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राजस्थान उच्च
न्यायालय की
प्लेटिनम जयंती
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का भाषण

मुझे खुशी है कि मुझे आज राजस्थान उच्च न्यायालय के प्लेटिनम जुबली समारोह में आप सबके बीच आने का मुझे अवसर मिला है। राजस्थान हाईकोर्ट के 75 वर्ष ऐसे समय में हुए हैं, जब हमारा संविधान भी 75 वर्ष पूरे करने जा रहा है। इसलिए ये अनेक महान लोगों की न्याय-निष्ठा और योगदानों को सेलिब्रेट करने का उत्सव भी है। ये संविधान के प्रति हमारी आस्था का उदाहरण भी है। मैं आप सभी न्यायविदों को, राजस्थान के लोगों को इस अवसर पर बधाई देता हूँ, उन्हें शुभकामनाएँ देता हूँ।

राजस्थान हाईकोर्ट के अस्तित्व से हमारे राष्ट्र की एकता का इतिहास भी जुड़ा है। आप सब जानते हैं, सरदार वल्लभ भाई पटेल ने जब 500 से ज्यादा रियासतों को जोड़कर देश को एक सूत्र में पिरोया था, उसमें राजस्थान की भी कई रियासतें थीं। जयपुर, उदयपुर और कोटा जैसी कई रियासतों के अपने हाईकोर्ट भी थे। इनके इंटीग्रेशन से राजस्थान हाईकोर्ट अस्तित्व में आया। यानी, राष्ट्रीय एकता ये हमारे न्यायिक प्रणाली का भी स्थापना स्तंभ है। ये स्थापना स्तंभ जितना मजबूत होगा, हमारा देश और देश की व्यवस्थाएं भी उतनी ही मजबूत होंगी।

मेरा मानना है न्याय हमेशा सरल और स्पष्ट होता है। लेकिन कई बार प्रक्रियाएं उसे मुश्किल बना देती हैं। ये हम सबकी सामूहिक ज़िम्मेदारी है, कि हम न्याय को ज्यादा से ज्यादा सरल और स्पष्ट बनाएं। और मुझे संतोष है कि देश ने इस दिशा में कई ऐतिहासिक और निर्णायक कदम उठाये हैं। हमने पूरी तरह से अप्रासंगिक हो चुके सैकड़ों औपनिवेशिक क़ानूनों को रद्द किया है। आज़ादी के इतने दशक बाद गुलामी की मानसिकता से उबरते हुये देश ने इंडियन पीनल कोड की जगह भारतीय न्याय संहिता को एडॉप्ट किया है। दंड की जगह न्याय, ये भारतीय चिंतन का आधार भी है। भारतीय न्याय संहिता इस मानवीय चिंतन को आगे बढ़ाती है। भारतीय न्याय संहिता हमारे लोकतन्त्र को औपनिवेशिक मानसिकता से आज़ाद कराती है। न्याय संहिता की ये मूलभावना ज्यादा से ज्यादा प्रभावी बने, ये दायित्व अब हम सभी के सामने है।



बीते एक दशक में हमारा देश तेजी से बदला है। कभी हम 10 साल पहले 10वें पायदान से ऊपर उठकर दुनिया की पाँचवीं सबसे बड़ी अर्थव्यवस्था बन गए हैं। आज देश के सपने भी बड़े हैं, देशवासियों की आकांक्षाएँ भी बड़ी हैं। इसलिए ये जरूरी है कि हम नए भारत के हिसाब से नए इनोवेशन करें, और अपनी व्यवस्थाओं को आधुनिक बनाएं। ये जस्टिस फॉर ऑल, इसके लिए भी उतना ही जरूरी है। हम देख रहे हैं कि आज टेक्नोलॉजी हमारे न्यायिक प्रणाली में इतना अहम रोल निभा रही है। आईटी रिवॉल्यूशन से कितना बड़ा बदलाव हो सकता है, हमारा ई-कोर्ट्स प्रोजेक्ट इसका सबसे बड़ा उदाहरण है। आज देश में 18 हजार से ज्यादा कोर्ट्स कम्प्यूटराइज्ड हो चुकी हैं। मुझे बताया गया है कि नेशनल जूडिशियल डेटा ग्रिड से 26 करोड़ से ज्यादा मुकदमों की जानकारी एक सेंद्रलाइज्ड ऑनलाइन प्लैटफॉर्म पर जुड़ चुकी है। आज पूरे देश की 3 हजार से ज्यादा कोर्ट कॉम्प्लेक्स और 1200 से ज्यादा जेलें वीडियो कॉन्फ्रेंसिंग से जुड़ गई हैं। और मुझे खुशी है कि राजस्थान भी इस दिशा में काफी तेज गति से काम कर रहा है। यहाँ सैकड़ों अदालतें कम्प्यूटराइज्ड हो चुकी हैं। पेपरलेस कोर्ट्स, ई-फाईलिंग, समन के लिए इलेक्ट्रॉनिक सर्विस, वर्चुअल हियरिंग की व्यवस्था, ये कोई सामान्य बदलाव नहीं हैं। हम एक सामान्य नागरिक के दृष्टिकोण से सोचें तो दशकों से हमारे यहाँ कोर्ट के आगे 'चक्कर' शब्द, कोई बुरा मत मानना, चक्कर शब्द अनिवार्य हो गया था। कोर्ट का चक्कर, मुकदमे का चक्कर, यानी एक ऐसा चक्कर जिसमें फंस गए तो कब निकलेंगे कुछ पता नहीं! आज दशकों बाद उस सामान्य नागरिक की पीड़ा को खत्म करने, उस चक्कर को खत्म करने के लिए देश ने प्रभावी कदम उठाए हैं। इससे न्याय को लेकर नई उम्मीद जागी है। इस उम्मीद को हमें बनाए रखना है, लगातार अपनी न्यायिक व्यवस्था में रिफॉर्म करते चलना है।

बीते कई कार्यक्रमों में आप सबके बीच मैंने लगातार मीडिएशन की सदियों पुरानी हमारी व्यवस्था का जिक्र किया है। आज देश में कम खर्चीले और त्वरित निर्णयों के लिए ऑल्टरनेटिव डिस्प्यूट मेकैनिज्म बहुत अहम रास्ता बन रहा है। वैकल्पिक डिस्प्यूट मेकैनिज्म की ये व्यवस्था देश में ईज ऑफ लिविंग के साथ ही ईज ऑफ जस्टिस को भी बढ़ावा देगी। कानूनों में बदलाव करके, नए प्रावधान जोड़कर सरकार ने इस दिशा में कई कदम उठाए हैं। न्यायपालिका के सहयोग से ये व्यवस्थाएं और ज्यादा सशक्त होंगी।

हमारी न्यायपालिका ने निरंतर राष्ट्रीय विषयों पर सजगता और सक्रियता की नैतिक ज़िम्मेदारी निभाई है। कश्मीर से आर्टिकल-370 हटाने का, देश के संवैधानिक एकीकरण का उदाहरण हमारे सामने है। CAA जैसे मानवीय कानून का उदाहरण हमारे सामने है। ऐसे मुद्दों पर राष्ट्रहित में स्वाभाविक न्याय क्या कहता है, ये हमारी अदालतों के निर्णयों से पूरी तरह से स्पष्ट होता रहा है। हाईकोर्ट से लेकर सुप्रीम कोर्ट तक, न्यायपालिका ने अनेकों बार ऐसे विषयों पर 'राष्ट्र प्रथम' के संकल्प को सशक्त किया है। जैसे आपको ध्यान होगा, अभी इसी 15 अगस्त को मैंने लालकिले से सेकुलर सिविल कोड की बात की है। इस मुद्दे पर

भले ही कोई सरकार पहली बार इतनी मुखर हुई हो, लेकिन हमारी न्यायपालिका दशकों से इसकी वकालत करती आई है। राष्ट्रीय एकता के मुद्दे पर न्यायपालिका का ये स्पष्ट रुख न्यायपालिका पर देशवासियों में भरोसा और बढ़ाएगा।

21वीं सदी के भारत को आगे ले जाने में जो शब्द बहुत बड़ी भूमिका निभाने वाला है, वो है इंटीग्रेशन। ट्रांसपोर्ट के मोड्स का इंटीग्रेशन, डेटा का इंटीग्रेशन, हेल्थ सिस्टम का इंटीग्रेशन। हमारा विजन है कि देश के जो भी आईटी सिस्टम अलग-अलग काम कर रहे हैं, उन सभी का इंटीग्रेशन हो। पुलिस, फॉरेंसिक्स, प्रोसेस सर्विस मैकेनिज्म और सुप्रीम कोर्ट से लेकर जिला अदालतों तक सभी एक साथ जुड़कर काम करें। आज राजस्थान की सभी डिस्ट्रिक्ट कोर्ट्स में इस इंटीग्रेशन प्रोजेक्ट की शुरुआत हुई है। मैं आप सभी को इस प्रोजेक्ट की सफलता के लिए शुभकामनाएं देता हूँ।

टेक्नोलॉजी का इस्तेमाल, आज के भारत में गरीब के सशक्तिकरण का ट्राइड एंड टेस्टेड फॉर्मूला बन रहा है। पिछले 10 वर्षों में इसे लेकर कई ग्लोबल एजेंसीज और संस्थाओं ने भारत की भरपूर तारीफ की है। DBT से लेकर UPI तक, कई क्षेत्रों में भारत का काम एक ग्लोबल मॉडल बनकर उभरा है। अपने उसी अनुभव को हमें जस्टिस सिस्टम में भी इम्प्लीमेंट करना है। इस दिशा में, टेक्नोलॉजी और अपनी भाषा में लीगल दस्तावेज का एक्सेस, ये गरीब के सशक्तिकरण का सबसे प्रभावी माध्यम बनेगा। सरकार इसके लिए दिशा नाम के इनोवेटिव सलूशन को भी बढ़ावा दे रही है। हमारे लॉ स्टूडेंट्स और अन्य लीगल एक्सपर्ट्स इस अभियान में हमारी मदद कर सकते हैं। इसके अलावा देश में स्थानीय भाषाओं में लीगल डॉक्यूमेंट्स और जजमेंट्स लोगों को मिल सकें, इसके लिए भी काम होने है। हमारे सुप्रीम कोर्ट ने इसकी शुरुआत की है। सुप्रीम कोर्ट के मार्गदर्शन में एक सॉफ्टवेयर बना है, जिससे जूडिशियल डॉक्यूमेंट्स 18 भाषाओं में ट्रांसलेट हो सकते हैं। मैं ऐसे सभी प्रयासों के लिए हमारी न्यायपालिका की भी सराहना करता हूँ।

मुझे विश्वास है हमारी कोर्ट्स, ईज ऑफ जस्टिस को इसी तरह सर्वोच्च प्राथमिकता देती रहेंगी। हम जिस विकसित भारत का स्वप्न लेकर आगे बढ़ रहे हैं, उसमें हर किसी के लिए सरल, सुलभ और सहज न्याय की गारंटी हो, ये बहुत जरूरी है। इसी आशा के साथ, आप सभी को एक बार फिर राजस्थान हाईकोर्ट की प्लेटिनम जुबली की मैं हार्दिक बधाई देता हूँ, अनेक-अनेक शुभकामनाएं देता हूँ। बहुत-बहुत धन्यवाद!

Source: www.narendramodi.in

Remarks
of the
BJP National
President
Shri J.P Nadda

“

Bharatiya Nagarik Suraksha Sanhita, 2023, Bharatiya Nyaya Sanhita, 2023, and Bharatiya Sakshya Adhinyam, 2023, will replace colonial-era laws and are driven by the principle of delivering 'nyaya'. Along with ensuring a quick delivery of justice to the victims through various measures, they also reiterate our commitment to national security and zero-tolerance towards terrorism. Further, keeping in line with the technologically advanced age we are living in, these bills are a step towards making our legal systems highly adaptive to technology. My heartfelt gratitude to PM Modi Ji as he leads our nation in the journey of Amrit Kaal, with a true spirit of Atmanirbhar Bharat.”

Source: Tweet on X



Message
from the
BJYM
National
President

**Shri Tejasvi
Surya**



The introduction of the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA) by the government led by the Prime Minister Shri Narendra Modi represents a historic milestone in India's legal evolution. These reforms are not merely a replacement of the colonial-era Indian Penal Code, Criminal Procedure Code, and Indian Evidence Act; they signify a transformation in our approach to justice, ensuring it aligns with the values and aspirations of a modern, independent India.

For far too long, our criminal justice system has been bound by laws designed under colonial rule to serve the interests of an imperial power rather than the needs of a free and democratic society. These outdated laws have often failed to protect the vulnerable, address the complexities of modern crime, or deliver swift and fair justice. The new criminal laws address these gaps, making our legal system more just, equitable, and responsive to contemporary challenges.

One of the most significant aspects of these reforms is their focus on protecting the rights of the common citizen and vulnerable sections of society. The new laws introduce stricter penalties for heinous crimes such as rape and mob lynching, ensuring that justice is served swiftly and effectively. By emphasising a victim-centric approach, these laws prioritise the safety and dignity of those who have been wronged, particularly women, children, and marginalised communities.

For the youth, these reforms bring hope and confidence in the legal system. The introduction of community service as a penalty for minor offences is a forward-thinking move that emphasises rehabilitation over retribution, giving young offenders a chance to reintegrate into society as responsible citizens. Moreover, the use of technology, such as e-FIRs and mandatory forensic investigations, will make the justice system more accessible and transparent, particularly for the tech-savvy younger generation.

In conclusion, these reforms are not just legal changes; they are a reflection of our collective commitment to building a society that is just, fair, and equitable for all. The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam are steps toward a brighter future for every citizen of India, ensuring that justice is not only done but seen to be done.

Vande Mataram!
Tejasvi Surya

MP Lok Sabha,
Bengaluru South



The recent enactment of the Bharatiya Nyaya Sanhita (BNS), along with the Bharatiya Nagarik Suraksha Sanhita (BNSS) and the Bharatiya Sakshya Adhinyam (BSA) under the leadership of Prime Minister Shri Narendra Modi marks a monumental shift in India's legal landscape. These new laws, which replace the colonial-era Indian Penal Code (IPC), Criminal Procedure Code, and Indian Evidence Act, represent a long-overdue departure from a legal framework rooted in colonial control to one that reflects the values and aspirations of a modern, independent India.

For over 150 years, India's criminal laws have remained largely unchanged, even as the nation has evolved into a dynamic and diverse democracy. The outdated provisions of the IPC, for instance, were often inadequate in addressing the complexities of contemporary society, particularly in the areas of cybercrime, terrorism, and gender justice. The BNS and its companion laws have been crafted to address these gaps, ensuring that the legal system is responsive and relevant to the challenges of the 21st century.

One of the most commendable aspects of the BNS is its emphasis on justice over mere punishment. The transition from a "Dand" (punishment) to a "Nyaya" (justice) framework reflects a broader vision of a legal system that is not only punitive but also rehabilitative and restorative. For instance, introducing community service as a penalty for minor offences signals a shift towards rehabilitating offenders and reintegrating them into society rather than solely focusing on incarceration.


Moreover, the new laws demonstrate a deep commitment to protecting the rights of the most vulnerable. The BNS introduces stricter penalties for crimes such as rape and lynching, and it addresses new-age crimes like cyber harassment and digital fraud, which were not adequately covered under the old IPC. This focus on safeguarding the rights and dignity of all citizens, particularly women and marginalised communities, is a significant step forward in creating a more just and equitable society.

The BNSS also introduces critical procedural reforms that are set to enhance the efficiency and transparency of the judicial process. The provision for electronic First Information Reports (e-FIRs) and the mandatory use of forensic evidence in serious crimes exemplify how technology is harnessed to streamline legal proceedings and reduce delays. These reforms are not just about speeding up justice but about ensuring that justice is accurate and accessible to all, regardless of socio-economic status.

Critics of the new laws have raised concerns about the implementation challenges, particularly regarding the training of law enforcement and the potential for misuse of certain provisions. These concerns are valid and must be addressed through careful planning, robust oversight, and continuous dialogue between the central government and state authorities. However, it is also important to recognise that any transformative change will face resistance and challenges. The success of these reforms will depend on the collective will to see them through and on the ongoing refinement of the legal system to ensure that it serves the needs of all citizens.

In conclusion, the Bharatiya Nyaya Sanhita and its companion laws represent a bold and necessary step toward modernising India's criminal justice system. It reflects a fair, inclusive, and forward-looking vision of justice. As we move forward, we must embrace these changes and work together to build a legal system that truly reflects the ideals of justice, equality, and dignity for all.





Speech of MP Shri Tejasvi Surya in Indian Parliament on Criminal Justice Reforms

This august House is today a witness to history in the making in the true sense because what we are enacting today is a historic reform that will touch the lives of 140 crore Indians not just for today but for centuries to come. While doing so, we are ridding ourselves of 162-year-old colonial baggage and are moving towards a swadeshi vyavastha at the time when Bharat is entering the Amrit Kaal of its glorious period of history. I want to thank and congratulate Prime Minister Narendra Modi Ji and our visionary Home Minister Amit Shah Ji for piloting this historic reform of India's criminal justice law.

Chairman Sir, if you will spend a minute to understand the context in which our criminal justice system came to be introduced by the British, it comes to light that all three criminal justice legislations, the IPC, the CrPC, as well as the Indian Evidence Act were enacted right after the first war of India's Independence in 1857. The objective of the then British Government while introducing these three legislations was to subject the natives and the Indians to such a criminal justice system that would obliterate and annihilate all kinds of possibilities of rebellion.

So, all three laws, the Indian Penal Code, the CrPC, and the Evidence Act, were enacted with the intention of humiliating the native population. The British understood that two important aspects of a society needed to be controlled to completely colonise and destabilise a native population: education and the criminal justice system.

Lord Macaulay, in his prophesied 'Education Minute', exhaustively mentions how the British tried their very best to remove from the civilisational memory of this country our educational and criminal justice system that had been in practice for so long in the country. I must say today that when the country is on the threshold of Amrit Kaal under the leadership of Prime Minister, Narendra Modi ji, we have implemented the National Education Policy, 2020 and today we are enacting these three Sanhitas, which are going to replace the colonial codes and in the true sense, we are moving away from

colonisation of education and colonisation of our criminal jurisprudence.

Today marks an important day also because, for about 160 long years and almost seven decades after Independence, the country's criminal justice system followed legislations made by the British, made in Britain, and made for the welfare of the British. Today, in those places, we are enacting a law that is made by Bharat, made in Bharat, and made by Bharatiyas for the welfare of Bharatiyas. This marks a very important step in our decolonisation journey.

While we are here, I would want to draw the attention of this House to another important aspect of British criminal jurisprudence: how vicious the intent of the British was while bringing and enacting these legislations. One of the biggest examples of this intent of the British is the example of the Criminal Tribes Act of 1871. In 1871, the British Raj enacted a legislation called the Criminal Tribes Act under which large communities and large tribes were declared as criminals by birth, and they were subjected to multiple humiliations and restrictions. There were police manuals that were drafted enumerating long lists of how these criminal tribes must be dealt with, how they must be punished, how they must be abused, and for a long time, even after Independence, many of our jail manuals contained these very provisions, and many tribes that were enumerated in the Criminal Tribes Act faced severe humiliation both legally and socially. Many of these communities, or 140 of them, were declared as criminals by birth. By 1947, at the time of our Independence, more than two crore people existed in this country who were, by definition, criminals by birth.

This was the intent behind the British criminal justice system. This is just to explain the monumental difference that we are today making by moving out of the dark shadow of the British criminal justice system and moving towards a completely Indian and Swadesi justice system. With respect to the changes made in these three legislations, I want to take a few minutes to highlight some significant changes. Under the BNS, precedence has now been given to crimes against

women and children. Some of the most important changes have been made, keeping in mind the protection, empowerment, and justice delivery for our sisters in the country. Not only the precedence in numbering reflects this intent of the government, but also providing the death penalty for the gang rape of a minor girl is introduced for the first time. Most importantly, we have been witnessing for the last few years a concerted attempt by a certain vested interest group to suppress their identity and lure young women under the false pretext of marriage. Even this has been declared an offence, and stringent provisions have been made to punish such attempts. We also keep observing that there are multiple instances of hit-and-run cases, which we refer to in a collectable term. In most of these hit-and-run cases, it is always the rich who hit and run, and the poor who do not have access to justice and power are left fighting for justice without any support. For a long time, this hit-and-run offence was not codified or declared as an offence. That has now been brought into the law, as well as offences like chain snatching and mobile snatching. If you go to any police station today, you will see a board. Most of the cases reported in urban areas, at least in our country, are chain snatching and mobile snatching cases, but, unfortunately, we did not have a penal provision to deal with this. This has been added now.

We have also seen that whenever there are protests in the name of displaying outrage, certain antisocial elements use that opportunity to damage public property amounting to crores of rupees. For the first time, under mischief, by expanding the provision, 'damage to public property' has also been made an offence. Hereafter, any antisocial elements who indulge in any such activity will be facing the music of the law. There were many provisions that were reflective of the colonial and Victorian morality of that era. Both sections 377 and 497, which dealt with adultery, were a reflection of this Victorian morality. Both have been omitted, and we have now truly moved away from a pre-colonial legislation system to a post-colonial legal system.

There is another aspect that gives us a great amount of joy. For a long time, the Indian Penal Code was not fully applicable to the whole of India;

it applied to the whole of India except in the State of Jammu & Kashmir. In Jammu & Kashmir, we had the Ranbir Penal Code. With this Act, and with the abrogation of article 370, the BNS will be applicable to all the States, including the State of Jammu & Kashmir. This is another very historic step that Parliament has taken with this enactment.

While these are some of the important changes made to the BNS, the Criminal Procedure Code was also crying for reform. Many committees, the mention of which has been made earlier, made reports on reports. Committees gave voluminous suggestions, but none of that was implemented by earlier governments. The Criminal Procedure Code is that procedural law, which is the foundational law on which the criminal justice system is adjudicated, delivers justice. But it was the discrepancies inherent in the CrPC that led to the vast number of under-trials that we have, the pendency of cases that we have, the complexity of the criminal justice system that we have, and the whole 'justice delayed is justice denied' kind of a feeling that a large number of people in this country felt that going to court was itself a punishment. It was a vexatious issue. Many major changes are made under the CrPC to address the complexity of the procedure and make it simpler, keeping the citizens' interest and protecting the interests of both victims and the informant. For example, it has been provided that no arrest shall be made in any case of an offence punishable for a term less than three years. If the person has infirmity or is above the age of 60, he cannot be arrested without prior permission from the officer, not below the rank of DSP. We are aware how, in many cases, especially in Section 498 dowry cases, senior citizens are harassed even at the cost of false cases that are registered. Even though the Supreme Court, in multiple instances, even in Lalita Kumari and many other judgments, has enumerated that arrest should not be made whimsically or arbitrarily, experience is such that this was not followed. For the first time, by codifying this as a principle, the interests of those people who are weak, senior citizens are protected from arbitrary arrests. The provision of mandatory video-conferencing during search and seizure also tries to balance

harmoniously the interests of the victim and the need for a transparent and fair judicial system. In our own experience, we have also encountered people coming to MPs and MLAs with complaints that they went to the police station, but the police did not file an FIR, saying that it does not come under their jurisdiction.

By the time he finds out which police station comes under his jurisdiction, time would have lapsed, and the FIR and its sanctity would have lost meaning. In multiple instances, court cases have been quashed because of the delay in filing FIRs. For the first time, through zero FIRs and e-FIR, this paradigm change has been brought in our criminal justice system, where an individual can report a case and file an FIR of a cognisable offence in any part of the country. It is mandated on the part of the police to register the case and then forward the complaint to the police station concerned for investigation. This is, again, a very, very welcome step.

In addition to that, it has come to our experience that when a complainant or an informant goes to a police station and files a case, after filing the FIR, he is not aware of the status of the case or what is happening with it, he will have to meet the Station House Officer repeatedly. He goes to the DCP office, where we stand for hours. He is not aware of the status of the case or the status of the investigation. But in this Sanhita, it has been made mandatory, provided that the police officer in 90 days shall inform the progress of the investigation of the informant or victim by digital means. This is again an attempt at making the citizen the centre of the criminal justice system and not the crown. In addition, one of the biggest challenges our criminal jurisprudence or criminal justice system faced was the abysmally low conviction rates.

If you compare our conviction rate to that of more advanced jurisdictions like Israel or Australia, our conviction rate is abysmally low. One of the reasons for this low conviction rate is the quality of evidence submitted before our courts. To address that, especially in serious offences, it has been made mandatory for forensic science experts to visit the crime scene to collect forensic evidence in all cases that are prescribed punishment for seven

years or more. This is a truly revolutionary provision because not only will it enhance our conviction rate, but it will also protect those innocents facing false allegations and false charges. One of the foundational principles of an effective functioning criminal justice system is to punish the guilty and protect the innocent. That can be done if the quality of evidence submitted before the court is increased. This is an essential provision in that regard.

The other big affliction ailment of India's criminal courts is the delay in dispensation of justice. The moment a case is filed, you never know when the justice is finally dispensed. Going to court itself is a vexation and a punishment for the victim, his family, and the accused. For the first time, investigation, submission of charge-sheet, investigation pursuant to the filing of charge-sheet, the pronouncement of judgement, all of these have been made time-bound by the statute itself.

Even seeking adjournments was a common practice for all. Many lawyers in the house who have practised in the criminal courts are aware that seeking adjournments as a matter of right is a practice seen in our sessions courts in our trial courts. Every delayed date creates a burden not just on the exchequer but also on the families of the victim as well as the accused. For the first time, even this arbitrary adjournment has also been dealt with under the Sanhita, where it has been provided that where the circumstances are beyond the control of a party, not more than two adjournments may be granted by the Court after hearing the objections of the other party and for the special reasons to be recorded in writing. In a sense, this provision will make sure that there is a mukti from unlimited and arbitrary adjournments, which is a big ailment of this system.

We have also seen that in many cases, even in serious cases that have a political colour, if there is a change in dispensation, the new Government drops the prosecution of these cases. In Karnataka, the previous edition of the Siddaramaiah Government dropped more than 1600 cases belonging to the now banned and declared terrorist organisation like PFI to meet their vote bank

politics. In many instances, these were very serious cases of murder, culpable homicide, organised crimes, and terrorist activities. More than 1600 cases were dropped. In many instances, even the victims were not heard. For the first time, under the new Sanhita, it is mandated that where prosecution is supposed to be withdrawn, especially in cases where the punishment is seven years or more, the victim side shall be given an opportunity to be heard. This is again a very important step in not only diluting political interferences in the criminal justice system and prosecution but also placing the interest of the citizen, the victim, over and above the interest of the state.

One of the points that Ravi Shankar Prasad ji made was about the condition of our undertrials. Chairperson, Sir, I remember when you had made an intervention earlier when the Bill was proposed four months ago and had drawn the attention of this House to the condition of our undertrials. Lakhs of people who may be otherwise innocent are languishing in our country's jails because the wheels of justice are moving so slowly and painfully slowly. In many of these instances, the undertrials are young people. Any third-year or fourth-year law student who has visited a jail will understand that 80 per cent of our undertrials are young people who are staring at a bleak future just because their cases are not being heard properly. In many instances, they would have completed more time as an undertrial than they would have faced had they been convicted of that offence. To address that issue, a new provision has been made that if a person is a first-time offender, he shall be released on bail by the court if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for that offence. It has also been made mandatory that when the undertrial completes one-half or one-third of the period, it will be the duty of the jail superintendent to make an application in writing to the court in this regard.

Chairperson, Sir, I want to take a couple of minutes at the end to only highlight some monumental changes that have been made in the Indian Evidence Act. One of the biggest challenges that our courts would face in evaluating and appreciating

evidence in today's day and age, where digital, IT, and electronic evidence play such a vital part in our everyday communications, was that our Evidence Act was not equipped to handle and appreciate the quality of electronic evidence. The thrust of the changes that have been made in the Evidence Act, which will now be replaced by the Sakshya Bill, is the importance placed on electronic evidence, digital evidence, and new age mediums of communication and presentation of evidence before the court.

Sir, you must be aware, and the House must be aware that very recently, in a famous case, the accused was acquitted on the premise that the person who recorded the speech did not provide the original DVD to the Investigating Officer. But the speech was broadcast live, and millions of people all over the country and all over the world were witness to it. But, the court ruled that the digital evidence submitted before it was not admissible because the person who recorded the original DVD did not provide it to the investigating officer. So, all other copies available online and available at the time of making the speech were not considered either primary or secondary evidence and were rejected. This was a major lacuna in our Evidence Act. That has been addressed by expanding the definition of primary evidence.

In the new Section 59, in the definition of primary document, a new explanation has been added. A video recording is simultaneously stored in an electronic form and transmitted or broadcast to another; in such a case, each of the stored recordings is considered as original. So, had this Bill been enacted a few years ago, the fate of that person who made hate speech would have been very different than what it is today, Chairman, Sir. In addition, provisions have also been made to make available evidence through the appearance of witnesses, accused, and victims through electronic means. We have seen how in many instances, cases have gone on forever because either the witness or the expert witness or any other person could not appear before the court physically.

So, all of these are important changes that have been brought to the criminal justice system by the enactment or the introduction of these three

important legislations. Sir, I must place on record the gratitude of millions of young Indians today because I represent the demography in this House for bringing this monumental reform. It is because this is a philosophical change in the way we are approaching our citizens. This is a philosophical difference in the way the country and the country's criminal justice system view our own people. This marks a departure from the colonial era legislation. Chairman Sir, the United Kingdom and its press were aware that Narendra Modi's government would herald and usher in such reforms, and they knew this on the very first day that the people of this country gave Narendra Modi ji the mandate in 2014. I want to conclude by reading four lines from the Editorial of the Guardian newspaper of 18th May 2014. On 18th May 2014, just after the election results were declared and the country's people had elected Modi ji to be the Prime Minister of the country with an overwhelming mandate, the Guardian wrote in its Editorial. "Today, 18th May 2014, may well go down in history as the day when Britain finally left India. Narendra Modi's victory in the election marks the end of a long era in which the structures of power did not differ greatly from those through which Britain ruled the sub-continent. India under Congress was in many ways a continuation of the British Raj by other means."

This was an observation made not by an Indian newspaper. This was not an observation made by the Panchjanya or the Organiser of RSS. This was the observation that was recorded by Britain's foremost newspaper, the Guardian, on the day the people of this country voted Narendra Modi ji to office in 2014. What has followed since then is a conscious effort towards decolonisation of this country through education policy and now through these historic sanhitas, which are going to overhaul the delivery of the criminal justice system in India. Finally, the meaning of the word Swarajya has attained its true meaning because the country is moving towards respecting swabhasha, swadharma and swadesha.

Source: Digital Library,
Lok Sabha (abridged version)

Shattering Colonial Chains: India's Landmark Legal Transformation

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The Indian Penal Code (IPC), enacted in 1860 during British colonial rule, was designed to subjugate and control the Indian population. Drafted by Thomas Babington Macaulay, the IPC was never intended to be citizen-centric; instead, it was a tool of oppression aimed at maintaining British dominance and suppressing any challenge to their authority. Worrying political prospects in Great Britain, where he served as a member of the House of Commons, inspired Macaulay to develop a uniform code of laws for India.

Not to forget, Macaulay once described his legal experience as being limited to convicting a boy of stealing a parcel of cocks and hens. Landing in 1834, Macaulay made little to no effort to understand who he was coding these new laws for that would change the future course of the justice system in India but had completed the draft of the Indian Penal Code by 1837, and it was enacted in 1860 one year after his demise.

The recent overhaul of India's legal framework is a momentous departure from its colonial past. Renaming the legal codes, which now reflect Indigenous values and justice, is a significant step. The Indian Penal Code (IPC) of 1860, now the Bharatiya Nyaya Sanhita (BNS), signals a shift towards a more just and citizen-oriented legal system. Similarly, the Criminal Procedure Code (CrPC) of 1973, now the Bharatiya Nagrik Suraksha Sanhita (BNSS), underscores a focus on citizen protection. Lastly, the Indian Evidence Act of 1872,



now the Bharatiya Sakshya Adhiniyam (BSA), indicates a move towards a legal framework that better aligns with the principles of fairness and truth in the Bharathiya context.

The Bharatiya Nyaya Sanhita (BNS) places a strong emphasis on protecting women and children, addressing the shortcomings of the colonial-era Indian Penal Code (IPC). Under the IPC, crimes like rape and murder, covered in Sections 376 and 302, respectively, were treated with less urgency, reflecting the British focus on exploiting the nation rather than safeguarding the people. In contrast, BNS elevates the seriousness of these crimes, with rape now addressed under Section 63 and murder under Section 103. The new legal framework mandates that a female officer must record statements from victims of sexual offences in the presence of the victim's parents or guardians, and a medical report must be submitted within seven days, ensuring timely and sensitive handling of such cases.

Moreover, BNS has introduced strict penalties for heinous crimes against minors, including the possibility of capital punishment for gang rape. The law also categorises the buying and selling of children as a heinous crime, demonstrating a zero-tolerance approach to such exploitation. Additionally, all hospitals are now required to provide free medical treatment to victims of crimes against women and children, further highlighting the priority given to their welfare and protection under this new legal system.

The Bharatiya Nyaya Sanhita (BNS) has also introduced a victim-centric approach to the legal system, prioritising safety, rights, and timely justice for victims. One of the key reforms is the extension of police custody from 15 days to 90 days, ensuring enhanced protection for victims during the investigative process. Responding to the Supreme Court's directive, BNS also includes a specific law against lynching, imposing a minimum of seven years of imprisonment for offenders, reflecting a commitment to addressing this violent crime. To facilitate access to justice, introducing Zero FIR and Online FIR systems allows victims to file complaints

across jurisdictional boundaries, ensuring no case goes unreported.

Victims of crimes against women are entitled to regular updates on their cases within 90 days, and hospitals are mandated to provide free first-aid and medical treatment to them and child victims. The legal process has been streamlined, with charges required to be framed within 60 days of the first hearing and judgments to be delivered within 45 days after the trial concludes, minimising delays. The accused and the victim have the right to receive all pertinent documents, such as the FIR, police report, charge sheet, and statements, within 14 days. To prevent unnecessary delays, courts are limited to a maximum of two adjournments per case. The BNS also mandates that investigations be videographed, which ensures transparency and prevents the misuse of power by the police. Additionally, the compulsory inclusion of forensic evidence strengthens the integrity of the investigative process, making it more reliable and victim-focused.

The BNS has introduced comprehensive reforms that address a wide range of issues, from organised crime to integrating futuristic technology into the legal system. For the first time, organised crime has been clearly defined, ensuring that such offences are given particular focus and are dealt with more effectively.

In a progressive move, community service has been introduced as a penalty for minor offences like petty theft, attempts to die by suicide, and defamation, offering a more constructive alternative to traditional punishment. The BNS also mandates the maintenance of a separate registry for those detained in police stations, eliminating the need for individuals to approach courts under Habeas Corpus, thereby streamlining the accountability process.

Recognising the rapid pace of technological advancement, outdated laws have been repealed, and new ones have been introduced to address modern challenges. Online forgery, cyber fraud, password theft, and cyberstalking are now

recognised as punishable offences, reflecting the legal system's adaptation to the digital age. The definition of "documents" has been expanded to include electronic or digital records and online communications on various personal devices, ensuring that the law keeps pace with the realities of a technology-driven world.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2024 introduces several significant changes to enhance legal procedures and protect vulnerable individuals. It authorises the appointment of Special Executive Magistrates and increases the fine-imposing powers of Magistrates while also allowing for community service as a sentence. The BNSS provides special protections for the aged and infirm, ensuring they cannot be arrested for minor offences or summoned as witnesses outside their residences without proper justification. The law also broadens the scope for declaring someone a proclaimed offender, streamlines the process for maintenance proceedings, mandates the timely submission of medical reports in rape cases, and requires all states to establish a comprehensive witness protection scheme.

The Law of Evidence Act, drafted by Sir Henry James Sumner Maine in 1868 and later revised by Sir James Fitzjames Stephen in 1872, was a relic of colonial rule that aimed to impose standards on evidence admissibility, reflecting the priorities of a foreign regime rather than the needs of an independent nation. Astonishingly, it took nearly 75 years post-independence and an able Government under

the leadership of our Honourable Prime Minister Thiru Narendra Modi avl to finally overhaul this outdated legal framework.

The Bharatiya Sakshya Adhiniyam (BSA) 2023 overhauls the existing procedures, adapting the law to contemporary realities, especially in the digital age. With 170 sections, the BSA modernises evidentiary procedures by including electronic and digital records as valid forms of evidence, thus reflecting the current technological landscape. The Act also revises outdated language, removing references to colonial institutions and replacing outdated terms with contemporary ones, such as 'Advocate' instead of 'Vakil'.

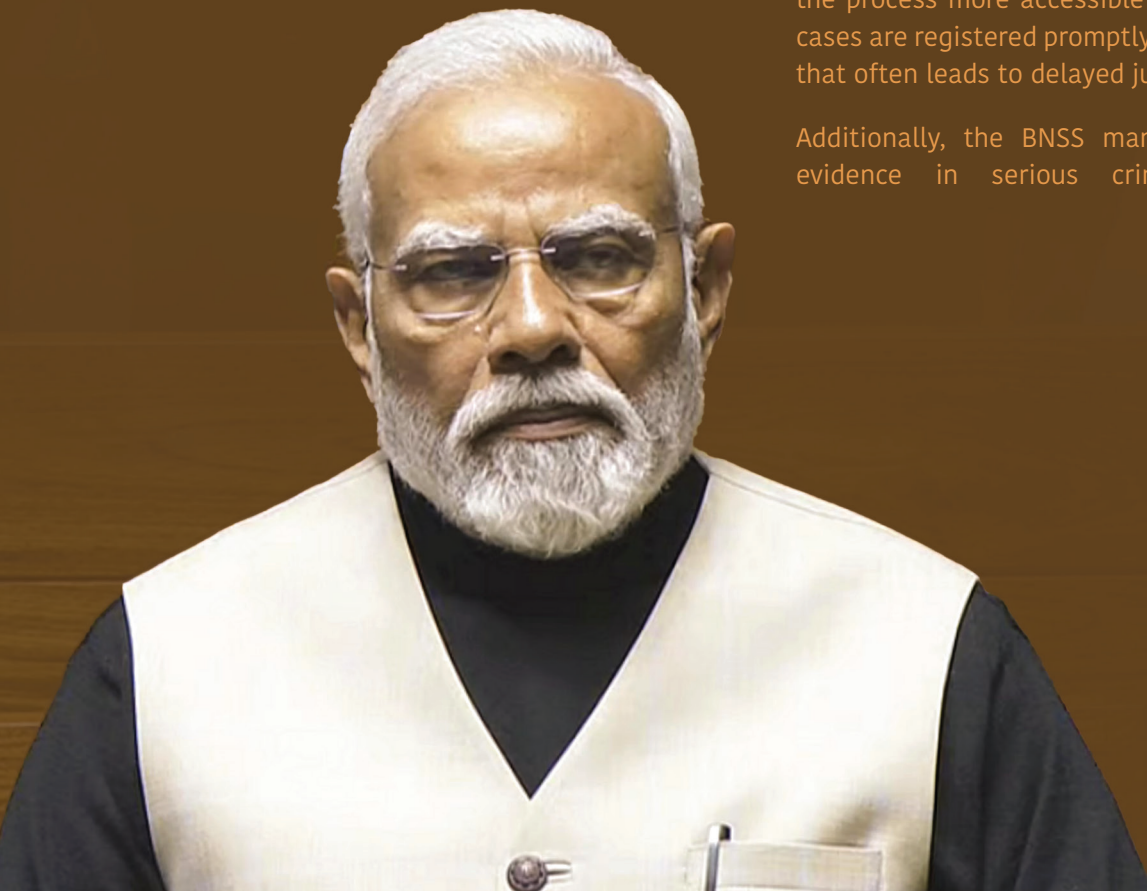
New provisions address issues like coercion in confessions, expand the role of experts, and allow joint trials in cases where the accused is absent. Additionally, the law now permits accomplices to testify against the accused. These changes reflect a comprehensive modernisation of India's evidence laws.

In conclusion, the new criminal laws enacted in India mark a transformative step forward in the nation's legal landscape. By modernising outdated provisions, incorporating technological advancements, and placing greater emphasis on victim rights, these laws reflect a deep commitment to justice and equity. With these changes, India is poised to build a more just and secure society where the rule of law is respected and strengthened.



Streamlining Justice: Cutting Red Tape for Timely Justice in India

Dhananjay Sharma
Member of the BJYM
Magazine Team



Recent overhaul of its criminal justice system with the introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) marks a significant shift towards a more efficient, accessible, and just legal framework. These new laws are designed to cut through the bureaucratic red tape that has long plagued the Indian judicial system, ensuring that justice is not only served but is done so swiftly and fairly.

Cutting Down Red Tape

One of the most significant changes introduced by these new laws is the simplification and modernisation of legal procedures. The old Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and Indian Evidence Act were laden with outdated procedures, often leading to unnecessary delays and complexity. These complexities often discouraged citizens, particularly those from marginalised communities, from seeking justice, as navigating the legal system became daunting.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) addresses this issue head-on by streamlining legal processes. For instance, the introduction of electronic First Information Reports (e-FIRs) allows citizens to file complaints more easily and without the bureaucratic hurdles often accompanying traditional paperwork. This move not only makes the process more accessible but also ensures that cases are registered promptly, reducing the time lag that often leads to delayed justice.

Additionally, the BNSS mandates using forensic evidence in serious crimes, ensuring that

investigations are conducted with scientific rigour. This reduces the reliance on less reliable forms of evidence, cutting down on the time spent in prolonged investigations and legal battles. By focusing on objective and scientific evidence, the new laws help eliminate the procedural bottlenecks that have long been a source of frustration for those seeking justice.

Increasing Access to Justice

The new criminal laws are particularly focused on making justice more accessible to all citizens, regardless of their socio-economic status. The use of technology, such as e-FIRs and video conferencing for court hearings, makes it easier for people in remote or underserved areas to access the legal system. This is a significant step forward in ensuring that justice is not just a privilege for the few but a right for all.

Moreover, the Bharatiya Sakshya Adhiniyam (BSA) modernises the rules of evidence, making it easier to admit digital and electronic records in court. In an age where much of our communication and transactions occur online, this reform is crucial. It ensures that the legal system keeps pace with technological advancements and that evidence in digital formats is given due weight in legal proceedings. This not only speeds up trials but also ensures that justice is based on the most accurate and relevant information available.

The new laws also emphasise victim-centric approaches, particularly for crimes involving women and children. By introducing stringent timelines for investigations and ensuring that victims receive regular updates on their cases, the laws help to restore faith in the justice system. This focus on the rights and needs of victims ensures that the legal process is not just about punishing the guilty but also about supporting and protecting those who have been wronged.

Ensuring Speedy Justice

One of the most persistent problems with the Indian legal system has been the inordinate delays in delivering justice. Cases can drag on for years, sometimes even decades, leading to a situation

where justice is delayed and, indeed, denied. The new criminal laws aim to tackle this issue by setting strict timelines for various stages of the legal process.

The Bharatiya Nyaya Sanhita (BNS) introduces mandatory minimum sentences for certain offences and sets clear deadlines for the completion of trials. For example, the law mandates that charges be framed within 60 days of the first hearing, and judgments must be delivered within 45 days of the trial's conclusion. This ensures that cases are resolved more quickly, reducing the backlog of pending cases and ensuring that justice is delivered in a timely manner.

Furthermore, the BNSS allows for summary trials in cases involving minor offences. This means that cases that do not require extensive legal debate or evidence can be resolved quickly, freeing up the courts to focus on more serious matters. By prioritising cases based on their complexity and urgency, the new laws ensure that the legal system operates more efficiently and that justice is not unnecessarily delayed.

Conclusion

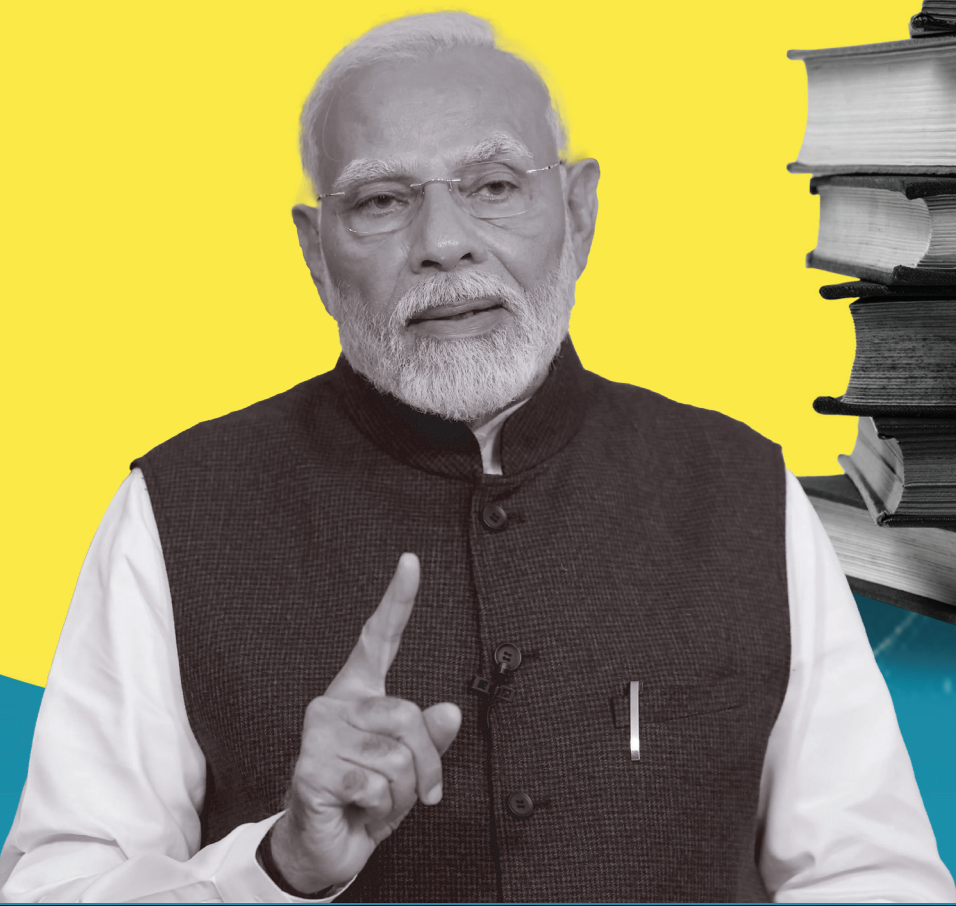
The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam represent a bold and necessary step toward modernising India's criminal justice system. By cutting down red tape, increasing access to justice, and ensuring that legal processes are swift and fair, these laws promise a more just and equitable society closer to reality.

For the common citizen, particularly those in vulnerable sections of society, these reforms mean that justice is no longer an elusive dream but an attainable reality. By focusing on efficiency, transparency, and accessibility, the new criminal laws ensure that every citizen, regardless of their background, has the opportunity to seek and receive justice in a timely manner. As India moves forward, these laws will play a crucial role in building a legal system that truly serves the people and upholds the principles of justice for all.

Empowering Tomorrow: How New Criminal Laws Protect the Next Generation

Akshit Dahiya

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India, a nation with a rich cultural heritage and a diverse population, has always prided itself on being a land where justice and fairness are paramount. However, for over 150 years, the country's criminal justice system was governed by colonial-era laws that were increasingly out of step with the realities of modern society. The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) marks a historic transformation in India's legal landscape. These new laws not only address the shortcomings of the past but also pave the way for a more equitable and responsive legal system, particularly benefiting the youth of the nation.

The Need for Reform

The Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and Indian Evidence Act, all introduced during British rule, were designed to maintain colonial control rather than serve the needs of a free and democratic society. These laws were inherently punitive, focusing more on punishment ("Dand") rather than justice ("Nyaya"). While they provided a legal framework, their primary aim was to subjugate and control rather than to protect and empower the citizens of India.

Over time, these laws became increasingly inadequate in addressing the complexities of contemporary Indian society. The IPC, for instance, lacked provisions to deal with modern crimes such as cybercrime, financial fraud, and terrorism. The procedural delays embedded in the CrPC led to a massive backlog of cases, denying timely justice to many. Moreover, the Indian Evidence Act, with its outdated rules, often failed to accommodate technological advancements, leading to challenges in the admissibility of digital evidence.

The need for a comprehensive overhaul of these laws was evident. The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam were introduced to address these gaps, ensuring that the legal system is not only more efficient but also more aligned with the values and needs of a modern, independent India.

The Reforms: A Step Towards Modern Justice

The new laws represent a significant shift from the old punitive approach to a more balanced and fair system of justice. The Bharatiya Nyaya Sanhita (BNS) introduces several key reforms, including the recognition of new types of offences, stricter penalties for serious crimes, and a focus on rehabilitation rather than mere punishment for minor offences. This shift is particularly important for the youth, who are often at the crossroads of societal change and legal scrutiny.

For instance, under the BNS, community service is introduced as a penalty for minor offences, replacing imprisonment with rehabilitative measures. This approach not only helps offenders reintegrate into society but also reduces the likelihood of re-offending, creating a more constructive legal environment for young people who may have made mistakes but are capable of reform.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) focuses on procedural reforms that aim to reduce delays in the legal process and enhance transparency. For example, the introduction of electronic First Information Reports (e-FIRs) and mandatory forensic investigations for serious crimes ensure that justice is not only swift but also accurate. This is particularly beneficial for the youth, who are more likely to engage with digital platforms and expect efficiency and transparency in legal processes.

Moreover, the Bharatiya Sakshya Adhinyam (BSA) modernises the rules of evidence, allowing for the admissibility of digital and electronic records. This is a crucial reform in an age where much of our lives are online, and crimes often leave a digital footprint. The youth, being digital natives, are likely to benefit the most from a legal system that recognises and respects the role of technology in everyday life.

Socio-Political Impact

The introduction of these new laws has a profound socio-political impact. By moving away from colonial-era laws that were designed to control rather than protect, India is taking a decisive step

toward true independence in its legal system. This shift not only strengthens the rule of law but also reinforces the principles of justice and fairness that are the bedrock of a democratic society.

For the youth, these reforms represent a system that is more in tune with their aspirations and the challenges they face. The emphasis on rehabilitation, transparency, and the use of technology makes the legal system more accessible and fairer to young people. It acknowledges that the youth are not just the future but are also integral to the present, deserving of a legal system that protects their rights and helps them grow into responsible citizens.

Furthermore, the new laws also aim to protect the most vulnerable sections of society, including women, children, and marginalised communities. By introducing stricter penalties for crimes such as rape, mob lynching, and caste-based violence, the laws send a clear message that such acts will not be tolerated. This focus on protecting the vulnerable is particularly important in a diverse country like India, where social justice is essential for national unity and progress.

Benefits for the Youth

The youth of India, who are often at the forefront of change, stand to benefit immensely from these reforms. The introduction of community service as a penalty for minor offenses offers young offenders a chance to reform and reintegrate into society, rather than being trapped in a cycle of re-offending. This rehabilitative approach is more in line with the values of today's youth, who believe in second chances and the power of redemption.

The use of technology in the legal process, from e-FIRs to the admissibility of digital evidence, resonates with a generation deeply connected to the digital world. These reforms make the legal system more accessible and transparent, encouraging young people to engage with it and trust in its fairness.

Moreover, the focus on protecting the vulnerable ensures that the youth, who often advocate for social justice, can live in a society where their rights

and the rights of others are respected and upheld. This creates a more just and equitable environment for all, fostering a sense of belonging and responsibility among young citizens.

Conclusion

The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam are not just legal reforms; they reflect India's commitment to building a just, fair, and equitable society. These laws address the shortcomings of the past while embracing future challenges, particularly for the youth, who are the torchbearers of tomorrow.

By creating a legal system that is more transparent, efficient, and fair, these reforms empower the youth to take an active role in shaping the future of their country. They offer a framework for justice that is not only responsive to the needs of today but is also resilient enough to meet the challenges of tomorrow. As India moves forward, these laws will play a crucial role in ensuring that justice is not only done but is seen to be done for every citizen every day.

A New Legal Era: Redefining Crime and Punishment in India

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The enactment of three new criminal laws in India signifies a transformative shift in the nation's legal framework. These laws, which came into effect on July 1, 2024, consist of the Bhartiya Nyaya Sanhita (BNS), which supersedes the Indian Penal Code (IPC); the Bhartiya Nagrik Suraksha Sanhita (BNSS), which replaces the Code of Criminal Procedure (CrPC); and the Bhartiya Sakshya Adhinyam (BSA), which takes the place of the Indian Evidence Act. This article delves into the imperative for these reforms, their pertinence, significance, and their overarching aim to serve society, ultimately positioning them as game changers within the Indian legal system.

A. BACKGROUND AND IMPERATIVE REFORM

• Colonial Legacy

All the criminal statutes that are currently in force in India can be traced back to the colonial governance of the country and were enacted in 1860, 1973, and 1872, correspondingly, the IPC, the CrPC, and the Indian Evidence Act. Due to rampant changes in the social, economic, and political spheres, these laws have drifted apart from the current age and have become less effective in upholding the morality of society. The Indian jurisprudence has been facing an array of issues,

such as unparalleled excessive delay in cases.

Substantially low conviction rates, along with high case pendency, are also major problems in the Indian justice system. In addition to this, the system is typically oriented toward the wrongdoers, and little attention is paid to the victims. These structural failures have been the ones to blame for making the legal institutions and law enforcement the weakest links in the justice sector. Therefore, the national debate has become hostage to demands for radical changes that would guarantee the establishment of a quick and unbiased judicial system and the necessary legal transformation - that would, in turn, be set to right the rights of the most vulnerable in society.

• Societal Evolution

India's socio-economic landscape has undergone profound transformations since independence, characterised by increasing complexities in criminal behaviour and social dynamics. The proliferation of cybercrime, escalating crimes against women and the exigent need for adept handling of digital evidence have emerged as critical concerns. The introduction of these new laws seeks to address these modern challenges, reflecting the necessity

for a legal system that is both responsive and relevant to the intricacies of contemporary society.

B. OVERVIEW OF THE NEW LAWS

• **Bhartiya Nyaya Sanhita (BNS)**

The BNS, which supplants the IPC, introduces several pivotal changes:

- **Recognition of New Offenses:** The BNS introduces 20 new offences, including sexual intercourse under false pretences, which may incur a penalty of up to 10 years imprisonment. This aims to safeguard individuals from exploitation and manipulation in interpersonal relationships.
- **Increased Penalties:** The law increases the punishment for 33 offences and raises fines for 83 offences, reflecting a stricter approach to crime and punishment.
- **Mandatory Minimum Sentences:** A mandatory minimum punishment has been introduced for 23 offenses, ensuring that certain crimes carry a baseline penalty.
- **Focus on Terrorism:** The BNS defines terrorism comprehensively, categorising actions that threaten national integrity and security as terrorist acts, with severe penalties including life imprisonment and, in some cases, the death penalty.
- **Caste-Based Crimes:** The BNS explicitly acknowledges homicides motivated by caste, community, or race, thereby addressing entrenched societal issues and fostering justice for marginalized populations.
- **Victim-Centric Paradigm:** The law underscores the significance of the victim's perspective, striving to cultivate a more empathetic legal process.

• **Bhartiya Nagrik Suraksha Sanhita (BNSS)**

Supplanting the CrPC, the BNSS emphasises procedural reforms.

- **Mandatory Forensic Investigations:** Forensic investigations are mandated for offences punishable by seven years or more, enhancing the quality of evidence and the reliability of trials.

- **Electronic First Information Reports (e-FIRs) & Digitalization of Processes:** The BNSS allows for the filing of e-FIRs, facilitating faster reporting of crimes, particularly those against women, and overcoming traditional barriers associated with reporting.
- **Checks on Police Powers, Police Authority & Judicial Oversight:** The BNSS introduces additional obligations on state governments to maintain records of arrests and ensure transparency in police operations. This thereby prevents misuse of authority and promotes transparency and accountability within law enforcement. The law emphasizes judicial oversight in police actions, aiming to enhance accountability and protect citizens' rights.

• **Bhartiya Sakshya Adhinyam (BSA)**

Replacing the Indian Evidence Act, the BSA modernises the treatment of evidence:

- **Inclusion of Digital Evidence:** The BSA recognises electronic and digital records as legitimate forms of evidence, aligning the legal framework with technological advancements.
- **Transparency in Procedures:** It mandates audio-video recording during search and seizure operations to prevent evidence tampering and bolster the integrity of investigations.
- **Modernization of Evidence Handling:** The BSA modernises the rules regarding evidence, recognising electronic and digital records as valid forms of evidence. This adaptation is crucial for keeping pace with technological advancements in crime and investigation.
- **Streamlined Procedures:** The BSA introduces streamlined procedures for the presentation and admissibility of evidence, making the judicial process more efficient.

C. WHAT INNOVATIVE MEASURES DO THE NEW LAWS INCORPORATE TO TACKLE CONTEMPORARY CRIMINAL ACTIVITIES?

India's latest legislative activities—including the enactment of a new, up-to-date, and more modern legal system—Bhartiya Nyaya Sanhita (BNS), Bhartiya Nagrik Suraksha Sanhita (BNSS), and Bhartiya Sakshya Adhinyam (BSA)—are major steps

in dealing with contemporary criminal threats. These new laws signify a major shift from the old and ineffectual colonial-era acts, aiming to revamp India's criminal justice system to respond to contemporary demands.

Key Innovative Measures

- **Enhanced Definitions and Penalties for Terrorism**

The BNS introduces stringent definitions and penalties for terrorism-related offences. It categorises a terrorist act as any activity that threatens India's unity, integrity, sovereignty, or economic security with the intent to instill fear among the populace. The law imposes severe penalties, including life imprisonment and, in some instances, the death penalty, thereby establishing a robust legal framework to combat terrorism and enhance national security.

- **Victim-Centric Approaches**

Both the BNS and BNSS emphasise a victim-centric approach to justice. The BNS introduces provisions that prioritise the rights and perspectives of victims, ensuring their voices are heard throughout the legal process. This is particularly significant in cases of crimes against women and children, where the new laws aim to create a more supportive environment for victims to report offences and seek justice.

- **Digitalization and Technological Integration**

The BNSS embraces digitalisation by allowing electronic First Information Reports (e-FIRs) and facilitating digital methods for trials and inquiries. This modernisation aims to streamline legal processes, reduce delays, and enhance the efficiency of the judicial system. Incorporating technology is particularly crucial in addressing modern crimes such as cybercrime, where traditional methods may fall short.

- **Zero FIRs**

A revolutionary aspect of the BNSS is the introduction of Zero FIRs, which allows individuals to file a First Information Report at any police station, regardless of jurisdiction, for cognisable offences. This provision ensures that victims can report crimes without being hindered by

jurisdictional issues, thereby expediting the investigation and justice delivery process.

- **Mandatory Forensic Investigations**

The new laws mandate forensic investigations for specific serious offences, enhancing the quality and reliability of evidence presented in court. This requirement aims to address the long-standing issues of substandard investigations and low conviction rates by ensuring that cases are supported by robust scientific evidence.

- **Community Service as a Penalty**

The BNS introduces the concept of community service as a penalty for certain offenses, reflecting a shift towards rehabilitative justice rather than purely punitive measures. This innovative approach aims to reintegrate offenders into society while addressing the community's needs.

- **Accountability and Transparency in Police Operations**

To prevent the misuse of police powers, the BNSS imposes additional obligations on state governments to maintain detailed records of arrests and ensure transparency in police operations. This measure enhances accountability and builds public trust in law enforcement agencies.

- **Timely Justice Delivery**

Both the BNS and BNSS set specific timelines for investigations and judicial proceedings, aiming to reduce delays and improve the overall efficiency of the criminal justice system. By mandating timely actions, these laws seek to address the chronic backlog of cases that have plagued the Indian judiciary.

D. HOW WILL THE NEW LAWS ENHANCE THE EFFICIENCY OF THE JUDICIAL PROCESS?

The introduction of the Bhartiya Nyaya Sanhita (BNS), Bhartiya Nagrik Suraksha Sanhita (BNSS), and Bhartiya Sakshya Adhinyam (BSA) represents a monumental shift in India's criminal justice system aimed at enhancing the efficiency of judicial processes. These reforms address long-standing issues such as delays in legal proceedings, outdated practices, and the need for a more responsive legal

framework. The following outlines how these new laws will enhance judicial efficiency.

Key Measures to Enhance Judicial Efficiency

- **Strict Timelines for Legal Proceedings**

The new laws establish stringent timelines for various stages of the judicial process. For instance, the BNS mandates that charges must be framed within 60 days of the first hearing and judgments delivered within 45 days of trial completion. This structured timeline expedites the judicial process and significantly reduces the backlog of cases that have long plagued the Indian judiciary.

- **Zero FIR Provision**

The Zero FIR provision allows victims to file a First Information Report (FIR) at any police station, irrespective of jurisdiction. This innovation eliminates bureaucratic delays that often hinder the timely reporting of crimes, thereby facilitating quicker investigations and responses from law enforcement agencies. By enabling immediate action, this measure is expected to enhance the overall efficiency of the criminal justice system.

- **Adoption of Technology**

The BNSS incorporates modern technology to streamline judicial processes. Key technological advancements include:

Electronic Filing and Summons

The introduction of electronic modes for filing complaints and serving summons is a significant step towards a paperless legal system. This digitisation will expedite legal proceedings and improve accessibility for all parties involved.

Video Conferencing and Digital Trials

The BNSS allows for extensive use of video conferencing in trials, making the judicial process more agile and responsive. This adaptation saves time and reduces the logistical challenges associated with transporting prisoners for court appearances.

- **Mandatory Forensic Investigations**

The BNS mandates that forensic investigations be conducted for specific serious offences. This requirement enhances the quality of evidence and

ensures that scientifically valid findings support cases. By integrating forensic science into the investigative process, the new laws aim to improve the accuracy of trials and reduce wrongful convictions, thus increasing overall judicial efficiency.

- **Enhanced Focus on Crimes against Women and Children**

A dedicated chapter within the new laws addresses crimes against women and children, emphasising prompt and sensitive handling of such cases. In these instances, the inquiry report must be filed within seven days, ensuring that justice is not only swift but also sensitive to the needs of vulnerable populations. This focus aims to streamline processes specifically for these critical areas of concern.

- **Improved Detention and Bail Provisions**

The BNSS revises police custody rules and bail conditions, particularly for first-time offenders. By promoting a more empathetic approach to under-trial prisoners and reducing unnecessary pre-trial detention, these changes aim to alleviate the burden on the judicial system and ensure that the rights of the accused are respected while maintaining the integrity of investigations.

- **Enhanced Transparency and Accountability**

The new laws promote greater transparency and accountability within the criminal justice system. By requiring detailed records of arrests and other police actions, the BNSS fosters a culture of accountability that is essential for maintaining public trust in law enforcement. This transparency is expected to lead to more efficient investigations and judicial outcomes.

E. WHAT ARE THE IMPLICATIONS OF THE REMOVAL OF THE SEDITION LAW ON FREEDOM OF SPEECH?

The removal of the sedition law in India has significant implications for freedom of speech and expression. Here are some key points:

- **Reduced Threat of Prosecution**

With the sedition law no longer in effect, individuals can express their views and opinions more freely without fearing being charged with

sedition. This creates an environment more conducive to open dialogue and dissent.

- **Potential Rise in Controversial Speech**

The absence of the sedition law may encourage some to engage in more provocative or divisive speech. There are concerns that this could lead to an increase in hate speech, inflammatory rhetoric, and anti-establishment propaganda.

- **Need for Responsible Exercise of Free Speech**

While removing the sedition law expands the boundaries of permissible speech, it does not make all forms of expression acceptable. Citizens must still exercise their right to free speech responsibly and within the limits set by other laws.

- **Continued Applicability of Alternative Laws**

Even without the sedition law, alternative legal provisions can address issues related to incitement to violence or public disorder. The application of these laws will be crucial in striking a balance between free speech and public order.

- **Ongoing Judicial Interpretation**

In the absence of sedition law, courts will play a key role in interpreting the scope of free speech. Judicial rulings will guide the boundaries of permissible expression and help clarify the legal landscape.

- **Potential for Reinstatement**

It is important to note that removing the sedition law is not necessarily permanent. The law could potentially be reinstated if the authorities deem it necessary. This uncertainty underscores the need for ongoing public discourse and legal scrutiny. In conclusion, the removal of the sedition law represents a significant milestone in protecting free speech rights in India. However, it also raises new challenges in balancing individual liberties and societal stability. Navigating this balance will require a nuanced approach that adapts to evolving legal and social dynamics.

F. SIGNIFICANCE OF THE NEW LAWS

- **Enhancing Access to Justice**

A primary objective of these new laws is to augment access to justice for all citizens. By streamlining

procedures and diminishing bureaucratic impediments, the laws aim to render the legal process more navigable, particularly for marginalised groups who have historically encountered barriers within the justice system.

- **Promoting Gender Sensitivity**

The introduction of e-FIRs and a focus on crimes against women signify a paradigm shift towards a more gender-sensitive legal framework. By facilitating more accessible reporting mechanisms and acknowledging the unique challenges faced by women, these laws aspire to empower victims and encourage them to pursue justice without fear of societal repercussions.

- **Fortifying National Security**

The BNSS's emphasis on forensic investigations and the management of serious offences reflects a broader commitment to national security. By ensuring that investigations are thorough and evidence-based, the laws aim to enhance public safety and instil trust in the legal system.

- **Addressing Societal Issues**

The new laws recognize caste-based crimes and institute provisions to protect individuals from deceitful practices. They tackle critical societal issues that have long been neglected. This responsiveness to social realities is crucial for fostering a just and equitable society.

In conclusion, the enactment of the *Bhartiya Nyaya Sanhita*, *Bhartiya Nagrik Suraksha Sanhika*, and *Bhartiya Sakshya Adhinyam* marks a unique period in India's legal history. These new statutory laws have replaced colonial-era laws with new laws focused on modern social needs, such as the increase in the delivery of justice and the protection of the rights of the victims. By introducing such measures as expanded definitions of crimes, victim-oriented policies, and the assimilation of technology, these changes are made to give to consumers of the legal system the ability to reach one end of the court proceedings more quickly and efficiently with a straightforward and efficient process to get justice.

भारतीय दंड
संहिता का नया
रूप: मुख्य
परिवर्तन, और
भावी दृष्टिकोण

डॉ वृंदा काल्हेर

प्रदेश प्रमुख, पॉलिसी एंड रिसर्च

भाजपा युवा मोर्चा, हरियाणा



75 years of the establishment of
the Supreme Court of India

**National
Conference
of the
District Judiciary**

भारत में 1857 की क्रांति के बाद भारत का शासन ईस्ट इंडिया कंपनी से सीधे तौर पर ब्रिटेन की रानी के पास आ गया। भारत में अपने शासन को सुचारु रूप से चलाने व शासन बरकरार रखने की दृष्टि से वर्ष 1860 में भारतीय दंड संहिता (Indian Penal Code, IPC) का निर्माण अंग्रेजों द्वारा किया गया। ब्रिटिश औपनिवेशिक शासन को बरकरार रखने के उद्देश्य से ब्रिटिश सरकार ने भारतीय दंड संहिता की रचना की। भारत ही नहीं बल्कि पाकिस्तान और बांग्लादेश ने भी भारतीय दण्ड संहिता को ही लागू किया। लगभग इसी रूप में यह विधान तत्कालीन अन्य ब्रिटिश उपनिवेशों (बर्मा, श्रीलंका, मलेशिया, सिंगापुर, ब्रुनेई आदि) में भी लागू किया गया था।

लेकिन उस समय से अब तक भारत में सामाजिक, राजनीतिक, और आर्थिक परिपेक्ष्य में कई महत्वपूर्ण परिवर्तन आए हैं। क्योंकि भारतीय दंड संहिता का निर्माण अंग्रेजों ने किया था तो निश्चित तौर पर इसमें न्याय और अपराध की अवधारणाओं को ब्रिटिश संदर्भ में समझाया गया था, जो आज के स्वतंत्र और लोकतांत्रिक भारत के लिए प्रासंगिक नहीं है। इसलिए नए आपराधिक कानूनों की आवश्यकता लंबे समय से महसूस की जा रही थी।

मगर किसी भी चल रही व्यवस्था को बदलना कोई आसान काम नहीं होता। उसको बदलने के लिए विभिन्न कठिनाइयां व चुनौतियों का सामना करना होता है और एक दृढ़ इच्छा शक्ति ही सुधारवादी बदलाव की नींव रखती है। इसलिए 11 अगस्त 2023 भारत के न्यायिक सुधारों का ऐतिहासिक दिन था। इस दिन भारत के गृह मंत्री अमित शाह ने लोकसभा में भारतीय न्याय संहिता विधेयक, 2023 पेश किया था। और इस वर्ष 1 जुलाई 2024 को यह भारत में लागू हो गया। इसके तहत भारतीय न्याय संहिता, भारतीय नागरिक सुरक्षा संहिता और भारतीय साक्ष्य अधिनियम ने ब्रिटिशकाल के भारतीय दंड संहिता, आपराधिक प्रक्रिया संहिता और भारतीय साक्ष्य अधिनियम की जगह ले ली है।

इस विधेयक को भारतीय आपराधिक न्याय प्रणाली में एक महत्वपूर्ण और ऐतिहासिक सुधार माना जा रहा है। भारतीय न्याय संहिता विधेयक, 2023 के लागू होने से भारतीय न्याय प्रणाली जो परिवर्तन हुए हैं, वो भारतीय न्यायिक व्यवस्था को सशक्त करेंगे व भविष्य में समयबद्ध न्याय मिलने से इसके सकारात्मक प्रभाव देखने को मिलेंगे। इन बदलावों के कुछ मुख्य बिंदु इस प्रकार हैं:

राजद्रोह :

बीएनएस राजद्रोह के अपराध को हटा देता है। इसके बजाय यह निम्नलिखित को दंडित करता है: (i) अलगाव, सशस्त्र विद्रोह या विध्वंसक गतिविधियों को उत्तेजित करना या उत्तेजित करने का प्रयास करना, (ii) अलगाववादी गतिविधियों की भावनाओं को प्रोत्साहित करना, या (iii) भारत की संप्रभुता या एकता और अखंडता को खतरे में डालना। इन अपराधों में शब्दों या संकेतों का आदान-प्रदान, इलेक्ट्रॉनिक संचार या वित्तीय साधनों का उपयोग शामिल हो सकता है।

आतंकवाद :

बीएनएस आतंकवाद को ऐसे कृत्य के रूप में परिभाषित करता है जिसका उद्देश्य: (i) देश की एकता, अखंडता और सुरक्षा को खतरा पहुंचाना, (ii) आम जनता को डराना या (iii) सार्वजनिक व्यवस्था को बिगाड़ना है। आतंकवाद का प्रयास करने या करने की सजा में शामिल है: (i) मृत्यु या आजीवन कारावास और 10 लाख रुपये का जुर्माना, अगर इसके परिणामस्वरूप किसी व्यक्ति की मृत्यु हो जाती है, या (ii) पाँच साल से लेकर आजीवन कारावास और कम से कम पाँच लाख रुपये का जुर्माना।

महिलाओं के लिए प्रावधान:

इसमें महिलाओं और बच्चों के खिलाफ अपराधों पर एक नया अध्याय जोड़ा गया है, किसी बच्चे को खरीदना और बेचना जघन्य अपराध बनाया गया है। और किसी नाबालिग से सामूहिक दुष्कर्म के लिए मृत्युदंड या उम्रकैद का प्रावधान जोड़ा गया है।

- दुष्कर्म पीड़िताओं का बयान कोई महिला पुलिस अधिकारी उसके अभिभावक या रिश्तेदार की मौजूदगी में दर्ज करेगी और मेडिकल रिपोर्ट सात दिनों के भीतर देनी होगी।
- नये कानूनों में महिलाओं व बच्चों के खिलाफ अपराधों की जांच को प्राथमिकता दी गयी है। जिससे मामले दर्ज किए जाने के दो महीने के भीतर जांच पूरी की जाएगी। नये कानूनों के तहत पीड़ितों को 90 दिन के भीतर अपने मामले की प्रगति पर नियमित रूप से जानकारी पाने का अधिकार होगा।
- नये कानूनों में, महिलाओं व बच्चों के साथ होने वाले अपराध पीड़ितों को सभी अस्पतालों में निशुल्क प्राथमिक उपचार या इलाज मुहैया कराया जाएगा। यह प्रावधान सुनिश्चित करता है कि पीड़ित को आवश्यक चिकित्सकीय देखभाल तुरंत मिले।
- महिलाओं, पंद्रह वर्ष की आयु से कम उम्र के लोगों, 60 वर्ष की आयु से अधिक के लोगों तथा दिव्यांग या गंभीर बीमारी से पीड़ित लोगों को पुलिस थाने आने से छूट दी जाएगी और वे अपने निवास स्थान पर ही पुलिस सहायता प्राप्त कर सकते हैं।

हिट एंड रन: भारतीय न्याय संहिता (बीएनएस), 2023 में हिट-एंड-रन मामलों में धारा 106(2) को रोक दिया गया है, जबकि आपराधिक कानून के अन्य प्रावधान लागू कर दिए गए हैं।

रिमांड: नए कानूनों के तहत रिमांड का समय पहले की तरह 15 दिनों का ही रखा गया है।

भाषा : तीनों कानून संविधान की आठवीं अनुसूची की सभी भाषाओं में उपलब्ध होंगे और केस भी उन्हीं भाषाओं में चलेंगे।

फॉरेंसिक जांच : नए कानूनों में 7 साल या उससे अधिक की सजा वाले अपराधों में फॉरेंसिक जांच को अनिवार्य किया गया है। इससे न्याय जल्दी मिलेगा और दोष-सिद्धि दर को 90% तक ले जाने में सहायक होगा।

प्रथम सूचना रिपोर्ट (FIR) : किसी भी मामले में FIR दर्ज होने से सुप्रीम कोर्ट तक 3 साल में न्याय मिल सकेगा।

ई-एफआईआर का प्रावधान : नागरिकों की सुविधा के लिए जीरो एफआईआर यानी ई-एफआईआर की शुरुआत भी की गयी है। इसके तहत अपराध कहीं भी हुआ हो लेकिन उसे अपने थाना क्षेत्र के बाहर भी रजिस्टर कराया जा सकता है। बाद में केस को 15 दिनों के अंदर संबंधित थाने को भेजना होगा। नए नियमों के अनुसार, पुलिस थाने में एक ऐसा पुलिस अधिकारी नामित किया जायेगा जो गिरफ्तार किए गए व्यक्ति के परिवार को केस के बारे में सूचना देगा।

त्वरित न्यायिक प्रक्रियाएँ : अदालती फैसले देने के लिए सख्त समय सीमाएँ तय की गई हैं। 45 दिनों के भीतर और आरोप लगाने के लिए 60 दिनों के भीतर समयबद्ध न्याय प्रदान किया जाएगा।

नये कानून में जुड़ा एक दिलचस्प पहलू यह भी है कि गिरफ्तारी की सूरत में व्यक्ति को अपनी पसंद के किसी व्यक्ति को अपनी स्थिति के बारे में सूचित करने का अधिकार दिया गया है। इससे गिरफ्तार व्यक्ति को तुरंत सहयोग मिल सकेगा।

आरोपी तथा पीड़ित दोनों को अब प्राथमिकी, आरोपपत्र, बयान, स्वीकारोक्ति और अन्य दस्तावेज 14 दिन के भीतर पाने का अधिकार होगा।

अदालतें समय रहते न्याय देने के लिए मामले की सुनवाई में अनावश्यक विलंब से बचने के वास्ते अधिकतम दो बार मुकदमे की सुनवाई स्थगित कर सकती हैं।

नये कानूनों में सभी राज्य सरकारों के लिए गवाह सुरक्षा योजना लागू करना अनिवार्य है ताकि गवाहों की सुरक्षा व सहयोग सुनिश्चित किया जाए और कानूनी प्रक्रियाओं की विश्वसनीयता व प्रभाव बढ़ाया जाए।

तकनीकी प्रगति : ऑनलाइन पुलिस शिकायतें और इलेक्ट्रॉनिक समन सेवा। कागजी कार्य को कम करने और संचार को मजबूत करने का प्रयास किया गया है।

डिजिटल अपराध और साइबर सुरक्षा: नए कानूनों में डिजिटल अपराधों और साइबर सुरक्षा को भी प्रमुखता दी गई है, जो वर्तमान समय की सबसे बड़ी चुनौतियों में से एक है। इसमें साइबर अपराधों के लिए कठोर सजा का प्रावधान किया गया है, जिससे डिजिटल स्पेस में सुरक्षा को बढ़ावा मिलेगा।

दलित और पिछड़े वर्ग: नए कानूनों में दलित और पिछड़े वर्ग के खिलाफ होने वाले अत्याचारों पर भी सख्त प्रावधान किए गए हैं, जिससे इन वर्गों की सुरक्षा सुनिश्चित की जा सकेगी।

कम्युनिटी सेवा : इसमें कम्युनिटी सेवा जैसे प्रावधान भी शामिल किए गए हैं जिनके अनुसार 6 अपराधों में सजा के तौर पर कम्युनिटी सेवा का प्रावधान किया गया है। यह सजा इस तरह के अपराधों पर लागू होती है: (i) 5,000 रुपये से कम कीमत की संपत्ति की चोरी, (ii) किसी सरकारी कर्मचारी को रोकने के इरादे से आत्महत्या करने का प्रयास, और (iii) नशे में धुत होकर सार्वजनिक स्थान पर आना और लोगों को परेशान करना। बीएनएस यह परिभाषित नहीं करता है कि सामुदायिक सेवा में क्या शामिल होगा और इसे कैसे संचालित किया जाएगा। गृह मामलों की स्थायी समिति (2023) ने 'सामुदायिक सेवा' की परिभाषा और प्रकृति को परिभाषित करने की सिफारिश की है।

इसलिए कहा जा सकता है कि नए आपराधिक कानूनों के लागू होने के बाद, भारतीय न्याय प्रणाली में एक नया अध्याय शुरू होने जा रहा है और ये भारत में न्याय और सुरक्षा को नई ऊँचाइयों तक लेकर जाएंगे।

ये कानून समाज में अपराधों को रोकने और न्यायिक प्रणाली को अधिक प्रभावी बनाने के साथ ही भारतीय समाज में न्याय और सुरक्षा की भावना को मजबूत

करेंगे। क्योंकि अपराधों पर अधिक सटीक और समयबद्ध कार्रवाई से समाज में न्याय की अवधारणा मजबूत होगी। निश्चित ही मोदी सरकार ने इन सुधारों के जरिए भारत की जनता को त्वरित व समयबद्ध न्याय दिलाने का जो संकल्प लिया है, इतिहास लिखने वाली हर कलम उस पर गर्व करेगी।



Modernizing Justice: A Comparative Analysis of India's Old & New Criminal Codes

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Since 2014, we, the people of Bharat, have witnessed unprecedented changes across the entire system of our country. The Modi-led government has implemented several transformative and beneficial reforms, particularly in India's legal framework. Among these significant decisions was the introduction of new criminal laws, designed to modernize and streamline India's legal system: the Bharatiya Nyay Suraksha Sanhita (BNSS), the Bharatiya Nyay Sanhita (BNS), and the Bharatiya Sakshya Sanhita (BSS).

Presidential assent was granted on December 25, 2023, to the new criminal laws that replace the Indian Penal Code, 1860 (IPC), the Criminal Procedure Code, 1973 (Cr.P.C.), and The Indian Evidence Act, 1872 (IEA)—laws that had been in force since the British era. This change was long overdue, as the old IPC was originally designed with the intent to impose stringent punitive measures against Indian freedom fighters.

One of the major shifts in the new legal framework is the increased clarity and comprehensiveness of the laws. These new laws address crucial aspects such as the mode of investigation, territorial jurisdiction for FIR registration, the replacement of the sedition offence, and the introduction of community service as a form of reformatory punishment. The new criminal laws not only embody a sense of 'Bharatiyata,' reflecting the needs of contemporary Bharat, but also bring with them a promise of a more efficient and just legal system.

Notable Changes between BNSS and the Cr.P.C.

The BNSS largely retains the provisions of the Cr.P.C., but it introduces several significant changes aimed at reducing delays and expediting trials. One key provision is Section 232, which mandates that committal proceedings must be concluded within 90 days from the date of taking cognizance, with a possible extension not exceeding 180 days. Additionally, Section 230 requires that the police report be provided to both the victim and the accused within 14 days from the date the accused is produced in court, bringing a new sense of optimism for the future of the legal system.

Historically, criminal trials in India have often been prolonged, leading to a significant backlog of cases, largely due to frequent adjournments. To address this, BNSS under Section 346 stipulates that trials or inquiries must proceed on a day-to-day basis, with no more than two adjournments allowed, instilling a sense of urgency in the legal system.

This reform is expected to significantly expedite the conclusion of criminal trials across the country.

The BNSS further reinforces the principle that "bail is the rule and jail is an exception." It clarifies the scope of bail and makes it more challenging for the police to oppose bail in a broader range of cases. The BNSS also strengthens the rights of the accused by explicitly introducing the right to a lawyer, the right to remain silent, and the right to a fair trial.

Another important aspect of the BNSS is the mandatory preliminary enquiry, previously outlined in police manuals. The BNSS now requires that this enquiry be completed within 14 days from the receipt of information and limits it to cognisable offences punishable by imprisonment of three years or more but less than seven years. Recognising the rapid advancements in technology, the BNSS ensures that modern technological tools are utilised to enhance accountability during investigations, particularly in the processes of search and seizure—marking a significant improvement over the previous law.

Notable Changes between BNS and the IPC

The BNS has largely retained the provisions of the IPC, with a few notable exceptions and additions. One significant change is the exclusion of the provision on adultery, while a new Section 84 has been introduced to address the enticement of a married woman. Additionally, the BNS introduces new offences, such as mob lynching under Section 103(2), which is punishable by death, life imprisonment, or imprisonment for not less than seven years.

The BNS also addresses the offence of "organised crime," defining it as a continuing unlawful activity carried out by a group of individuals involved in various illegal activities such as kidnapping, robbery, extortion, land grabbing, and contract killing. Furthermore, the BNS establishes a new category of "economic offences," which includes crimes such as criminal breach of trust, forgery, counterfeiting of currency, and money laundering.

Notable Changes between the BSA and the IEA

The BSA introduces several general changes to the old Indian Evidence Act. First, it has renumbered the provisions contained in the Indian Evidence Act of 1872. Second, it has restructured the rules concerning electronic evidence. By expanding the scope of secondary evidence, the BSA addresses many issues that arose from the previous emphasis on primary evidence. In some instances, cases failed to reach just conclusions due to the narrow scope of secondary evidence, and the BSA's changes aim to mitigate these problems.

Significant changes have also been made to the definitions section. The terms "conclusive proof," "may presume," and "shall presume," which were previously consolidated under Section 4 of the Indian Evidence Act, have been separated under Section 2 of the BSA. Furthermore, Section 2(2) of the BSA stipulates that terms used in the BSA but not specifically defined shall be interpreted with the same meanings as provided in the Information Technology Act, 2000 (IT Act).

Concluding Remarks

The new criminal laws were enforced on July 1, 2024. While these laws were a necessary update—addressing many gaps in the previous legal system—their effective implementation remains to be seen. One of the significant challenges now is ensuring that police personnel are properly trained and made aware of the new provisions.

It is important to note that the procedures established by the Cr.P.C. were previously followed in some special laws, such as the POCSO Act and the Prevention of Corruption Act. As a result, all special criminal laws will now need to be amended to align with the new criminal laws. Additionally, the judiciary will need to establish new principles related to arrest procedures, summons, trials, bail, and other legal processes in light of these changes, posing another challenge for the judicial system.

The repeal of the colonial-era criminal laws was a crucial and much-needed step. A review of the new provisions clearly shows that they embody the spirit of 'Bharat,' reflecting the cultural and societal values of contemporary India.

Revolutionizing Justice: The Comprehensive Reforms of the BNS 2023

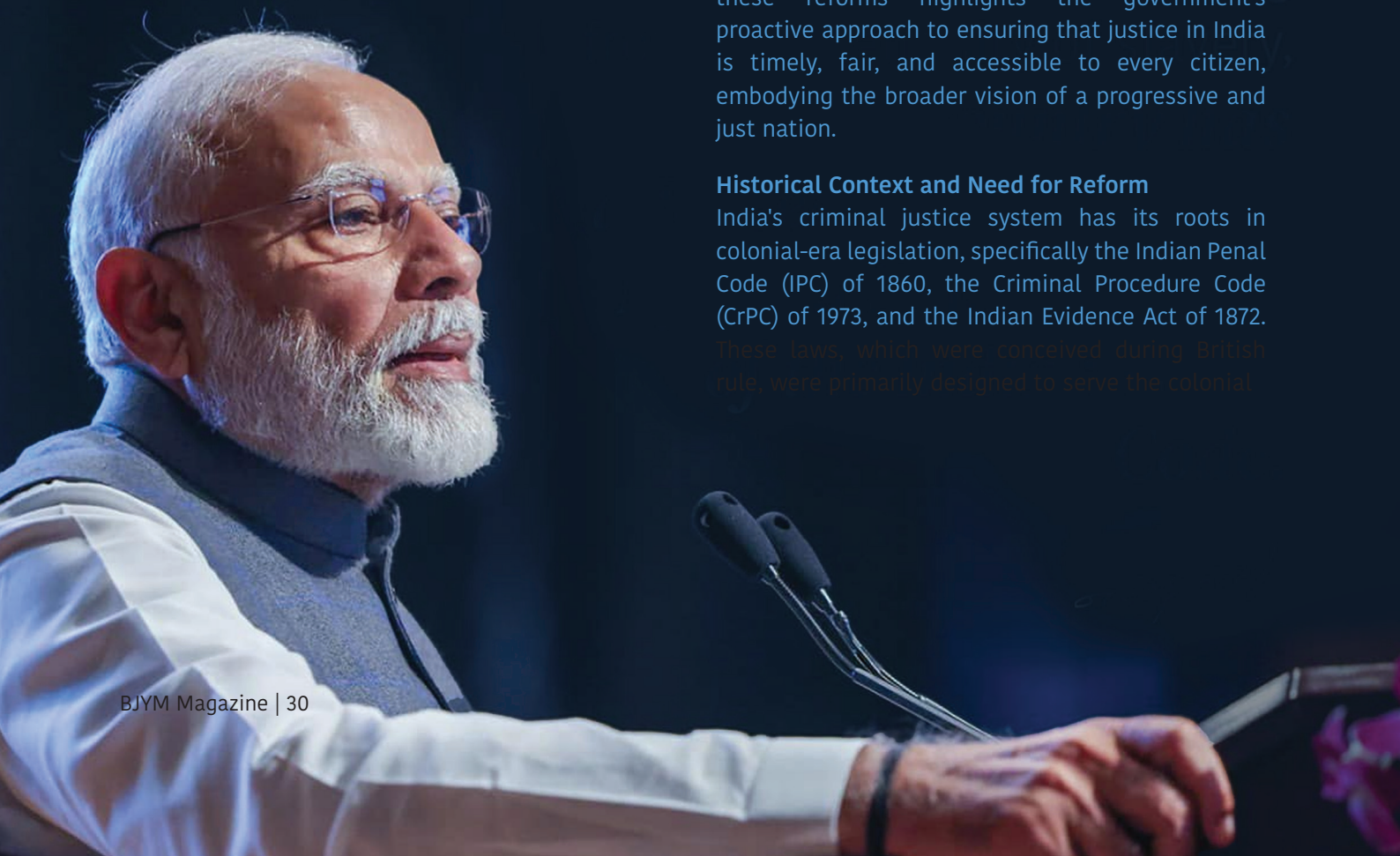
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The Bharatiya Nyaya Sanhita, 2023 (BNS, 2023) marks a significant milestone in India's legal and judicial reforms, underscoring the visionary leadership of the Modi government. This landmark legislation is a testament to the government's unwavering commitment to transforming the country's criminal justice system and aligning it with contemporary needs. The BNS, 2023 is not just a legal reform but a bold and decisive step toward ensuring justice, transparency, and efficiency within the legal framework—a reflection of the Modi government's dedication to creating a more just and equitable society.

By introducing this comprehensive legislation, the Modi government has demonstrated its resolve to address long-standing issues such as delays in judicial processes, outdated legal provisions, and the urgent need for a more accessible justice system. The BNS, 2023, is designed to modernise India's legal framework, incorporating innovative provisions that simplify legal language, integrate technology into judicial processes, ensure speedy trials, impose stringent penalties for contemporary crimes, and adopt a victim-centric approach. Each of these reforms highlights the government's proactive approach to ensuring that justice in India is timely, fair, and accessible to every citizen, embodying the broader vision of a progressive and just nation.

Historical Context and Need for Reform

India's criminal justice system has its roots in colonial-era legislation, specifically the Indian Penal Code (IPC) of 1860, the Criminal Procedure Code (CrPC) of 1973, and the Indian Evidence Act of 1872. These laws, which were conceived during British rule, were primarily designed to serve the colonial



administration's interests, with little regard for the socio-cultural context of India or the emerging complexities of modern society (Das, 2023). The IPC, for instance, was introduced to create a uniform legal code across British India, standardising criminal offences and their corresponding punishments. However, the motivations behind such legislation were primarily to maintain colonial order and control rather than to provide a just and equitable legal system for the Indian population.

Over the decades, these laws have increasingly been seen as inadequate in addressing the evolving challenges of a rapidly changing society. The IPC, while foundational, has been criticised for its failure to account for the nuanced realities of contemporary criminal activities. For instance, crimes such as cybercrimes, financial frauds, terrorism, and offences related to digital technologies have emerged as significant threats, yet these were unanticipated by 19th-century legislators. As a result, the existing legal framework has struggled to keep pace with the sophisticated nature of these crimes, leading to a growing consensus on the need for substantial reform.

The Criminal Procedure Code (CrPC) of 1973, although more recent, also reflects certain outdated practices that hinder the efficiency of the judicial process. The procedures outlined in the CrPC were built on assumptions of a less populated, less complex society, leading to prolonged trial processes and significant backlogs in courts. For example, the system of summoning witnesses, recording evidence, and the sequential nature of trials have all contributed to delays, affecting the delivery of justice. The Indian Evidence Act of 1872 similarly operates on principles that were suited to a different era, particularly in its rigid rules regarding the admissibility of evidence, which do not adequately accommodate digital and forensic evidence critical to contemporary criminal investigations.

Various committees and legal experts have long recognized these shortcomings. Over the years, there have been numerous calls for reform from within the judiciary, the legal community, and civil society. Reports such as the Malimath Committee

Report (2003) have advocated for overhauling the criminal justice system to better reflect the socio-economic realities of modern India. These recommendations have emphasized the need for laws that are not only updated in terms of content but also in their application, ensuring that justice is accessible, timely, and reflective of the current societal context.

The need for reform in India's criminal justice system has therefore been a persistent theme, driven by the recognition that laws crafted during the colonial era are no longer sufficient to meet the demands of a 21st-century democracy. The Bharatiya Nyaya Sanhita, 2023, emerges against this backdrop, aiming to address these long-standing issues by introducing a legal framework that is both modern and attuned to the complexities of contemporary Indian society. Key Provisions of the Bharatiya Nyaya Samhita, 2023

1. Simplification of Legal Language

One of the most significant reforms introduced by the BNS, 2023 is the simplification of legal language. The Indian legal system, rooted in colonial-era laws, has traditionally been characterized by complex and archaic language that often makes the law inaccessible to the common citizen. Legal jargon, Latin terms, and convoluted sentence structures have historically created barriers to understanding, leading to a perception that the law is the domain of the elite and the educated, rather than a tool for justice accessible to all.

The BNS, 2023 aims to dismantle these barriers by replacing complex legal jargon with more straightforward and plain language. The act mandates that legal texts, including statutes, legal notices, and judicial pronouncements, be written in language that is clear, concise, and understandable to the general public. This shift towards plain language is intended to empower citizens by making the law more transparent and accessible, thereby promoting a greater understanding of legal rights and responsibilities.

This move toward simplification aligns with global trends in legal reform, where many jurisdictions

have recognized the importance of plain language in enhancing public engagement with the law. In countries like the United Kingdom, Australia, and Canada, plain language movements have led to significant reforms in legal drafting, resulting in laws that are easier to read and apply. The BNS, 2023, by adopting similar principles, reflects a progressive approach that prioritizes the needs of the people over the preservation of legal tradition. Moreover, the simplification of legal language is expected to have far-reaching implications for legal education and practice in India. By making the law more accessible, the BNS, 2023 encourages a broader segment of the population to engage with legal processes, whether as litigants, jurors, or informed citizens. This democratization of legal knowledge could lead to a more informed and empowered populace, capable of holding institutions accountable and advocating for their rights more effectively.

2. Introduction of Technology in Legal Processes

Another groundbreaking provision of the BNS, 2023 is the emphasis on the integration of technology within the judicial process. In an era defined by rapid technological advancement, the Indian judiciary has often been criticized for its slow adoption of digital tools, which has contributed to inefficiencies and delays in the administration of justice. The BNS, 2023 seeks to address these issues by embedding technology into the core of the legal system, thereby enhancing efficiency, transparency, and accessibility.

One of the most significant technological reforms introduced by the BNS in 2023 is the provision for virtual hearings. The COVID-19 pandemic highlighted the potential of virtual courtrooms, where cases could be heard remotely using video conferencing tools. While initially adopted as a temporary measure, virtual hearings have proven to be a viable alternative to traditional in-person proceedings, offering numerous benefits, including reduced costs, time savings, and greater accessibility for parties who may face logistical challenges in attending court.

The BNS, 2023 institutionalizes virtual hearings as a

permanent feature of the judicial system, allowing for greater flexibility in how justice is delivered. This reform is particularly beneficial in cases involving parties from different geographical locations, reducing the need for travel and minimizing delays associated with scheduling conflicts. Furthermore, virtual hearings are expected to alleviate the burden on physical court infrastructure, which has often been strained due to the high volume of cases.

In addition to virtual hearings, the BNS, 2023 emphasizes the electronic submission of documents and the use of digital evidence. Traditionally, Indian courts have relied heavily on physical documents, leading to inefficiencies in document handling, storage, and retrieval. The act mandates the adoption of electronic filing systems, enabling litigants to submit documents online, thereby streamlining the process and reducing the chances of errors or document loss.

The use of digital evidence is another critical aspect of this technological integration. As crimes become increasingly sophisticated, particularly in the realm of cybercrime, the ability to present and analyze digital evidence becomes crucial. The BNS, 2023 sets clear guidelines for the admissibility of digital evidence, ensuring that it is treated with the same rigor as traditional forms of evidence. This reform is expected to enhance the judiciary's ability to handle complex cases involving digital technologies, thereby strengthening the overall efficacy of the legal system.

3. Speedy Disposal of Cases

The issue of judicial delays has long plagued the Indian legal system, with cases often dragging on for years, if not decades. This has not only eroded public trust in the judiciary but also led to significant human and financial costs for litigants. Recognizing the need for timely justice, the BNS, 2023 introduces measures aimed at expediting the disposal of cases, thereby reducing the backlog in courts and ensuring that justice is delivered in a timely manner.

One of the key provisions of the BNS, 2023 is the mandate for time-bound trials in certain categories

of cases. The act specifies that cases involving heinous crimes, such as rape and murder, as well as cases related to corruption and economic offences, must be concluded within a stipulated timeframe. This provision is intended to ensure that justice is not delayed, particularly in cases where the stakes are high, and the impact on victims and society is significant.

The BNS, 2023 also introduces procedural reforms aimed at reducing delays. For instance, the act streamlines the process of summoning witnesses and recording evidence, allowing for more efficient case management. Additionally, the act empowers judges to impose penalties on parties who engage in tactics aimed at delaying proceedings, thereby discouraging frivolous litigation and ensuring that cases are resolved on their merits.

The emphasis on speedy trials is expected to have a transformative effect on the Indian legal system. By reducing the time taken to resolve cases, the BNS, 2023 not only improves the efficiency of the judiciary but also enhances public confidence in the legal process. This is particularly important in a country like India, where the judiciary plays a crucial role in upholding the rule of law and protecting the rights of citizens.

4. Stringent Punishments for New-Age Crimes

In response to the evolving nature of crime in the 21st century, the BNS, 2023 introduces stringent penalties for offences that have emerged as significant threats to society. These include cybercrimes, economic fraud, and acts of terrorism, all of which have the potential to cause widespread harm and undermine national security.

Cybercrime, in particular, has become a major concern in recent years, with criminals using digital technologies to perpetrate offences ranging from identity theft to hacking and online fraud. The BNS, 2023 recognizes the need for a robust legal framework to combat these crimes and introduces severe penalties for those found guilty of cyber offences. This includes provisions for longer sentences, higher fines, and the confiscation of assets obtained through illegal activities.

Economic fraud, another area of concern, is addressed through stricter penalties for offences such as money laundering, embezzlement, and financial scams. The act aims to deter individuals and organizations from engaging in fraudulent activities by imposing harsher punishments, including extended prison sentences and significant financial penalties. This is intended to protect the integrity of the financial system and ensure that those who exploit it for personal gain are held accountable.

Terrorism, a persistent threat to national security, is also a focus of the BNS, 2023. The act introduces tougher penalties for acts of terrorism, including life imprisonment and, in certain cases, the death penalty. These measures are designed to send a strong message that terrorism will not be tolerated and that those who seek to destabilize the country through violent means will face the full force of the law.

The introduction of stringent penalties for new-age crimes reflects the BNS, 2023's commitment to addressing contemporary challenges and ensuring that the legal system is equipped to deal with the complexities of modern criminal activities. By imposing harsher punishments, the act aims to deter potential offenders and protect society from the threats posed by cybercrime, economic fraud, and terrorism.

5. Victim-Centric Approach

A notable aspect of the BNS, 2023 is its emphasis on the rights and protection of victims. Traditionally, the Indian legal system has been criticized for being overly focused on the rights of the accused, often at the expense of the victims. The BNS, 2023 seeks to rectify this imbalance by adopting a victim-centric approach that prioritizes the needs and rights of victims throughout the legal process.

One of the key provisions of the BNS, 2023 in this regard is the introduction of comprehensive victim compensation schemes. These schemes are designed to provide financial assistance to victims of crime, helping them to recover from the physical, emotional, and financial impact of the offence. The act also mandates that compensation be paid

promptly, ensuring that victims receive the support they need without undue delay.

In addition to financial compensation, the BNS, 2023 introduces measures to protect the safety and well-being of victims, particularly in cases involving organized crime, terrorism, and other serious offences. The act recognizes the importance of protecting witnesses to ensure that they can testify without fear of retribution. The act introduces measures such as identity protection, relocation assistance, and, in extreme cases, anonymity for witnesses who are at risk. These provisions are designed to safeguard the integrity of the judicial process by ensuring that witnesses can provide testimony free from external pressures.

Another important aspect of the victim-centric approach in the BNS, 2023 is the mechanism for victim participation in the legal process. Traditionally, victims in India have had a limited role in criminal proceedings, often relegated to the sidelines while the state prosecutes the accused. The BNS, 2023 seeks to change this by giving victims a more active role in the judicial process. This includes the right to be informed about the progress of their case, the right to be heard at various stages of the trial, and the right to appeal against decisions that adversely affect their interests.

The act also introduces provisions for psychological support and counselling for victims, recognizing the emotional and psychological toll that crimes can have on individuals. Victim support services, including counselling and trauma care, are mandated to help victims cope with the aftermath of crime and facilitate their recovery. This holistic approach to victim care reflects a broader understanding of justice, one that goes beyond mere legal redress to include emotional and psychological healing.

The victim-centric provisions of the BNS, 2023 are expected to bring about a paradigm shift in the Indian criminal justice system. By placing the rights and needs of victims at the forefront, the act aims to create a more balanced and humane legal framework that recognizes the impact of crime on

individuals and society. This approach not only enhances the fairness of the legal process but also contributes to the overall goal of delivering justice in a manner that is both compassionate and effective.

Conclusion

The Bharatiya Nyaya Sanhita, 2023 represents a significant step forward in the evolution of India's criminal justice system. By addressing long-standing issues such as the complexity of legal language, the need for technological integration, the importance of speedy trials, the necessity for stringent penalties for modern crimes, and the prioritization of victims' rights, the act lays the foundation for a more modern, efficient, and just legal system.

The simplification of legal language under the BNS, 2023 is expected to democratize access to the law, making it more understandable and accessible to the average citizen. The integration of technology, through provisions such as virtual hearings and the use of digital evidence, is likely to enhance the efficiency and transparency of the judicial process. The emphasis on speedy trials addresses a critical challenge in the Indian judiciary, aiming to reduce delays and ensure timely justice.

Furthermore, the introduction of stringent penalties for new-age crimes demonstrates the BNS, 2023's commitment to addressing contemporary challenges, particularly in the realms of cybercrime, economic fraud, and terrorism. Lastly, the victim-centric approach of the BNS, 2023 ensures that the rights and needs of victims are given due consideration, reflecting a more compassionate and balanced approach to justice.

Finally, the BNS, 2023, is not merely a reform of legal statutes but a comprehensive overhaul of the criminal justice system designed to meet the needs of a modern and evolving society. It is a landmark action of the Modi government that promises to strengthen the rule of law in India, ensuring that justice is not only done but seen to be done in a manner that is fair, timely, and accessible to all.

India has replaced its colonial-era criminal laws with three new legislations in a landmark reform step. It is a big transformative revamp in the Indian legal landscape by introducing these updated codes. The Indian Penal Code (IPC) has been replaced by the Bhartiya Nyaya Sanhita (BNS), which briefly defines crimes and their corresponding punishments, providing a clear framework for criminal liability. Meanwhile, the Code of Criminal Procedure has been replaced by the Bhartiya Nagarik Suraksha Sanhita, which elaborates on the procedural aspects of criminal justice, including arrest, investigation, bail, and trial. Furthermore, the Evidence Act has been replaced with the Bhartiya Sakshya Bill, focusing on the admissibility of evidence and burden of proof.

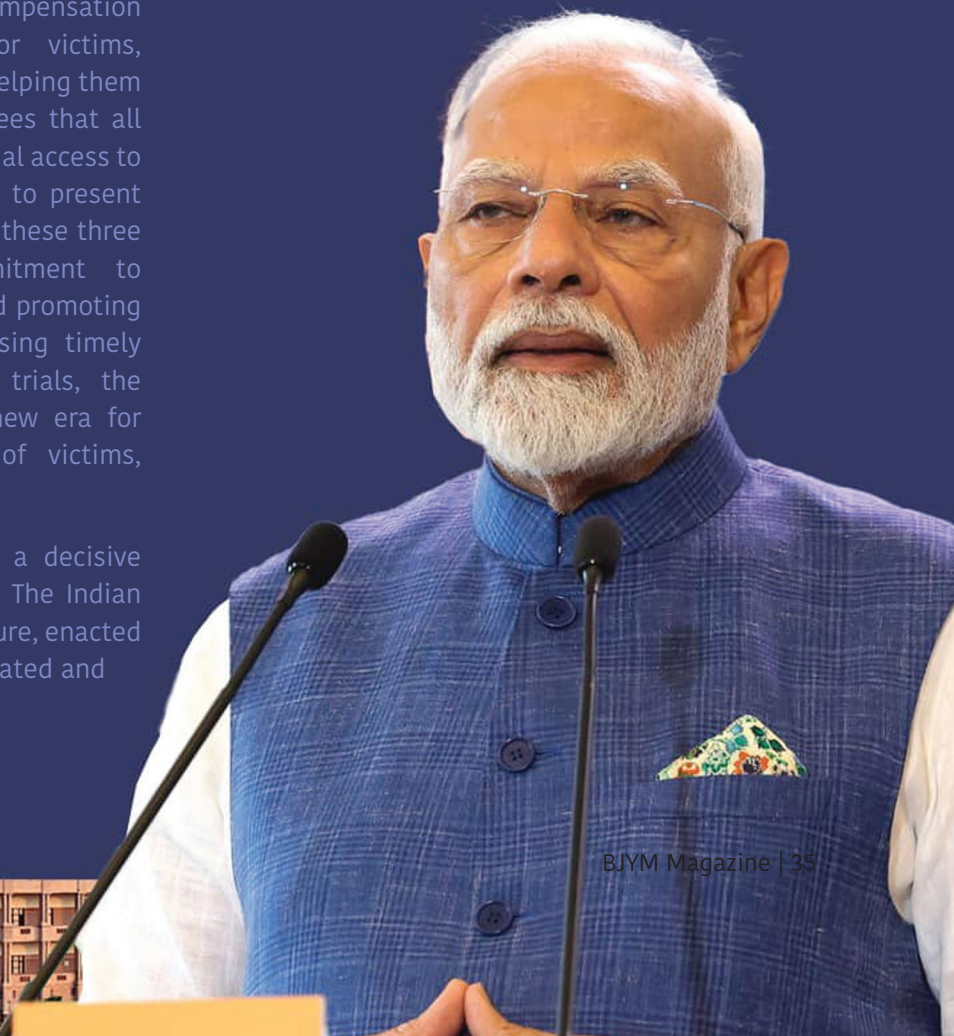
The Bhartiya Nyaya Sanhita streamlines procedures, introducing new provisions to address contemporary crimes and emphasising timely justice. It marks a major shift towards a more modern and effective justice system. In my opinion, the effectiveness of criminal laws can be determined by their ability to deliver timely justice, fair compensation, and a fair trial. Timely justice ensures that cases are resolved swiftly, without undue delay, allowing victims and their families to find closure and move forward. Fair compensation provides adequate compensation for victims, acknowledging the harm suffered and helping them rebuild their lives. A fair trial guarantees that all parties receive an impartial hearing, equal access to legal representation and opportunities to present their case. When criminal laws excel in these three areas, they demonstrate a commitment to upholding justice, protecting rights, and promoting trust in the legal system. By prioritising timely justice, fair compensation, and fair trials, the Bhartiya Nyaya Sanhita brings in a new era for justice in India, where the needs of victims, defendants, and society are focused.

This revolutionary change also marks a decisive break from the country's colonial past. The Indian Penal Code and Code of Criminal Procedure, enacted during the British era, had become outdated and

Bhartiya Nyaya Sanhita – A New Era for Justice in India

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inadequate for the country's growing needs. The mention of the British crown, exploitation of Indian resources, and prevention of revolts were stark reminders of colonial slavery. The new code rectifies these issues, removing 22 sections and modifying 175 others to create a stronger framework.

The Bhartiya Nyaya Sanhita boasts several key features that significantly improve it over its predecessors. Firstly, the BNS has a streamlined structure, reducing the number of sections from 576 to 356, making it more accessible and efficient for legal practitioners and citizens alike. Additionally, the code introduces new provisions to address contemporary concerns such as terrorism, gang rape, organised crime, and exploitation of children, ensuring justice for victims of modern crimes. The BNS also emphasises time-bound justice, mandating that investigations and charge sheets be completed within 180 days, focusing on serving equitable justice within three years. Furthermore, community service has been introduced as a punishment for petty crimes, shifting the focus from punishment to rehabilitation. Finally, technological integration has been enhanced, allowing for online registrations, electronic summons, and mandatory videography of crime scenes, thereby increasing transparency and efficiency in the justice delivery process.

The Indian Penal Code has been criticised for its gender-biased provisions, which often perpetuated stereotypes and discrimination against women. In contrast, the Bhartiya Nyaya Sanhita has been drafted to focus on gender neutrality, aiming to eliminate gender-based discrimination and ensure equal treatment under the law. By adopting gender-neutral language and provisions, the BNS seeks to create a more equitable and just legal framework for all individuals, regardless of gender or background. This progressive step forward is expected to have a significant impact on promoting gender equality and challenging harmful gender stereotypes in India. The Bhartiya Nyaya Sanhita has taken a significant step forward in addressing threats to national security and sovereignty by recognising terrorism, separatism, and armed rebellion against the government as distinct and severe offences. Unlike the Indian Penal Code,

which did not explicitly define these acts, the BNS provides clear and separate provisions to deal with such crimes. This move acknowledges the unique challenges these acts pose, which aim to destabilise the country and undermine its democratic fabric. By recognizing these offences separately, the BNS enables the legal system to respond more effectively and proportionately to such threats, ensuring that those who seek to harm the nation are held accountable for their actions. This development is crucial to strengthening India's national security and upholding the rule of law.

The Bhartiya Nyaya Sanhita originates from the Indian culture that prioritises rehabilitation and restorative justice over punishment. The Indian Penal Code (IPC) and the Bhartiya Nyaya Sanhita have distinct approaches to criminal justice. While the IPC focuses primarily on punishment, the BNS takes a more holistic approach, emphasising justice and rehabilitation. Unlike the IPC, which often led to lengthy prison sentences and harsh penalties, the BNS seeks to balance punishment with rehabilitation and restorative justice. By addressing the root causes of criminal behaviour and prioritising offender accountability, victim support, and community safety, the BNS aims to deliver justice that is not only punitive but also transformative and healing. This shift in focus from punishment to justice marks a significant evolution in India's criminal justice system.

In conclusion, the Bhartiya Nyaya Sanhita marks a significant milestone in India's journey towards a more modern, efficient, and just criminal justice system. The BNS paves the way for a more transparent, accountable, and victim-centric approach to justice by streamlining procedures, introducing new provisions to address contemporary crimes, and emphasising technological integration. As India moves forward, the BNS will play a crucial role in shaping the country's justice landscape, ensuring that justice is served in a timely, effective, and fair manner. With its focus on rehabilitation, forensic capabilities, and stricter timelines, the BNS is poised to bring about a transformative change in India's justice system, contributing to a safer society for all.



The Legal Revolution: From Colonial Chains to Bharat- Centric Justice

Bharat Sharma

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Bharat's legal landscape has been marked by continuity and change, with the Indian Penal Code (IPC) of 1860 standing as a monument to British colonial rule for over a century and a half. While the IPC provided the basic framework for criminal justice, it was fundamentally a product of its time—designed to serve the needs of a colonial power, not the aspirations of a free and sovereign India. As our nation strides confidently into the 21st century, the introduction of new criminal laws marks a significant and much needed turning point in our journey towards a just and equitable society. These new laws are not just an update—they are a bold reimagining of our legal system, designed to meet the challenges of a modern, democratic, and diverse Bharat.

The IPC was conceived in an era when India was under the yoke of British rule. Its primary purpose was maintaining order and control over a vast and diverse population, often at the expense of individual rights and societal justice. While it served as a foundational legal text, the IPC also carried with it the biases and priorities of a colonial administration. For too long, we have clung to a legal framework that, while serviceable, was never truly ours. The new criminal laws, by contrast, are the product of an independent India, crafted to reflect our unique cultural values, social realities, and aspirations for the future.

A Modern, Victim-Centric Approach

One of the most transformative aspects of the new criminal laws is their shift towards a victim-centric approach. Under the IPC, the focus was often on punishing the offender, with less consideration given to the rights and needs of the victim. This approach, while functional, often left victims feeling sidelined and neglected by the very system meant to protect them. The new laws, however, place the victim at the centre of the justice process. They prioritise restitution, rehabilitation, and the protection of victims' rights—ensuring that justice is not just done but seen to be done.

This shift is not merely procedural; it represents a fundamental rethinking of what justice means in modern society. In recognising the dignity and humanity of victims, the new laws affirm that justice is about more than punishment—it is about restoring balance, healing wounds, and ensuring that the rights of all citizens are respected.

Addressing Contemporary Challenges

The world has changed dramatically since the IPC was drafted, and so too have our challenges. The rise of terrorism, cybercrime, and digital evidence has transformed the landscape of criminal justice, necessitating a legal framework that can effectively address these new realities. The new criminal laws

are tailored to meet these challenges head-on. They introduce stringent measures against terrorism, recognising the need to protect our nation and its citizens from those who seek harm.

Moreover, the new laws are robust in their approach to cybercrime, an area where the IPC was often found wanting. In a world where much of our lives are lived online, effectively prosecuting crimes in the digital sphere is essential. By providing clear guidelines for collecting, preserving, and using digital evidence, the new laws ensure that the complexities of modern technology do not undermine justice.

Empowering Law Enforcement and the Judiciary

The new criminal laws also empower law enforcement and the judiciary to act decisively and fairly in the pursuit of justice. By modernising the legal framework, these laws provide law enforcement agencies with the tools they need to investigate and prosecute crimes effectively without being hampered by outdated statutes or procedural inefficiencies.

Furthermore, the laws enhance the judiciary's ability to deliver timely, fair justice in line with contemporary societal values. In a country as diverse as India, where legal cases often languish in the courts for years, these reforms ensure that justice is not delayed and thereby denied.

A Commitment to Justice for All

One of the most significant advantages of the new criminal laws is their commitment to ensuring justice for all citizens, particularly those historically marginalised or vulnerable. The laws include provisions that specifically address issues such as gender-based violence and caste discrimination—issues that have long plagued Indian society and undermined the principles of equality and fairness.

By making these issues central to the new legal framework, the government has sent a powerful message: that discrimination, violence, and injustice have no place in modern India. The new

laws clearly state that Bharat is committed to protecting the rights of all its citizens, regardless of their background, gender, or social status.

A Forward-Looking Legal Framework

The new criminal laws are not just about addressing the issues of today—they are designed to be forward-looking, capable of adapting to the challenges of tomorrow. Our legal system must be dynamic and responsive in a rapidly changing world, where new forms of crime and new technologies are constantly emerging. The new laws provide the flexibility needed to ensure that our legal system remains relevant and effective in the future.

Moreover, the emphasis on restorative justice—a concept deeply embedded in Indian legal traditions—ensures that the laws are punitive and rehabilitative. This approach aligns with global human rights standards and reflects the best of our legal heritage.

A New Dawn for Justice in Bharat

The introduction of these new criminal laws represents a watershed moment in the history of Bharat's legal system. They mark a departure from a colonial past and signal the beginning of a new era—one where the law is truly by the people, for the people, and of the people. These laws reflect not just where we are today but also where we want to go as a nation.

By embracing these new laws, Bharat is taking a bold step towards creating a society where justice is accessible to all, where the rights of victims are respected, and where the rule of law is upheld with integrity and fairness. This is the vision of Bharat that we must strive to achieve—a nation where justice is not only a legal principle but a lived reality for every citizen.

The new criminal laws are not just a legislative achievement—they are a promise to the people of Bharat that justice will be served and that our nation will continue to move forward with confidence, strength, and a renewed commitment to the principles of fairness and equity.



From Colonial Chains to Democratic Safeguards: The Evolution of Sedition from IPC to BNS

Vignesh Ramanathan
and Uday Jakhar

The numbers 124 to 152 are not merely a sequence of twenty-eight figures; they symbolise the evolution of national enlightenment, marking the transition from colonial domination to a democratic safeguard of self-governance. The section, initially drafted by Lord Macaulay and later codified by James Fitzjames Stephen, found its relevance during the Raj era as a tool to curb 'exciting disaffection' amid rising Wahhabi activities. Over 150 years later, legislative progress has transformed this colonial vestige, expanding its scope to protect and project individual rights rather than suppress them. This transformation of the colonial vestige is a testament to the adaptability and progressiveness of our legal system, instilling optimism about the future of Indian law.

Our state, now liberated from the criticism of suppressing individual rights, stands ready and capable to address radical elements often abetted by 'adversarial foreign powers.' Challenges to public order are now distinct from state criticism, and only those that pose a real threat to public safety will be sanctioned under the law as a reasonable restriction under Article 19(1)(a). This reform facilitates quicker responses to secessionist movements and reduces

the state's reliance on more severe laws like UAPA and NSA, which are designed to combat graver forms of terrorism. This allows for more appropriate legal measures against individuals who may not be violent but could provoke unrest, easing the burden on specialised laws and ensuring that genuine offenders face justice while safeguarding the rights of those guilty of lesser offences. This creates a balanced state, a feature absent during the British Raj but proudly upheld in modern Bharat.

The repeal of sedition laws has often led to the erosion of state power, with numerous examples from Ghana to Malaysia and Kenya. The solution, then, lies in a balanced approach where state security and individual liberty are intertwined, recognising that the continuity of the state is the ultimate guarantor of individual freedom. This balance ensures that the proposed changes will not compromise the security of the state or the rights of the individual, providing reassurance to all stakeholders.

In this respect, a counter-challenge has also been raised against the new provision for being excessive, overbroad, and vague. The argument is

derived from a Supreme Court ruling in *Shreya Singhal v. UoI*, where the Court found Section 66A of the IT Act, 2000, unconstitutional due to its vague and ambiguous terms, which authorities could misuse. Similarly, the term "subversive activities" in the current provision is imprecise, with definitions varying between dictionaries as undermining or damaging an established system. This broad scope can encompass legitimate protests and dissent, making the provision overly inclusive and prone to misuse. Similarly, another criticism stems from the *Kedar Nath Singh v. State*, where the Court defined "Government established by law" and not merely "governmental administration" as the subject of sedition. Illustratively, in *State v. Nalini*, concerning the conviction under TADA arising from the assassination of Rajiv Gandhi, it was held that the offence did not constitute terrorism, as he was not the sitting Prime Minister and did not target the government directly. In contrast, §152 of the BNS Act broadens the subject to an offence against 'India,' which may potentially include criticism of the government and public figures, thereby raising concerns about the vagueness and latent misuse of the law.

While the above-discussed critique may raise doubts over the new provision, it must be realised that considering the threats of separatist activity and Naxalite movements, there is a need for a legal firewall to secure national integration. To this end, it is submitted that the provision itself is 'well-tempered.' As theorised by Martin Krygier, well-tempered constitutionalism ideates that tempering power suggests a considerate combination of 'balance, moderation, and self-awareness.' In that spirit, it is argued that a well-tempered provision balances the clarity of rules with individual costs, using textual standards instead of strict rules when establishing a law. Such a provision enables the judiciary to apply its mind to expand on the standards governing the provision without frustrating the legislative objective. Section 152, we argue, has emulated expansive judicial standards that comply with grounds such as 'sovereignty and integrity of India,' 'the security of the State,' and 'Public Order.' It is settled law that a law in the 'interest of' public order allows a wider

expanse, targeting not only intentional acts of disorderly conduct but also those that carry a 'tendency' to cause public disorder. Borrowing from the decision in *Kedar Nath*, a provision must be read by considering not merely the literal meaning but also the antecedent history. This suggests that judicial treatment of the phrases 'subversive activities' and 'endangerment of unity and integrity' is likely to fall in line with the interpretation rendered to Sedition vis-à-vis 'disaffection,' i.e., one that imports the idea of a tendency to public disorder using actual violence or incitement to violence. Thus, S. 152 of BNS would then be well-equipped to deal with any written or spoken words or actions that implicitly aim to subvert the Government by violent means.

In addition, Section 217 of BNSS retains the power of the central or state government to limit the prosecution of offences under Part VII of BNS (which includes S. 152) by requiring prior sanction. This adds a procedural safeguard to ensure that no cognisance is taken of an offence under the said provision arising from a complaint by a busybody.

Ambiguity often benefits the state, making it rare for governments to voluntarily limit their power. Yet, the transition from IPC Section 124A to BNS Section 152 marks a shift from the ambiguous provisions rooted in colonial morality to a system that has relinquished this overreach in favour of clear and precise grounds and limitations. The revised replacement of 'sedition' now targets actions supporting armed rebellion or inciting violence against the government, focusing on direct connections to violence rather than mere dissent. This narrowing of the definition allows individual liberties to flourish while ensuring sufficient legal measures against those who engage in disorderly undertakings under the veil of revolutionary activism and electronic-media coverage, akin to the 2021 'Delhi Red-Fort violence. For the above-detailed reasons, it can be concluded that, far from the fears of misuse, section 152 has been designed to emulate a well-tempered penal provision.



Reincarnation of Indian Criminal Laws: A New Era for Justice & Order

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India has been desperately waiting for a comprehensive reform of its criminal justice system. Several reforms have been brought in in the seven decades since her independence. Unfortunately, they always served as a patchwork, without much significance with regard to what constituted the core of criminal laws in India. By passing the three criminal laws, namely, the Bharatiya Nyaya Sanhita (earlier IPC), The Bharatiya Nagrik Suraksha Sanhita (earlier Cr.PC) & The Bharatiya Sakshya Adhinyam (earlier IEA), Modi government has attempted to do what none of its predecessors did; organise and amend the criminal justice system in a manner which is in consonance with Indian ethos & values.

These new criminal laws mark a significant shift in India's legal framework. Approximately twenty per cent of the provisions are new, while eighty per cent remain the same. The placement of offences in the BNS has been organized in a manner of relative importance to the citizens and not the police. Specific provisions like community services as an alternative to probation that served absolutely no value, removal of sedition, identifying & categorizing mob lynching as a separate offence, expanding the definition of theft to include data theft, etc., have received applause from across the spectrum of society. The Chief Justice of India had contended that “the newly introduced laws signify a transformative shift in India’s legal framework concerning the criminal justice system.”

While most of the changes introduced are commendable, certain changes have been subject to criticism. Some quarters of society have alleged that the presence of such provisions nudges India towards a Police State. The foremost provision that is being criticized is the one concerning the procedure for arresting and remand. Under the previous system, the police couldn't get custody of the accused beyond 15 days, and the accused was sent to judicial custody. The new provision allows for staggered custody, wherein the police could get custody for up to 15 days, and some say even beyond, in the initial

40 to 60 days of arrest. The Hon'ble Home Minister has clarified on the floor of the house that police custody won't go beyond 15 days, and such fears of critics are unfounded. Critics fail to realize that the parliament has already, under Sec 450 of BNSS, provided that such staggered custody shall not have any negative impact on getting bail, reassuring the society of the fairness of the new laws.

Secondly, another point of criticism is the inclusion of provisions of UAPA, i.e. Unlawful Activities Prevention Act, 1967, MCOCA, i.e. Maharashtra Control of Organised Crime Act, 1999 & PMLA, i.e. Prevention of Money Laundering Act, 2002 is a step in the wrong direction. Here again, UAPA provisions have been brought in as a replacement for sedition by succession. MCOCA was already in force with respect to the Indian Penal Code in Delhi. Further, MCOCA, PMLA, and UAPA have stringent provisions for getting bail. However the same hasn't been replicated here in the BNS & BNSS, indicating that if an individual is arrested under such provisions of the new criminal Acts, the likelihood of getting bail is much higher.

Another point of contention has been the introduction of Section 69 of BNS, which talks about sexual intercourse through deceitful means. The leading criticism against this provision is that the wording is such that not only would it be misused, but it would also prevent interfaith & inter-caste marriages from happening. It must be noted that the inclusion of the said provision is in consonance with numerous judicial pronouncements given by the High Court & Supreme Court. If there is any scope for misuse, the same can be rectified in future by either the Parliament or the Judiciary.

The provisions with respect to FIR & complaint cases in BNSS are areas to watch out for. With respect to registering an FIR, a provision for conducting a preliminary inquiry by the police has been introduced before concluding whether a cognisable offence is made out. This inquiry must be completed within fifteen days. Now, this specific provision overpowers the police along with the rich & powerful and weakens the position of the vulnerable & poor sections of society. It also directly

goes against the judgement of the Supreme Court in the Lalita Kumari case, wherein the apex court had categorically mentioned that such a preliminary inquiry can be done only in exceptional cases and not all cases. Court had contended that with respect to offences made against the human body, it is prima facie evident that cognisable offence is made out & need for a preliminary inquiry would serve no purpose except to delay the investigation. Similarly, in cases of Complaint Case Procedure (wherein the complainant directly approaches the magistrate to register the case instead of the police), the new BNSS obliges the judicial magistrate to issue notice to the accused first before moving ahead with the complaint. This will again create a backlog and result in a delay in the trial as hearing the accused even before taking cognisance of offence defeats the whole purpose of having such a provision.

Further, the inclusion of time-bound procedures and the kind of evidence and forensics envisaged as primary evidence under BSA would require infrastructural support and administrative backing from both the executive and judiciary. Time and again, we've seen that neither is able to do that, so the ordinary citizen ultimately suffers. Lastly, one of the least talked about the yet more difficult challenges that the government faces is with respect to the training of judicial & police officers. Moreover, training the entire police constabulary across the width & breadth of the country, that too in their regional languages, will be a gargantuan task that may take many years to complete. Thus, it would be apt for the government to be open to criticism and suggestions and heed suggested changes.

It is well known that laws are always evolving, necessitating constant review and reexamination. The new criminal laws have been brought in accordance with the changing dynamic realities of the complex Indian social system. Thus, they would serve as a solid foundation for our criminal justice system, thereby securing us a just, fast, safe, and secure social reality that can ultimately lead towards a prosperous social order.

From Outdated Codes to Modern Solutions: The Legal Overhaul of BNS 2023

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The recent Pune hit-and-run case, where a 17-year-old driving a Porsche killed two people, has shaken the nation. This tragic incident highlighted the inadequacies in our legal system, particularly the lenient punishments for severe offences like hit-and-run. Under the old Indian Penal Code (IPC), which was enacted in 1860, many laws were outdated and insufficient to address modern-day crimes effectively. The need for a comprehensive legal reform was evident. With the introduction of the Bharatiya Nyaya Sanhita (BNS) 2023, the punishment for hit-and-run offences has been increased from 2 to 5 years, marking a significant step towards ensuring justice for victims and accountability of offenders.

But this is just one example of the many much-needed reforms introduced by the BNS 2023. This comprehensive overhaul of our legal system promises to bring about positive changes in various aspects of criminal justice, ensuring that justice is swifter, more transparent, and fair. Here are some

of the key reforms brought by the BNS 2023, comparing them with the old IPC, highlighting the issues they address, and giving examples of past cases where the lack of these laws was apparent:

Updated Terminology and Jurisdiction

Under the old IPC, using terms like “minor” was not always clear and could lead to confusion. Additionally, the old laws didn't effectively cover crimes committed by Indians abroad or by foreigners in India, which created gaps in legal coverage. For instance, in the 2008 case of the Aarushi Talwar and Hemraj double murder, the confusion over legal terms and jurisdictional issues complicated the investigation and subsequent legal proceedings.

The BNS 2023 replaces outdated terms like “minor” with “child” and extends the law's reach to criminal acts committed outside India. This modernisation of legal language and expansion of

jurisdiction ensures the law is relevant and effective in today's interconnected world, addressing the complexities of international crime more effectively.

Harsher Penalties for Hit-and-Run Cases

Under the old IPC, the punishment for hit-and-run offences was often limited to a maximum of 2 years. This lenient punishment failed to deter reckless driving, leading to repeated offences and injustice for victims. In the infamous BMW hit-and-run case of 1999, Sanjeev Nanda was initially given a lighter sentence, which sparked public outrage and highlighted the need for stricter penalties.

With the BNS 2023, the punishment for hit-and-run offences has been increased to 5 years. This stronger penalty aims to deter reckless driving and ensure justice for victims, providing a more severe consequence for a serious offence.

Emphasis on Rehabilitation for Minor Offenses

The old IPC emphasised punishment over rehabilitation, even for minor offences. Harsh penalties for minor crimes often led to re-offending and did not aid in the rehabilitation of offenders. For example, many petty theft cases resulted in imprisonment without addressing the underlying causes of the behaviour.

The BNS 2023 introduces community service as a punishment for minor offences like petty theft. This shift towards rehabilitation over retribution helps offenders reintegrate into society as responsible citizens, reducing the likelihood of re-offending and contributing positively to the community.

Addressing New Types of Crimes: Mob Lynching and Medical Negligence

The old IPC did not specifically address mob lynching as a distinct crime, which led to inadequate legal responses to mob violence. The 2015 Dadri mob lynching case, where a man was killed based on rumours of beef consumption, exposed the gaps in the legal framework to deal with such crimes.

The BNS 2023 classifies mob lynching as a serious crime punishable by death. This new law specifically targets mob violence, ensuring that those participating in such acts face severe consequences.

Similarly, the old IPC lacked clear provisions for holding medical professionals accountable for negligence, making it difficult for victims to get justice. The 1998 Anuradha Saha case, where a doctor's negligence led to her death, highlighted the challenges victims faced in proving medical negligence and seeking compensation.

The BNS 2023 introduces specific laws to address medical negligence, ensuring that healthcare providers are held accountable for their actions and that patients receive the justice they deserve. If a doctor or hospital makes a serious mistake, the victims can seek justice more easily.

Victim-Centric Reforms

Under the old IPC, victims often faced delays and a lack of communication from law enforcement. The Zero FIR policy now allows victims to file FIRs at any police station, which will then be transferred to the appropriate jurisdiction within 24 hours, speeding up the process and reducing frustration. For example, in the Soumya Vishwanathan case, jurisdictional delays hampered the initial stages of the investigation.

Additionally, forensic evidence is now mandatory in prosecutions, strengthening cases and leading to more accurate verdicts. Victims will also receive regular updates on the progress of investigations within 90 days, ensuring they are not left in the dark. This means victims can file complaints anywhere and will be kept informed about the progress of their cases.

Faster Legal Processes

The old IPC had no strict timelines for filing FIRs and completing investigations, often leading to lengthy delays and denying justice. The Jessica Lal murder case, which took years to reach a verdict, is an example of how delays can affect the justice process.

The BNS 2023 implements strict timelines for these processes, ensuring prompt action. Trials can proceed without the accused if they do not appear within 90 days, preventing stalling tactics. For minor crimes, summary trials will provide quicker resolutions, reducing the burden on courts. Judgments must be delivered within 45 days of hearings, speeding up the process and providing timely relief. This ensures that justice is served quickly, reducing the time victims and accused spend in uncertainty.

Embracing Technology

The old IPC did not recognise digital and electronic records as primary evidence, which hampered the prosecution of cybercrimes. In cases like the 2004 Indian Airlines plane crash due to hijacking, the absence of proper digital evidence hampered the investigation.

The BNS 2023 recognises these records as primary evidence, ensuring effective prosecution of digital crimes. Video recording during searches is mandatory, enhancing transparency and preventing evidence tampering. Forensic lab visits are also required for crime scenes to improve evidence collection and reliability. This means digital proof like emails and videos are now strong evidence, making it easier to catch and convict cybercriminals.

Promoting Gender Equality

The old IPC used gender-specific terms for offences like assault and voyeurism, which often excluded certain victims and led to unequal justice. In many domestic violence cases, the gender-specific language made it difficult for male and non-binary victims to seek justice.

The BNS 2023 adopts gender-neutral terms for these offences, promoting equality and ensuring justice for all, regardless of gender. This change ensures

that everyone receives equal protection under the law.

A Unified Legal System

The new laws introduce a uniform criminal court hierarchy nationwide, ensuring consistency and fairness. The expanded scope of fugitive offences and increased use of technology aim to create a more efficient and reliable justice system. This uniformity ensures that legal procedures are the same everywhere in India, making the system fairer and more predictable.

Conclusion

The Bharatiya Nyaya Sanhita (BNS) 2023 represents a significant shift towards a fairer, more inclusive, and efficient justice system. By modernising outdated laws, introducing new offences, enhancing punishments, and prioritising victim rights and police accountability, the BNS 2023 aims to deliver justice swiftly and fairly.

These changes promise to transform how justice is administered in India. Whether you're a legal professional, a victim seeking justice, or a citizen looking to understand your rights, the BNS 2023 offers a robust and forward-thinking approach to criminal law. Let's embrace these new laws and work towards a safer, fairer, and more just society.



Empowering Victims: Transforming India's Legal Approach to Sexual Crimes



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With the introduction of three major laws—the Bhartiya Nyaya Sanhita (BNS), the Bhartiya Nagrik Suraksha Sanhita (BNSS), and the Bhartiya Sakshya Adhinyam (BSA)—replacing the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Indian Evidence Act, respectively, India's legal framework is undergoing a profound transformation. The new criminal laws thus, therefore, represent a paradigm shift in the perception and definition of crimes in the national framework, more so in the context of sexual offences. There is an attempt here to sustain or enforce the essential ideals of justice that have been the cornerstone of Indian law for so long but to reinvent the legal norms in tune with the emerging societal scheme.

Historical Context and Need for Change

For more than a century, IPC formed the bedrock of criminal law in India through which criminal acts, including sexual offences, were prosecuted. With changing times and a more sophisticated world, both on account of shifting social mores and technological advances, some provisions under IPC started falling short of addressing the full scale of sexual crimes. While of considerable historical importance, definitions under the IPC have usually proved inadequate to combat new forms of offenses, such as cyber harassment and digital abuse. In a manner of speaking, the introduction of BNS comes as an admission of these shortcomings and tries to bridge the gap between an archaic legal framework and the rapid changes in the world. These reforms pragmatically contribute to legal evolution, strengthening the law against traditional

and contemporary offences and making justice accessible and relevant.

Expanded Definitions and Offenses

The BNS also creates a much more expansive and exhaustive definition of sexual offences, dealing not just with traditional offences but with others birthed by the digital age. These are the new offences that include deceitfully establishing sexual relations under a promise of marriage, now punishable by up to 10 years of imprisonment. This would be a fact representing awareness of nuanced ways through which one can be exploited in modern society. For the first time, the BNS has distinguished offences like mob lynching, especially those based on caste, religion, or community identity, recognising the disturbing trend of how people have taken the law into their own hands.

Furthermore, section 377 of the IPC has been wholly omitted under the BNS. This omission may, however, create problems in cases relating to non-consensual same-sex activities. To alleviate such a situation, although the Supreme Court had decriminalised consensual homosexual relations, the deletion of the entire Section 377 still leaves a legal vacuum with respect to non-consensual acts, especially in relation to transgender individuals and men. To this end, the broader scope of the BNS is to provide an updated legal framework combatting both traditional and new forms of sexual offences but bringing to the fore the challenges of effectively putting provisions into practice for a society in which technological advances reshaped the landscape of crime.

Stricter Penalties and Enforcement

The BNS provides for increased sentences in crimes such as rape, gang rape, and those involving minors as an attempt to strengthen the legal response to sexual crimes. The increased penalties will now be a stern deterrent, considering these serious crimes are dealt with under the law. More importantly, the new procedures, including that of the medical specialist submitting his reports on rape incidents within seven days, indicate a move towards prompt justice on the part of BNSS.

However, due consideration has to be given to the stricter punishments that the BNS prescribes and the effect such considerations could have on the adjudication process. While deterrence forms a critical objective, a fair and efficient mechanism of legal processes should not be drowned in principles. Fast track seems like a nice word, but it requires constant balancing between these principles. This dual approach of sterner penalties joined with easier procedures, gives assurances to the deterrence of crime and, at the same time, reinforces faith in the system of justice that ensures that justice is not only swift but also just.

Victim Protection and Support

The new criminal laws indeed capture a change in a victim-centric approach, incorporating provisions for the safety, confidentiality, and support of the victims through the process of the law. For example, BSA has now made provisions to record oral evidence with audio-visual means only in regard to women for their safety and anonymity. Moreover, only female officers are allowed to take down such evidence under the guidance of female officials, who ensure protective measures for the victim.

Though this strand of concern towards women alone is appreciable, the possible implication also arises that there are no such provisions for male or transgender victims of sexual offences. The government has reiterated that further amendments in the law may accommodate this, but as of now, the bulk of the framework is done to protect female victims. The efficacy of these provisions lies significantly in their implementation and how much resources back them up. This focus

on the protection of victims is significant. Still, equally, it reflects a continuous challenge to treat all victims—irrespective of their gender—with the support and justice they deserve.

Comparative Analysis with IPC

The leap from IPC to BNS marks a turn in the legal dealing of sexual offences in India. Where the IPC had grounded the criminal law of the country, its approach towards sexual offences has increasingly been considered by many as outdated and insufficient against modern challenges. Thus, the BNS aims to enlarge the legal definitions and introduce provisions more attuned to contemporary human rights standards. This seeks to modernise the system of law in an all-inclusive and comprehensive way.

However, the true test of BNS will be in its implementation. Only its effectiveness can answer how far this law can bridge the gaps between legal reforms and real application. On the one hand, the comparison underlines the progress made; on the other, it highlights the challenges that remain in bringing India's legal system up to the demands of a rapidly changing society.

Challenges and Political Implications

Implementing the BNS will not be easy. Proper training for law enforcers and adequate awareness among the public is essential for a smooth and strict implementation of the new laws. Besides, the political implications are enormous, for the changes signify a more progressive and responsive attitude toward sexual offences.

The success of these reforms will largely depend on the political will to address the practicalities of enforcement and foster an environment that genuinely supports victims. By bringing out the success of the BNS, it shall impact the political view by placing pressure on continued commitment to the cause of fighting sexual violence and maintaining legal standards. However, it underlines the ongoing tension between such progressive legal reform and the realities of its execution within a heterogeneous and complex society.

In a significant and transformative move, the Modi government has introduced a new set of criminal laws: the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA). These laws are set to replace the long-standing Indian Penal Code (IPC), the Criminal Procedure Code of 1862, and the Indian Evidence Act, marking a pivotal shift in India's legal framework. Passed in Parliament in December 2023, these new legislations took effect from July 1, 2024. Such a sweeping overhaul of laws that have stood for over 150 years is bound to spark significant debate, and while there will be both support and opposition, the real challenge lies in their implementation. In this piece, I will explore why I believe these revamped laws are necessary at this juncture while also highlighting potential challenges and pitfalls.

A Paradigm Shift: A New Chapter in India's Criminal Justice System

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Rather than delving deeply into historical details, it is important to understand the original purpose of the laws introduced by our colonial rulers. After the Revolt of 1857 and the British Crown's takeover from the East India Company, there was a need to justify British governance over such a vast country. The IPC, CrPC, and Indian Evidence Act were introduced as a unified code of law, replacing religious and scriptural laws primarily to serve colonial interests. Though these laws have undergone numerous amendments both before and after independence, the foundational structure demanded strategic changes—a point emphasised by Home Minister Amit Shah in Parliament, where he noted that these new laws had been crafted by Indians for Indians, signalling a departure from the colonial mindset toward the demands of contemporary India, focusing on “Nyay” (Justice) rather than “Dand” (Punishment).

Legal experts largely agree on the necessity of moving away from colonial-era laws to those reflecting the needs of an independent India where circumstances and societal dynamics have evolved. There is a stronger emphasis on punishing those who exploit women for nefarious purposes under Section 69. The rising incidents of rapes and crimes against young girls and boys are addressed in Sections 93-99. Additionally, the laws now recognise and address hate crimes, lynchings, and crimes against marginalised castes under Section 103(2). The role of technology in our lives is acknowledged, particularly in the collection of evidence under Section 57. However, it is disappointing that issues such as marital rape and crimes against the LGBTQ community have not been addressed.

As previously mentioned, there is often a natural resistance to change, especially when it involves replacing legal frameworks integral to resolving landmark cases. This resistance is a mix of legitimate concerns and political opposition. I will focus on the former, discussing the legal and administrative challenges ahead. A major concern is equipping our police force to meet the demands of the new laws. This will require extensive theoretical and practical training involving advanced technology—a daunting task given the current lack of infrastructure within the police force. The

existing trust deficit between the public and the police could further widen if these reforms are not implemented effectively. Moreover, our legal system is already burdened with a vast number of pending cases, and these new laws could exacerbate the situation unless accompanied by legal reforms, such as increasing the number of judges. For example, Section 349 of the BNSS, which allows magistrates to record voice and fingerprint samples (in addition to handwriting/signature samples) from individuals not under arrest, raises concerns about these laws' proper and fair implementation.

There are also political challenges, with opposition from various states citing inadequate communication and using Hindi terms, which some argue violate the Official Languages Act. Several states and individuals have already filed cases in court. The central government and the states must collaborate closely, hold comprehensive discussions, and address any loopholes or points of contention to ensure the successful implementation of these laws.

While our Constitution has seen 106 amendments to reflect the evolving nature of our society, it is surprising that our criminal laws have remained unchanged so far. Therefore, any forward-thinking individual should welcome these new laws. It is also hoped that we will not have to wait another 77 years for the following criminal law reforms. We must be open to change rather than resist it as a nation. As highlighted above, certain aspects warrant thorough discussion to dispel any lingering doubts, and these must be addressed before we can fully endorse these new laws as robust and effective.

From Colonial to Contemporary: Global Standards, Local Justice

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India has taken a monumental step by enacting three new criminal laws—Bharatiya Nyaya Sanhita, 2023 (“BNS”), Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”), and Bharatiya Sakshya Adhinyam, 2023 (“BSA”)—replacing the colonial-era Indian Penal Code, 1860 (“IPC”), Code of Criminal Procedure, 1973 (“CrPC”), and the Indian Evidence Act 1872 (“IEA”), respectively. These changes mark a shift from punitive to justice-centric approaches and align with modern global legal standards. This article attempts to compare the overhauled regime with the penal codes of other countries and whether or not this new regime aligns with global legal standards and human rights norms.

I. A Comparative Overview: India’s New Laws vs. Other Democracies

a. Bharatiya Nyaya Sanhita, 2023 vs. Penal Codes of the United States and United Kingdom:

BNS, which replaces the IPC, introduces stringent measures against terrorism, mob lynching, and crimes against women and children. As mentioned above, the changes brought therein reflect a more victim-centric approach, which is a significant shift from the IPC’s more punitive focus.

When compared with the United States (“U.S.”) and the United Kingdom (“U.K.”), India’s approach aligns closely with the trend of prioritising victim rights and national security. For example, the U.S. has the Patriot Act of 2001, which significantly strengthens measures against terrorism, and the U.K. has the Terrorism Act of 2000, which also enhances national security provisions. India’s new laws similarly enhance penalties for terrorism and ensure quick and effective prosecution, reflecting a global trend towards heightened security measures.

However, the Indian law’s emphasis on justice over punishment is somewhat more nuanced than the U.S. system, which still heavily focuses on punitive measures. In the U.K., recent reforms have shown a shift towards restorative

justice, a concept echoed in India’s new law through provisions that seek to rehabilitate offenders while protecting victims’ rights.

b. Bharatiya Nagarik Suraksha Sanhita, 2023 vs. Criminal Procedures in Canada and Australia:

BNSS, focuses on reducing delays in the judicial process, enhancing technological integration, and ensuring fair trials. The judiciary has always and even presently made efforts to reduce the delays in criminal trials and has consistently argued for technology integration towards that goal. The current Chief Justice of India has been very vocal and an active proponent of technological integration and a speedy justice delivery system. This approach, along with the new criminal procedural laws, aligns closely with the criminal procedure reforms seen in countries like Canada and Australia.

In Canada, the Criminal Code (RSC 1985, c C-46) and the Canadian Charter of Rights and Freedoms place a strong emphasis on the right to a fair and timely trial, with mechanisms to prevent unreasonable delays. Similarly, Australia’s Criminal Procedure Act, 1986 ensures efficiency in the judicial process, particularly with the use of technology in courts.

India’s law, with its emphasis on digital evidence and quicker trials, positions the country alongside these developed nations in terms of procedural efficiency and modernisation. This alignment indicates that India is not only keeping pace with global standards but potentially setting new benchmarks in judicial efficiency in the region.

c. Bharatiya Sakshya Adhinyam, 2023 vs. Evidence Laws in Germany and Japan:

The Bharatiya Sakshya Adhinyam, 2023, modernises the Indian Evidence Act by incorporating provisions for digital and electronic evidence, recognising the growing importance of technology in the legal process.

Germany's Strafprozessordnung (StPO), published on 7 April 1987, and Japan's Code of Criminal Procedure, 1907, has already integrated provisions for digital evidence, acknowledging its critical role in modern justice systems. India's inclusion of similar provisions ensures that its legal framework is up-to-date with these leading democracies. Moreover, the Indian law's focus on transparency and fairness in the admission of evidence mirrors the procedural safeguards found in Germany and Japan, where the integrity of evidence is paramount.

II. Alignment with Global Legal Standards and Human Rights Norms

India's new criminal laws also reflect a commitment to aligning with global legal standards and human rights norms. The BNS, with its victim-centric approach, resonates with the Universal Declaration of Human Rights ("UDHR"), particularly in its emphasis on dignity and justice. Article 8 of the UDHR guarantees the right to an effective remedy, which India's new laws aim to fulfil by ensuring that justice is not only served but also seen to be served.

The inclusion of digital evidence in BSA aligns with global trends toward the recognition of electronic communication as a legitimate form of evidence. This is critical in a world where digital interactions are commonplace. The law also ensures that these provisions align with the Budapest Convention on Cybercrime, to which India is an observer, showing its intent to align with international standards in digital governance and cybersecurity.

Moreover, the focus on reducing delays and ensuring timely trials in the BNSS speaks to the principles outlined in the International Covenant on Civil and Political Rights ("ICCPR"), to which India is a signatory. Article 14 of the ICCPR emphasises the right to be tried without undue delay, a principle the new Indian laws aim to uphold.

III. The Benefits of India's New Laws

A change of regime by the largest democracy, these new laws signify a robust step towards modernising

India's legal framework, shedding colonial legacies, and embracing a legal system more attuned to the needs of a contemporary, digital India. The government's decision to implement these reforms demonstrates a commitment to creating a legal environment that prioritises justice, efficiency, and the protection of individual rights.

The emphasis on national security, particularly through stringent anti-terrorism measures, ensures India is well-equipped to handle modern threats. The integration of technology in judicial processes positions India as a forward-thinking nation that not only adopts global best practices but also innovates within its legal framework.

Furthermore, the pro-victim stance of the BNS aligns with the global shift towards restorative justice, which many argue is a more humane and effective way of dealing with crime. By focusing on rehabilitation and the rights of victims, India's legal reforms are likely to have a positive long-term impact on society.

Conclusion

India's new criminal laws represent a significant evolution in the country's legal landscape, bringing it closer in line with the legal frameworks of the developed nations. By prioritising justice, modernising procedural laws, and integrating digital evidence, these laws ensure that India's legal system is both effective and just while also aligning with global legal standards and human rights norms. These reforms not only modernise the legal framework but also position India as a leader in legal innovation in the 21st century.



**BHARATIYA JANATA
YUVA MORCHA**