmt. 1 (2026).
8. Anushka Moolchandani, *A Paradigm Shift in Indian Criminal Law: Comparative Analysis of the Indian Penal Code, 1860 and the Bharatiya Nyaya Sanhita, 2023*, 4 Int'l J. Crim. Com. & Statutory L. 32 (2024).
9. Kajal Tyagi, *Colonial Shadows: The Persistence of Hierarchical Structures in India's Post-Independence Criminal Justice System*, 6 Int'l J. for Multidiscip. Rsch. 1 (2024).
10. Tanmay Tripathi, Shatakshi Dixit & Rahul Singh, *Reforms in Criminal Justice System in India*, 7 Int'l J. for Multidiscip. Rsch. 1 (2025).
11. *The Bharatiya Nyaya Sanhita*, Act No. 45 of 2023 (India).
12. *The Bharatiya Nagarik Suraksha Sanhita*, Act No. 46 of 2023 (India).
13. *The Bharatiya Sakshya Adhiniyam*, Act No. 47 of 2023 (India).
14. *Hussainara Khatoon v. State of Bihar*, AIR 1979 S.C. 1369 (India).
15. *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).