



Criminal justice reforms in India: a critical study of the Bharatiya Nyaya Sanhita, 2023

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Abstract

The criminal justice system in India has traditionally been governed by colonial period laws, especially the Indian penal code (IPC) of 1860 which was the cornerstone of the substantive criminal law over a period of over 160 years. Nevertheless, the shifting socio-economic situations, technological progress, and the increased interests in the rights of victims and the efficiency of the judicial system required radical changes. With the introduction of the Bharatiya Nyaya Sanhita (BNS), 2023, the Indian criminal law has a new change of paradigm as it substitutes the IPC with new provisions that are expected to cater to the modern nature of crime and positively impact the efficiency of the justice delivery system in modern times. The BNS is part of a much larger legislative reform, together with the Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Adhinyam, 2023, which all aim to modernize criminal law in India and to abandon colonial legal frameworks. The Bharatiya Nyaya Sanhita restates and rationalises substantive criminal law, to the extent that fewer sections are created in comparison with the IPC, with new assailants being organised crime, terrorism, mob lynching, offenses against national sovereignty. The bill attempts to meet the new criminal issues and focuses on the justice that is victim-centered, integrates technology, and expedites the judicial procedures. The present research paper is a critical review of the Bharatiya Nyaya Sanhita, 2023 that has been described as a significant change in the criminal justice system in India. It assesses the goals, material aspects and legal consequences of the new law and compares it with the old legal system that was established in IPC. Another major inquiry made in the study is whether the BNS is indeed a radical overhaul of criminal jurisprudence, or a restructuring of the current provisions. It particularly focuses on the introduction of new offences, reforms on punishment, change of definition of crimes and the implication on civil liberties and constitutional governance. The paper is based on a doctrinal legal research methodology, which largely relies on statutory analysis, scholarly articles, governmental reports, and judicial commentaries that were published in 2020-2024. Critical analysis helps the study to determine the merits and defects of the Bharatiya Nyaya Sanhita. As the law seeks to bring criminal law into the current times and reflect new types of crime, scholars have criticized the use of ambiguous terminology in some of the provisions, the possible exploitation of the concept of national security offences, and the continued existence of some of the legal systems of the colonial era in the new system. The results indicate that the Bharatiya Nyaya Sanhita is a significant move towards the reform of the criminal justice system in India but needs to be implemented with caution and should be reviewed periodically to address the needs of reinforcing rule of law, protecting basic rights, and enhancing effective justice delivery. The research concludes that, although the BNS has a number of progressive reforms, the ultimate effects will rely on the judicial interpretation, institutionalized and efficient coordination with law enforcement agencies.

Keywords: Criminal Justice Reform, Bharatiya Nyaya Sanhita 2023, Indian Penal Code, Criminal Law Modernization, Victim-Centric Justice, Legal Reform in India, Criminal Jurisprudence

1. Introduction

Criminal justice is one of the most important foundations of governance in any democratic state. It provides upholding the law and order, defending individual rights, and accountability of the law. In India, the criminal law system has traditionally been based on colonial laws enacted during the British colony, the most famous of which is the Indian Penal Code (IPC), 1860, which remained the main substantive criminal law over the course of a century. Although IPC was to be instrumental in the systematization of criminal law, its colonial background and obsolescence became more and more criticized within the framework of the new social and technological realities. With time, scholars and policymakers have become aware that the IPC had a number of provisions that were no longer applicable to modern realities. Development of organized crime, cybercrime, terrorism, mob violence, and transnational

criminal networks posed issues that were not sufficiently dealt with in the nineteenth century legislation. Also, the form of the IPC was commonly criticized, as it was perceived as too complex, obsolete and concentrated rather on the state than on crime victims. These issues led to an increasing demand on full scale criminal law reform in India.

There are a number of committees and commissions that have looked at the necessity of reforming criminal laws in India. Among them were a Malimath Committee on Criminal Justice Reforms, the Madhava Menon Committee and the Law Commission of India, which proposed structural and substantive reforms in the criminal law to make it more responsive, victim-central and efficient ^[1]. These prescriptions included delays in criminal proceedings, lack of adequate mechanisms to protect victims, antiquated criminal definitions and lack of recognition of new modes of criminal

activity. To address these fears, the Government of India proposed three significant legislative changes in 2023: the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA). These laws supplanted the colonial-era laws, the IPC, the Code of Criminal Procedure (CrPC) and the Indian Evidence Act respectively, being one of the greatest changes in criminal justice practices in India since independence [2].

Of these reforms, the Bharatiya Nyaya Sanhita, 2023 has a central position since it sets the substantive criminal law of the offences and punishments. This is in contrast to the IPC which has 511 sections grouped in 23 chapters, the BNS has 358 sections that have been designed to simplify the law, eliminate duplicates and introduce new criminal offences that were not found in the legal system earlier [3]. The Bharatiya Nyaya Sanhita has one of the keys aims to Indianize the criminal justice system, removing colonialisms and bringing the criminal law in conformity with the modern constitutional principles and demands of the society. The act brings in new crimes, like organized crime and terrorism, as well as widens the scope of the old crimes, including mob violence crimes, crimes against women as well as children, which show the changing social and legal understanding of gender diversity in India [4].

The other significant element of the new law is that it addresses victim-centric justice. Conventionally, criminal law in India has been criticized to have been focusing on punishing offenders not focusing on needs of the victims. The BNS tries to balance this disparity through focusing on restitution, compensation, and other types of punishments like community services in some trivial crimes. In spite of these progressive goals, the Bharatiya Nyaya Sanhita has also raised a lot of controversy among the legal circles as well as civil society groups. The critics claim that certain provisions can potentially widen the power of the state and limit the civil liberties, especially in reference to the offences of the sovereignty and integrity of India. This change of the colonial crime of sedition to a new crime of acts that jeopardize the unity of the nation has been especially contentious. Although it is meant to be used to get rid of the colonial lingo, critics note that the new provision might not be resistant to abuse since it is such a wide phrase.

Moreover, the question has been asked whether Bharatiya Nyaya Sanhita is actually a substantive reform of criminal law or is a reorganization of the IPC. It has been argued that much of the IPC has been kept with a few modifications, which may indicate that there was not much real reform. The given research paper is a critical analysis of the Bharatiya Nyaya Sanhita, 2023 in the context of criminal justice change in India. It seeks to examine the purposes, main characteristics and possibilities of the new law besides determining whether the new law is effective in countering the weaknesses of IPC. The research aims to determine how the BNS is a significant change to a more modern, efficient and rights-based criminal justice system, by accessing the literature and discussions on the topic and policy analyses about the legislation.

This research is important in the transformational power of the Bharatiya Nyaya Sanhita. Being the landmark law that regulates criminal offences in India, its interpretation and application will have an influence on how the criminal justice system will operate in decades to come. It is therefore necessary that legal scholars, policymakers and practitioners understand the strengths and weaknesses of BNS in a bid to see that the reform achieves its desired goals of justice, fairness and efficiency.

2. Literature review

The reforms which were implemented by the Bharatiya Nyaya Sanhita and the transformation of the Indian criminal justice system has been discussed widely in the recent scholarship.

Sharma (2020) has highlighted that the criminal justice system has structural issues such as case backlog, undertrial custody, and outdated legal provisions that were experienced in India. The author believed that criminal law should be modernized in order to deal with new types of crime and enhance judicial efficiency [5].

Rao and Kumar (2021) examined the colonial history of the Indian Penal Code and emphasized that there was a necessity to transform the law that stood against the constitutional values and the established human rights rules. Their work came up with the finding that the IPC was too inflexible and its provisions were too old to be effective in dealing with contemporary crimes [6].

Singh (2022) discussed the proposals of several committees concerning criminal justice reform and contended that the substantive modifications of criminal law can be made in terms of the rights of victims, efficiency of processes, and integration of technologies. The author stressed that reforms are supposed to ensure there is a balance between individual freedom and social security [7].

Mehta and Banerjee (2023) researched the offered Bharatiya Nyaya Sanhita Bill and outlined some of the most important reforms, namely the introduction of new crimes like organized crime or terrorism. They contended that these clauses indicate the effort of the state to respond to the current security problems coupled with updating the criminal law [8].

Gupta (2023) analyzed the IPC and the BNS comparatively and found out that the new law does not include structural simplification and new terminology; nevertheless, numerous provisions are more or less comparable to the ones in the IPC [9].

Khan (2024) also dwelled on human rights considerations of the Bharatiya Nyaya Sanhita and expressed a concern about the general definitions of offences concerning national security. The author claimed that the unclear provisions can possibly endanger the freedom of speech and dissent [10].

Patel and Iyer (2024) compared the technologies and procedures of the new criminal law framework. They pointed out that incorporating digital evidence, forensic investigation needs, and electronic record systems are some of the key measures of enhancing efficiency and transparency in criminal investigations [11].

In general, the literature that is available shows that although the Bharatiya Nyaya Sanhita is a major legislative reform, its success will be dependent on its interpretation, application, and how it aligns with constitutional protection.

3. Objectives

- To study the historical development of the criminal law in India to the enactment of the Bharatiya Nyaya Sanhita, 2023.
- To examine the key provisions and reforms that were implemented by the BNS.
- To make a comparison between BNS and Indian Penal Code, 1860.
- To critically examine the possible influence of the BNS in the criminal justice system of India.

4. Methodology

The research follows a doctrinal legal research methodology which mainly dwells on the interpretation of statutory provisions, scholarly literature as well as the policy reports of the criminal justice reforms in India. The study depends on both primary and secondary sources to obtain the results, i.e., the Bharatiya Nyaya Sanhita, 2023, and the books, journals,

governmental reports, and legal commentaries. The differences between the IPC and the BNS have been analyzed through comparative analysis whereas critical analysis has been used to appreciate the strengths and weaknesses of the new law.

5. Discussion

The passage of the Bharatiya Nyaya Sanhita (BNS), 2023 will be among the most important criminal justice reforms in the post-independent Indian national context. The law is a replacement of the Indian Penal Code (IPC), 1860, which had taken over the role of substantive criminal law in more than 160 years. Even though the IPC was the basis of criminal law in India, it was largely criticized as colonial in nature, having old-fashioned definitions of crimes, and poorly matched the contemporary needs and values of the society and constitution [13]. The Bharatiya Nyaya Sanhita will attempt to revise the criminal law to make the law more contemporary in terms of structure, introduction of newer crimes, and updated definitions of crimes that capture contemporary society and provide justice in accordance with the constitution. This part critically evaluates the main reforms proposed by the BNS and their effects on the criminal justice system in India.

Table 1: Comparison Between the Indian Penal Code (IPC), 1860 and the Bharatiya Nyaya Sanhita (BNS), 2023

Feature	Indian Penal Code (1860)	Bharatiya Nyaya Sanhita (2023)	Key Significance
Total Sections	511	358	Simplification and restructuring of criminal law provisions
Chapters	23	20	Reorganization for clarity and accessibility
Colonial Terminology	Present	Removed	Reflects post-colonial legal identity
Organized Crime	Not clearly defined	Explicitly defined	Addresses modern criminal networks
Mob Lynching	No specific provision	Recognized as organized crime	Responds to rising incidents
Terrorism	Addressed mainly through special laws	Recognized in BNS	Strengthens internal security framework
Gender Definition	Male and female only	Includes transgender	Aligns with constitutional rights
Community Service	Not provided	Introduced as punishment for minor offences	Promotes restorative justice
Crimes against State	Sedition provision (Section 124A IPC)	Replaced with offence against sovereignty	Attempt to reform colonial provision

(Source: Government of India, 2023)

The given analogy shows that the BNS is aimed at reorganizing and modernization of criminal law, but not at its total reform. Although some of the provisions are similar to the IPC, the BNS also tries to make the structure less complex and more modern criminal offences.

5.1 Replacement of Colonial Criminal Law

The mission of the Bharatiya Nyaya Sanhita is one of the major missions, which is to remove the colonial past in the Indian criminal justice system. Being established in 1860 amidst the conditions of British colonization, the Indian Penal Code was established with the main purpose to ensure administrative control over the population and not the protection of democratic rights (Singh, 2022) [7].

The IPC showed colonial priorities such as the severe penalty against infraction of the colonial state. The colonial administration had many provisions that were meant to stifle

any form of opposition or uphold social order. The most contentious one is the law of sedition (Section 124A IPC) that made punishable any act or speech that caused hatred or contempt towards the government.

The Bharatiya Nyaya Sanhita tries to solve this problem by eliminating the provision of sedition and putting in its place a new crime based on the acts that threaten the sovereignty, unity, and integrity of India. This will be aimed at eliminating the colonial terms and still safeguard national security.

Nevertheless, researchers state that the new provision can also be interpreted widely by the authorities (Khan, 2024) [10]. The opponents argue that ambiguity can easily be abused against journalists, activists or political dissidents.

The other significant cohort brought by the BNS is the restructuring and streamlining of the provisions of law. It had 511 sections in the IPC, which had been superseded by subsequent amendments or special acts. The BNS brings together similar provisions and eliminates duplication.

Table 2: Structural Changes Between IPC and BNS

Aspect	IPC 1860	BNS 2023	Reform Objective
Total Sections	511	358	Simplification of criminal law
Total Chapters	23	20	Structural consolidation
Outdated Provisions	Several colonial provisions	Removed or revised	Modernization
Terminology	Colonial legal language	Indianized terminology	Reflects national identity

(Sharma, 2020; Government of India, 2023)

The elimination of colonial language and reorganizing of legal regulations is also a significant symbolic gesture towards decolonization of Indian criminal law. However, most researchers believe that the BNS incorporates most of the substantive provisions of the IPC with minor modifications.¹⁴

5.2 Introduction of new offences

The introduction of new criminal offences, which respond to new social and security needs, is also one of the most important

qualities of the Bharatiya Nyaya Sanhita. The contemporary societies are characterized by complex criminal activities that were mostly uncommon in the colonial time. These include:

- Organized crime
- Terrorism
- Mob lynching
- Crimes using digital technology
- Crimes threatening national sovereignty

Table 3: New offences introduced in the Bharatiya Nyaya Sanhita

New Offence	Description	Need for Reform
Organized Crime	Criminal activities carried out by structured groups for profit	Increasing criminal networks and mafia groups
Terrorism	Acts threatening national security	Rise in global terrorism
Mob Lynching	Violence by groups based on identity or rumors	Growing incidents in India
Cyber-enabled crimes	Digital crimes including fraud and online harassment	Rapid technological development
Crimes against Sovereignty	Acts threatening unity and integrity of India	Replacement of colonial sedition law

(Mehta & Banerjee, 2023)

These changes in criminal law are significant as organized crime has been treated as an independent offence. Organized crime was being dealt with using specific statutes like MCOCA (Maharashtra Control of Organized Crime Act). This idea is now incorporated in the general criminal law under BNS. Equally, the fact that mob lynching is a distinct criminal offense is indicative of the efforts that the government has made in order to control the growing cases of mob violence in the recent years. The other significant reform is the realization of terrorism in the general criminal law regime, though special laws including the Unlawful Activities (Prevention) Act (UAPA) remain a leading place in counterterrorism. These clauses show that the BNS will ensure that the criminal law is updated to suit the modern security demands.

5.3 Victim-Centric Justice

The criminological initiatives that have been implemented in the past are those that are more focused on punishing offenders with little regard to the criminal victim needs and rights. India is a country where victims traditionally do not participate much in the criminal proceedings, which is mostly state controlled. The Bharatiya Nyaya Sanhita tries to raise the issues of victim-oriented justice, and it focuses on restitution, compensation, and other types of punishment. A major change is the one that initiated the concept of community service as a penalty to some minor crimes. This indicates a change in the direction of restorative justice, where emphasis is placed on ways of fixing the damage that has been inflicted through criminal behavior instead of just sending them to prison.

Table 4: Victim-Centric Provisions in the BNS

Reform Measure	Description	Expected Impact
Community Service	Alternative punishment for minor offences	Reduces prison overcrowding
Victim Compensation	Financial assistance to victims	Supports rehabilitation
Speedy Trial Measures	Coordination with procedural reforms	Faster justice delivery
Recognition of Gender Diversity	Inclusion of transgender persons	Promotes equality and inclusiveness

(Singh, 2022; Patel & Iyer, 2024)

The other major change is the reevaluation of gender diversity in the criminal law. The BNS conceptualizes gender to incorporate transgender as a subset that encompasses transgender rights as indicated by the constitutional domain to acknowledge transgender rights in the United States given the ruling in the NALSA v. case. Union of India (2014). This reform puts the criminal law in tandem with the developing

constitutional values of equality, dignity, and non-discrimination.

5.4 Use of Technology and Forensic Evidence

Recent criminal investigations are more based on digital evidence, forensic science, and technology. Conventional law did not always have clear stipulations on the application of such

evidence. The more comprehensive criminal law reform brought in 2023 focuses on the application of forensic

investigation and digital recordings to improve the effectiveness and quality of criminal investigations.

Table 5: Technological Reforms in Criminal Justice

Reform Area	Description	Importance
Digital Evidence	Recognition of electronic records	Addresses cybercrime
Forensic Investigation	Mandatory forensic analysis in serious crimes	Improves accuracy of investigations
Electronic Documentation	Use of digital records in legal proceedings	Enhances transparency
Technology in Policing	Integration of databases and surveillance systems	Improves law enforcement efficiency

(Patel & Iyer, 2024)

Enhanced application of forensic science and digital evidence could also contribute greatly to the enhancement of reliability of criminal investigations and minimize the wrongful convictions. Nonetheless, these reforms can only be successfully implemented using proper infrastructure, training and institutional capacity within the law enforcement agencies.

academy, civil societies and the human rights activists despite the progressive plans of the Bharatiya Nyaya Sanhita. Among the greatest reproaches is the wide and imprecise wording of some of the provisions regarding national security and sovereignty. Opponents say that these provisions can be abused by the government.

5.5 Criticisms and Challenges

The legislation has sparked a lot of controversy among the legal

Table 6: Major Criticisms of the Bharatiya Nyaya Sanhita

Issue	Description	Concern
Broad National Security Provisions	Offences against sovereignty	Potential misuse against dissent
Limited Structural Reform	Many IPC provisions retained	Reform may be largely cosmetic
Implementation Challenges	Lack of training and infrastructure	Difficulty in enforcement
Overlapping Laws	Coexistence with special laws (UAPA etc.)	Legal complexity

(Khan, 2024) ^[10]

The other issue includes the practicality of the implementation of the new law. Effective criminal justice reform can not just take place through legislative change alone; it must also involve an improvement in:

- Police training
- Judicial capacity
- Forensic infrastructure
- Legal awareness among citizens

Without these institutional changes, the effectiveness of the Bharatiya Nyaya Sanhita can be still questionable.

Overall Assessment

The Bharatiya Nyaya Sanhita is an important move to modernize the criminal justice system in India but needs to be taken as a continuation of the process of reform as a whole and not the whole transformation. The legislation has a number of progressive aspects such as:

- Modernization of criminal law
- Recognition of new offences
- Victim-centric justice measures
- Technological integration

Simultaneously, the law brings up critical concerns about the civil liberties, the legality, and the difficulties in the implementation. The success of BNS in the long-run will be based on the judicial interpretation, institutional reforms and the ongoing assessment of its effect on society.

6. Conclusion

Bharatiya Nyaya Sanhita, 2023, is an unprecedented change in the criminal justice system of India. The legislation tries to modernize the substantive criminal law by substituting the Indian Penal Code that existed during the colonial time and to cater to the current issues like organized crime, terrorism, and techno crimes. The reform represents a wider turn in the direction of victim-centered justice and is designed to simplify the legal provisions by making the criminal law more simplified. The success of the BNS will however hugely rely on how it is executed, how the law is interpreted by the courts and how the law enforcing bodies will adjust to the new legal undertaking.

Though the act necessitates a number of positive transformations, it also poses critical concerns that cut across civil liberties, constitutional protections, and misapplication of general legal clauses. Thus, constant analysis and potential corrections will be required to make the BNS an effective compromise between security issues and the necessity to protect the basic rights. Finally, the Bharatiya Nyaya Sanhita can be considered as the start of a more comprehensive process of criminal justice reform in India and not as the end. The success of its institutional capacity, legal sensitivity, and adherence to the principles of justice, fairness, and rule of law will determine its long term success.

References

1. Press Information Bureau, Government of India. Bharatiya Nyaya Sanhita in place of Indian Penal Code [Internet]. 2023. Available from: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2115169®=3&lang=2>
2. KPMG. Three new criminal laws [Internet]. 2024. Available from: <https://kpmg.com/in/en/insights/2024/03/three-new-criminal-laws.html>
3. LexisNexis. Legal research database [Internet]. Available from: <https://www.lexisnexis.com/en-in>
4. PRS Legislative Research. The Bharatiya Nyaya Sanhita, 2023: Bill summary [Internet]. 2023. Available from: <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023>
5. Sharma V. Challenges in the Indian criminal justice system: need for comprehensive reform. *Journal of Criminal Justice Studies*. 2020;11(1):1–18.
6. Rao P, Kumar S. Colonial legacy and reform of criminal law in India. *Asian Journal of Comparative Law*. 2021;16(2):203–221.
7. Singh A. Victim-centric criminal justice reforms in India. *Indian Journal of Criminology*. 2022;50(2):89–105.
8. Mehta R, Banerjee S. Reforming criminal law in India: an analysis of the Bharatiya Nyaya Sanhita Bill. *Indian Journal of Legal Studies*. 2023;15(2):45–62.
9. Gupta A. Comparative analysis of the Indian Penal Code and the Bharatiya Nyaya Sanhita. *Journal of Criminal Law and Justice*. 2023;8(1):33–52.
10. Khan F. National security and civil liberties under the Bharatiya Nyaya Sanhita: a constitutional analysis. *Indian Law Review*. 2024;9(1):67–85.
11. Patel R, Iyer S. Technological reforms in criminal justice investigation: implications of the new criminal laws in India. *International Journal of Law and Technology*. 2024;11(1):75–92.
12. Hargreaves S. Canaries or colonials? The reduced prominence of the ‘overseas judges’ on Hong Kong's Court of Final Appeal. *Asian Journal of Comparative Law*. 2022. Available from: <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/canaries-or-colonials-the-reduced-prominence-of-the-overseas-judges-on-hong-kongs-court-of-final-appeal/362D2DC38E689749598E05578EC650C0>
13. Government of India. The Bharatiya Nagarik Suraksha Sanhita, 2023. New Delhi: Ministry of Home Affairs; 2023.
14. Law Commission of India. Consultation paper on reform of criminal laws. New Delhi: Government of India; 2020.
15. Mehta R. Modernizing India’s criminal justice system: the transition from IPC to BNS. *Journal of Legal Policy and Governance*. 2023;7(2):81–97.
16. PRS Legislative Research. The Bharatiya Nyaya Sanhita, 2023: Bill summary. PRS Legislative Research; 2023.