

## India's Criminal Justice Reform: An In-Depth Look at The New Laws

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### Abstract

The recent enactment of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) marks a monumental shift in India's criminal justice system, replacing colonial-era laws with a modern legal framework. These reforms aim to streamline judicial processes, enhance transparency, and prioritize justice for victims. This paper provides a comprehensive analysis of the new laws, focusing on substantive changes in criminal offenses, police investigation procedures, and judicial proceedings. Key innovations include gender-neutral language, mandatory forensic investigations, community service for specific offenses, and extended police custody under defined circumstances. The integration of advanced technology, such as Zero FIR and digital evidence management, aims to make justice more accessible and victim-centric. While these changes offer significant improvements, the paper also highlights potential gaps and challenges, particularly concerning procedural ambiguities and the risk of misuse of police discretion. The reforms represent a promising step forward but require continuous assessment to ensure fair and effective implementation in line with constitutional principles. In this Article the Author tries to analyse the various initiatives taken by the Government in enacting the new criminal legislation which will transform the Criminal law in India.

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## 1. INTRODUCTION

The three newly enacted criminal statutes took outcome on July 1, 2024, introducing substantial reforms to the nation's criminal impartiality framework and bringing an end to colonial-era legal provisions. The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) have superseded the British-era Indian Penal Code (IPC) of 1860, the Code of Criminal Procedure (CrPC) of 1973, and the Indian Evidence Act of 1872, respectively. The Ministry of Law has declared that any mention of the now-superseded IPC, CrPC and Indian Evidence Act in existing statutes, ordinances, or regulations will be construed as referring to the newly established criminal laws. In pursuance of this objective, Department of Legal Affairs has dispensed an official announcement under the General Clauses Act. A government

official has clarified that this notification serves to reaffirm the requirements of the General Clauses Act, which governs the revoke and reimplementation of legislative statutes. The implementation of these laws consumes elicited a spectrum of responses from various stakeholders. Several Public Interest Litigations (PILs) were submitted to the SC in an attempt to obstruct or delay the enforcement of these statutes, which aim to modernize the criminal justice scheme and enhance access to justice for normal citizens. Chief Justice of India DY Chandrachud has consistently championed the acceleration of judicial proceedings across multiple forums and has actively spearheaded technological integration within the judicial framework to expedite justice delivery and bolster public confidence in the judiciary. In response, the SC declined to

entertain any of these PILs. Meanwhile, a torrent of newspaper editorials and social media discourse scrutinized the new criminal laws, with critics alleging that the Central Government hastened their enactment without sufficient deliberation or stakeholder consensus. Some dissenting voices within the criminal justice ecosystem—including retired law enforcement officials, legal professionals, academicians, and select non-governmental organizations—attempted to discredit the government’s initiative on various grounds. However, these efforts ultimately failed to galvanize public opposition to the newly enacted legal framework<sup>1</sup>.

## 2. BACKGROUND

On August 15, 2022, while delivering address to the nation from the historic ramparts of the Red Fort on India’s 76th Independence Day, Prime Minister Narendra Modi articulated the vision of Panch Praan for the next 25 years, known as Amrit Kaal. Expounding on the second Praan, he declared, "Not even in the deepest recesses of our minds or ingrained habits should there remain a trace of subjugation. It must be eradicated at its very root. We must free ourselves from the colonial mindset, which manifests in countless aspects of our surroundings and consciousness<sup>2</sup>. This is our second Praan-Shakti." He further emphasized, "In this era of Azadi-Ka Amrit-Kaal, new laws must be enacted by eliminating those inherited from the colonial past." Pursuant to this directive, all ministries were tasked with identifying obsolete imperial-era provisions and drafting new legislation reflective of the objectives of an increasing India. Over the past decade, the Central Government has rescinded more than 1500 outdated laws as part of this reformative endeavor. The introduction of these three new criminal laws is a direct outcome of this initiative, designed to discourse current social certainties and criminal offenses while bring into line with the fundamental principles protected in the Constitution. Union Home Minister Amit-Shah, who spearheaded the legislative overhaul, underscored that the new laws prioritize justice over the punitive measures embedded in colonial-era statutes. "These laws have been conceived by Indians, for Indians, and enacted by an Indian Parliament, signifying the definitive departure from colonial criminal justice laws<sup>3</sup>," It was further asserted that the "spirit, soul and body" of these legal reforms are clearly Indian. Justice must be holistic, encompassing both victims and the suspect, and that the new legal framework aspires to uphold economic, political and social justice infused with an Indian ethos<sup>4</sup>. Beyond the orotundity of decolonization, there is broad unanimity that these three statutes effectively address modern legal imperatives by redefining criminal offenses, procedural frameworks, and indictment mechanisms—placing justice at the forefront, rather than retributive punishment, as was characteristic of the erstwhile laws. The new provisions aim to

ensure that justice is distributed "up to the level of the SC" within 3 years of an FIR being registered.

## 3. THE FAVORABLE ASPECTS

The newly enacted laws introduce fundamental reforms across four key stages of the criminal justice process

- At the level of substantive crimes and offenses under the BNS.
- At the stage of police investigation procedures.
- At the judicial magistrate’s adjudicatory level.
- At the trial and judicial proceedings stage

The BNS is notably more concise than the IPC, with streamlined provisions reducing the number of sections from 511 to 358. Definitions previously scattered across multiple sections have been consolidated, while 18 redundant provisions have been repealed. Additionally, laws concerning weights and measures have been integrated into the Legal Metrology Act of 2009. Despite these revisions, critics argue that nearly 75% of the IPC remains, preserving a colonial structure. However, the BNS introduces key updates to address modern challenges, criminalizing offenses such as false promises of marriage, mob lynching, and gang rape of minors. "Snatching" is now a distinct crime, carrying a three-year sentence<sup>5</sup>. The law also mandates state governments to implement witness protection schemes and expands the legal definition of gender to include transgender individuals<sup>6</sup>. Furthermore, organized crime and terrorism, previously covered under separate laws, are now explicitly incorporated within the BNS framework<sup>7</sup>. The BNS has streamlined and combined formerly dispersed requirements concerning crimes in contradiction of women and children into a single chapter<sup>8</sup>. Additionally, new provisions have been introduced to reinforce women's rights and legal protections. This provision marks a significant departure from the IPC, where no equivalent offense existed. Reflecting the SC’s landmark ruling in the Joseph Shine case<sup>9</sup>, which decriminalized adultery, the BNS has removed adultery from the criminal statute, aligning with contemporary judicial reasoning. Furthermore, the BNS has introduced gender-neutral language in several legal provisions, ensuring that both perpetrators and victims are not restricted to a specific gender. For example, Section 77 of the BNS (previously Section 354C of the IPC), which addresses voyeurism, now employs the term “whoever” instead of “any man,” allowing for the prosecution of offenders regardless of gender. Similarly, Section 76 of the BNS (formerly Section 354B of the IPC), which criminalizes assault with intent to disrobe a woman, has been amended to remove gender-specific language, ensuring that female perpetrators can also be held accountable. Additionally, the BNS has introduced stricter penalties for numerous offenses

<sup>1</sup> Harit, H.K., *EVOLUTION OF CRIMINAL LAW: A COMPARATIVE ANALYSIS OF HISTORICAL AND MODERN APPROACHES*.

<sup>2</sup> *New India: Shedding the Vestiges of Colonial Past*, Ministry of Information and Broadcasting, Press Information Bureau, Government of India dated 1.12.2022.

<sup>3</sup> Union Home Minister and Minister of Cooperation, Shri Amit Shah introduces the Bhartiya Nyaya Sanhita Bill 2023, the Bharatiya Nagarik Suraksha Sanhita Bill, 2023 and the Bharatiya Sakshya Bill, 2023 in the Lok Sabha, Press Information Bureau, 11.12.2023.

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<sup>4</sup> *Transforming Criminal Justice International Implications Adv. (Dr.) Swapnil Bangali, Special Edition on New Criminal Laws The Indian Police Journal, Volume 71, Number 1&2, January-June, 2024.*

<sup>5</sup> Section 304 of BNS

<sup>6</sup> Section 398 of BNS and Section 2(10) of the BNS

<sup>7</sup> Section 111 and Section 113 of BNS

<sup>8</sup> Chapter V, Section 63-85 of BNS.

<sup>9</sup> *Joseph Shine v. Union of India* (2019) 3 SCC 39, AIR 2018 SC 4898

aimed at protecting women. However, one of the most conspicuous omissions from the new legal framework is the absence of any provision addressing marital rape, a subject of ongoing legal and societal debate.

The BNS continues to uphold the exception for marital rape within the definition of rape, as previously codified in the IPC. This retention persists despite multiple judicial pronouncements recognizing marital rape as valid grounds for divorce. The matter remains sub judice before the SC<sup>10</sup>. Additionally, Section 67 of the BNS mandates that a victim of sexual assault perpetrated by a separated husband must personally report the offense, excluding the possibility of third-party complaints by family members or friends. Furthermore, the BNS controversially classifies this grave offense as bailable, raising concerns about the adequacy of legal protections for victims. Union of India ruling, read down this provision, effectively decriminalizing consensual sexual relations among adults, including those of the same sex<sup>11</sup>. However, the judgment preserved Section 377 for cases involving non-consensual acts and bestiality. With the complete exclusion of Section 377 from the BNS, and the continued absence of gender neutrality in rape laws, a significant legal void remains. Male victims of sexual assault, transgender individuals, and cases involving bestiality now lack explicit statutory protections, highlighting a critical gap in the newly formulated legal framework<sup>12</sup>.

For the first time, Section 103 of the BNS explicitly recognizes murder committed based on community, caste, or race as a separate criminal violation. This development aligns with the SC's 2018 directive, which urged the Central Government to consider enacting a separate law on lynching. Given the concerning rise in such crimes in recent years, this provision is expected to serve as a deterrent. The explicit inclusion of mob lynching as an offense underscores a strong legislative commitment to combating hate crimes<sup>13</sup>. The BNS also introduces significant reforms to enhance the accessibility and efficiency of police investigations. Measures such as Zero FIR, online police complaint registration, electronic summons, and mandatory videography of crime scenes-along with forensic team visits for all heinous offenses-are designed to make the criminal justice process more victim-centric and transparent<sup>14</sup>. The shift towards electronic crime reporting eliminates the necessity for victims to physically visit a police station to lodge a complaint, thereby expediting police action. Though, the petitioner is required to visit the police station within 3 days to provide a physical signature on the complaint. A particularly notable reform is the introduction of Zero FIR, which allows a FIR to be registered at any police station, irrespective of territorial prerogative<sup>15</sup>. This ensures the immediate documentation of offenses, preventing procedural delays that could hinder justice. Furthermore, authorizing citizens to account crimes through text messages or electronic means is a significant step towards fostering a legal system where victims can seek justice without fear of stigma or intimidation.

The concept of Zero FIR is not explicitly codified in any of the newly enacted laws. However, the Bureau of Police Research and Development (BPRD) has sought to institutionalize the practice through a Standard Operating Procedure (SOP). According to this framework, when a crime is testified at a police station outside the jurisdiction where the offense actually occurred, a Zero FIR is to be registered-denoted by prefixing a 'Zero' before the FIR number-and subsequently transferred to the appropriate police station with jurisdiction over the case. Despite this procedural guidance, the SOP requires further refinement to clarify the exact mechanism for transferring a Zero FIR<sup>16</sup>. Key procedural uncertainties remain unaddressed:

- Will the Zero FIR be transmitted electronically, by post, through a special messenger, or via another official channel?
- Has a dedicated digital platform or mobile application been developed to facilitate the nationwide transmission of Zero FIRs?
- In instances where the recipient police station determines that the crime did not occur within its jurisdiction, what course of action should be followed? Will the station register another Zero FIR, or will it return the original FIR?

These operational ambiguities necessitate further elaboration within the official guidelines to ensure uniform implementation. Additionally, in cases involving offenses beside the human body, a mandatory medical inspection at a government hospital remains a critical procedural requirement. A significant procedural discretion has been introduced under Section 173(3) of the BNSS. It grants police officers the authority to decide whether to register an FIR in a cognisable offense punishable with a minimum of three years but less than seven years of imprisonment. Unlike the mandatory requirement for immediate registration in more serious cases, the provision states that the officer in charge of a police station "may" (rather than "shall") initiate an investigation or conduct a preliminary inquiry, subject to approval from a Deputy Superintendent of Police. Alternatively, the officer may choose not to proceed at all. The law mandates that this preliminary inquiry must be concluded within fifteen days. The SC first permitted the concept of preliminary inquiry in the Lalita Kumari case<sup>17</sup>. However, individuals familiar with police operations express concerns that this provision could be exploited by dishonest investigating officers to demand bribes or illicit favours from both the petitioner and the suspect. A particular concern arises in cases of cruelty to married women, which remains disciplinary by a maximum of three years' imprisonment. Under the new framework, a married woman lodging a complaint of cruelty might be forced to wait until the investigating officer decides whether to proceed with the case, creating potential delays in justice<sup>18</sup>.

<sup>10</sup> *Hrishikesh Sahoo v State of Karnataka*, SLP(Cr.) 4063-4064 of 2022

<sup>11</sup> *Navtej Singh Johar vs Union Of India*, AIR 2018 SUPREME COURT 4321

<sup>12</sup> *Srivastava, A., 2022. Critical analysis of gender neutrality in criminal law and judicial approach.*

<sup>13</sup> *Section 103(2) of BNS*

<sup>14</sup> *section 173 of BNSS instead of section 154 of CrPC.*

<sup>15</sup> *Garg, A., 2023. The New Criminal Laws: Just a Break from the Colonial Past or a Vision for a Citizen-Friendly Future?. Jus Corpus LJ, 4, p.379.*

<sup>16</sup> *Mukherjee, B., 2024. INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH.*

<sup>17</sup> *Lalita Kumari v Government of Uttar Pradesh* (2013) 14 SCR 713.

<sup>18</sup> *Sanghmitra vs State* (2024)

There are two primary areas of concern regarding this provision:

**Discretionary Power:** The existence of discretion at the police level creates room for potential abuse, making it imperative to eliminate ambiguity in the decision-making process.

**Undefined Procedure:** The law does not specify the exact procedure for conducting a preliminary inquiry.

It remains unclear whether this inquiry will be a brief fact-finding exercise to establish the likelihood of a cognisable offense or whether it will follow the precedent of the Central Bureau of Investigation, which conducts detailed preliminary inquiries before registering a case. As of now, neither the BPRD nor any state government has issued an SOP to guide field-level police officers on implementing this provision effectively. This lack of procedural clarity necessitates immediate attention to prevent inconsistencies and ensure uniform enforcement of the law<sup>19</sup>. Section 46 of the BNSS explicitly grants law enforcement officers the authority to handcuff accused individuals during arrest or court invention in cases involving heinous offenses such as sexual crimes against children, human trafficking, acid attacks and rape. This provision marks a significant departure from previous legal constraints, which had restricted the use of handcuffs, allowing certain offenders to exploit these protections and escape from police custody. By reinstating the use of handcuffs for serious crimes, this amendment is viewed as a necessary and pragmatic reform in ensuring public safety and preventing absconding<sup>20</sup>. Additionally, an arrested individual now possesses the explicit right to inform a person of their choice about their detention, ensuring access to immediate legal and emotional support. Furthermore, arrest details will be publicly displayed at both police stations and district headquarters, fostering greater transparency and accountability. The complainant will also receive regular updates on case proceedings, ensuring they remain informed throughout the investigative process.

### 3.1 *Enhanced Protections for Vulnerable Witnesses and Victims*

The BNSS introduces progressive safeguards for vulnerable groups, ensuring that women, minors (male children under 15 years), senior citizens (above 60 years), and individuals with illnesses are no longer required to physically appear at police stations to remove or provide declarations in specific legal accounts (proviso to Section 195(1) BNSS). A crucial amendment in rape investigations now permits the recording of a victim's statement through audio-video means, including mobile phones (proviso to Section 176(1) BNSS). This ensures a more victim-sensitive approach, reducing the potential for trauma associated with repeated in-person testimonies. Additionally, statements in rape cases must be recorded exclusively by female

police officers, with the mandatory existence of a guardian or relative. Furthermore, health reports for sexual offenses must be accomplished within seven days, reinforcing the commitment to expedited justice for survivors of sexual violence.

### 3.2 *Contentious Expansion of Police Custody Duration*

One of the most controversial provisions under the BNSS pertains to the extension of police custody from 15 days to a maximum of 60 or 90 days (Section 187, BNSS). Under the repealed CrPC, Section 167(2)(a) had explicitly prevented prolonged police custody by stipulating that, beyond 15 days, the accused must be placed in judicial custody rather than remaining in police detention. However, Section 187(3) of the BNSS removes the phrase "otherwise than in police custody", which had previously restricted extended police detention<sup>21</sup>. This fundamental change raises concerns about potential misuse, as it opens the door for prolonged police custody-even exceeding the durations permitted under stringent anti-terror laws like the UAPA, Prevention of Terrorism Act (POTA), and the Terrorist and Disruptive Activities (Prevention) Act (TADA). Critics argue that such provisions, if not accompanied by robust safeguards, could undermine individual liberties and lead to arbitrary detentions. The amendment necessitates close judicial oversight to ensure it is not misused for coercion, custodial violence, or harassment of detainees. While the BNSS aims to modernize and strengthen the criminal justice system, certain provisions-particularly the expansion of police custody powers-warrant careful scrutiny and legal safeguards to strike a balance between law enforcement efficiency and the protection of fundamental rights.

### 3.3 *Enhanced Forensic Framework*

The new legal framework mandates forensic investigation for all offences carrying a punishment of seven years or more. The MHA aims to elevate the conviction rate to 90% by integrating forensic experts into crime scene examinations, evidence collection, analysis, and court presentations. Section 176(3) of the BNSS specifically requires compulsory forensic examination of heinous crime scenes, reinforcing a scientific approach to criminal investigations. In an adversarial judicial system, judges depend on the parties to present evidence. Accurately collected, preserved, and analyzed forensic evidence from the crime scene can play a crucial role in both establishing guilt and exonerating the innocent. However, this new mandate places an immense burden on the existing forensic infrastructure, particularly concerning trained personnel and technological resources. At present, India has only seven Central Forensic Science Laboratories (FSLs), 29 State FSLs, and over 50 Regional FSLs, raising concerns about the system's capacity to meet the growing demands<sup>22</sup>. Demonstrating its commitment, the MHA had already piloted mobile forensic vans in Delhi before the

<sup>19</sup> Akhil Kumar, K.S., 2023. *The Bhartiya Nyaya (Second) Sanhita 2023: An Integrated Perspective-A Comprehensive Study and Analysis*. Jus Corpus LJ, 4, p.350.

<sup>20</sup> Bajpai, A., Gupta, A. and Indusekhar, A., 2024. *Revisiting Criminal Law Bills: An In-Depth Critical Analysis of Bharatiya Nyaya Sanhita Bill and Bharatiya Nagarik Suraksha Bill*. Statute Law Review, 45(3), p.hmae043.

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<sup>21</sup> Pooja, C.T., *POWERS OF POLICE: A CONTEXT OF INDIA ACCORDING TO BHARATIYA NAGARIK SURAKSHA SANHITA*. Indian Journal of Integrated Research in Law Volume IV Issue VI| ISSN, 2583, p.0538.

<sup>22</sup> Badiye, A., Sulke, P., Bhandarkar, M. and Kapoor, N., 2023. *Forensic Science Laboratories in India*. In *Textbook of Forensic Science* (pp. 67-98). Singapore: Springer Nature Singapore.

enactment of the new laws, yielding promising results. Further strengthening forensic capabilities, the Modi 3.0 administration recently approved the National Forensic Infrastructure Enhancement Scheme (NFIES), allocating ₹2,254.43 crores over the next five years<sup>23</sup>. This initiative aims to expand forensic human resources by establishing dedicated forensic science universities, addressing the shortage of trained professionals, clearing backlogs, and aligning with the MHA's goal of achieving a conviction rate exceeding 90%. Additionally, mandatory videography and photography of crime scenes have been introduced. However, crime scene photography is significantly different from casual mobile photography, necessitating immediate action from both the Centre and State Governments. Ensuring investigators have high-resolution mobile cameras and specialized training in forensic photography will be essential for the effective implementation of these reforms.

The National Informatics Centre (NIC) has established applications for storing digital evidence, including recordings, photographs, and related data. However, a comprehensive SOP covering the collection, search and seizure, storage, chain of custody, authentication, transmission, analysis, and presentation of digital evidence is yet to be established. The Indian judiciary is burdened by severe case pendency. According to data from the National Judicial Data Grid, as of early 2024, over five crore cases are awaiting trial in various courts, with case backlogs doubling over the last two decades. Alarming, 169,000 cases have been pending for over 30 years in district and high courts. A 2018 strategy paper by NITI Aayog estimated that, at the current rate of disposal, it would take 324 years to clear the backlog<sup>24</sup>. The economic impact of judicial delays is substantial, with case pendency costing India between 1.5% and 2% of its GDP annually<sup>25</sup>. India's global standing in legal efficiency remains a concern. Unfortunately, even after decades, India has yet to reach half of this recommended benchmark, significantly hampering judicial access and efficiency. Despite these challenges, the Government of India has initiated major legal reforms, seeking to reimagine substantive laws while integrating advanced technology into court processes. The emphasis on modernizing legal frameworks and leveraging digital tools reflects a concerted effort to enhance the efficiency, transparency, and accessibility of India's judicial system. Section 183(6)(a) of the BNSS introduces a significant procedural safeguard in cases of sexual assault, mandating that statements be recorded by a female judicial magistrate. In situations where a female magistrate is unavailable, a male judicial magistrate may record the statement, but only in the presence of a woman, ensuring a more sensitive and victim-centric approach. Notably, this provision did not exist under the CrPC. Additionally, Section 183(6)(a) of the BNSS imposes an obligation on judicial magistrates to record witness statements in cases where the offence is punishable by ten years' imprisonment, life

imprisonment, or the death penalty, including serious crimes against women. This measure seeks to enhance judicial oversight and ensure accuracy in legal proceedings for grave offences. In the realm of maintenance law, Section 145 of the BNSS (formerly Section 125 of the CrPC) introduces a crucial change that benefits dependent parents, including mothers. Under the new provision, parents can now file for maintenance at their place of residence, rather than being restricted to filing only at the residence of their ward. This modification significantly improves access to justice, particularly for elderly and vulnerable individuals seeking financial support<sup>26</sup>.

#### 4. JUDICIAL PROCEEDINGS STAGE

Section 21 of the BNSS (formerly Section 26 of the CrPC) retains the provision that, wherever possible, a female judge should preside over trials involving offences of a sensitive nature against women. This measure underscores the importance of gender sensitivity in judicial proceedings, ensuring a more empathetic and just adjudication process. Additionally, Section 64 of the CrPC, which previously mandated that summons be served to "some adult male member" of the household, has been revised in Section 66 of the BNSS to "some adult member." This amendment reflects a progressive shift by recognizing women as equally competent to receive court-issued summons on behalf of others, eliminating gender-based presumptions. The BNSS also embraces digital transformation by facilitating the electronic conduct of court proceedings, allowing complainants and witnesses to provide testimony remotely. This advancement enhances judicial accessibility, reducing intimidation and ensuring fairer participation in legal proceedings. During the J20 Summit in Rio de Janeiro, where discussions centered on digital transformation and technology's role in judicial efficiency, the Chief Justice of India (CJI) highlighted that cybernetic hearings have democratized access to the SC. He publicized that over 6,50,000 cases had been heard via videoconferencing, and more than 1,20,000 cases were filed online, illustrating how technology is reshaping the relationship between the judiciary, law enforcement agencies, and litigants<sup>27</sup>.

It is encouraging that the central government is extending substantial financial support to integrate all stakeholders in the criminal justice system through efficient announcement and seamless data exchange. A significant allocation of INR 7,000 crore has been committed for the Phase III eCourts Project, set to be executed over the next four years<sup>28</sup>.

The BNSS mandates that charges must be framed within 60 days of the first hearing, and limits adjournments to only two, thereby eliminating the notorious 'tarikh pe tarikh' (date after date) delay culture<sup>29</sup>. Furthermore, criminal case verdicts are expected to be pronounced within 45 days of trial completion, reinforcing the principle of swift justice. A notable innovation in the BNSS is the

<sup>23</sup> 100 days of Modi 3.0: Governance with Citizen First Approach, Research Unit, Press Information Bureau, Government of India dated 24.09.2024.

<sup>24</sup> National Judicial Data Grid, District Court of India.

<sup>25</sup> Dawer, A., 2022. Analysing judicial efficiency of Indian courts. Center for Social and Economic Progress.

<sup>26</sup> Shrivastava, H. and Akhter, S., 2024. A Comparative Study of the Indian Penal Code and the Bharatiya Nyaya Sanhita's Gender-related Provisions. Statute Law Review, 45(2), p.hmae033.

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<sup>27</sup> CJI DY Chandrachud says Indian courts have come to be reimagined as democratic spaces of discourse, The Economic Times, dated 15.05.2024.

<sup>28</sup> Cabinet approves eCourts Phase II for 4 years, Press Information Bureau, dated 13.09.2023.

<sup>29</sup> Section 263 of BNSS.

provision for trials in absentia of criminals who have absconded abroad to evade prosecution<sup>30</sup>. This marks a departure from the CrPC, which only permitted evidence to be recorded in the accused's absence. Now, proclaimed offenders who have fled the country can be tried and sentenced in absentia, significantly streamlining the extradition process and curbing the misuse of foreign jurisdictions as safe havens for fugitives.

## 5. THE INFORMATION DISSEMINATION

Agreeing with the implementation of the three newly enacted criminal laws on July 1, officers-in-charge of all police stations, along with senior supervisory officials across the country, organized public outreach programs to highlight the fundamental objectives and legislative intent behind the enactment of the BNS, BNSS, and BSA. This nationwide engagement initiative actively involved women, youth, students, senior citizens, retired law enforcement professionals, distinguished personalities, and self-help groups, among others, to raise awareness regarding the key principles and reforms embedded in the new legal framework<sup>31</sup>.

The newly enacted laws seek to integrate advanced technology into the investigation and adjudication of criminal cases. In alignment with these reforms, approximately two dozen modifications have been incorporated into the Crime and Criminal Tracking Network and Systems (CCTNS) software, ensuring its technological compatibility with the new legal provisions. Additionally, a suite of mobile applications has been introduced to streamline judicial and investigative processes—including NCRB Sankalan, e-Sakshya (for electronic evidence capture, including forensic analysis), Nyaya Shruti (for judicial hearings and digital onboarding of case documents), and e-Summons (for the electronic issuance of court summonses)<sup>32</sup>. The CCTNS 2.0 system now facilitates seamless digital connectivity among police stations, forensic departments, prosecution agencies, courts, and correctional facilities<sup>33</sup>. However, certain critics have raised concerns regarding the institutional preparedness for the implementation of these laws. Despite the concurrent general elections, police leadership ensured that most investigating officers at the station level underwent refresher training, and instructional handbooks were disseminated among law enforcement personnel. Conversations with police chiefs, senior officials, and field officers revealed a broad consensus on their readiness to execute the new legal framework smoothly. However, some acknowledged that veteran officers unfamiliar with digital workflows were contemplating transfers to non-investigative roles within the force. Additionally, certain legal experts argue that an overemphasis on deterrence—through harsher punishments, increased minimum sentences, higher fines, and capital punishment—is incongruent with contemporary principles of criminal jurisprudence. They highlight that the new laws incorporate rehabilitative and restorative justice mechanisms in only a limited set of offences.

<sup>30</sup> Section 356 of BNSS.

<sup>31</sup> Naik, Y., 2024. *The Bharatiya Nyaya Sanhita (BNS): A Critical Examination of India's New Penal Code*. Available at SSRN 4884622.

<sup>32</sup> The Ministry of Home Affairs, retrieved from <https://www.mha.gov.in/en/divisionofmha/women-safety-division/cctns>

<sup>33</sup> <https://eservices.tnpolice.gov.in/CCTNSNICSDC/Login?0#>

For example, in cases of rape involving victims under 16 or 12 years of age (Section 65 BNS) or gang rape (Section 70 BNS), the prescribed fines may be justifiable. However, they note the absence of similar financial penalties in cases such as rape or aggravated rape (Section 64 BNS) and sexual offences committed by individuals in positions of authority (Section 68 BNS).

## 6. A RELUCTANT STEP TOWARD COMMUNITY SERVICE

One of the notable progressive reforms introduced in the new legal framework is the incorporation of community service as an alternative form of punishment for certain offences. Community service, in essence, refers to court-mandated work that benefits society, performed without remuneration. However, despite its mention in the Statement of Purposes, the BNS currently prescribes community service for only six offences, including unlawful engagement in trade by a public servant (Section 202 BNS), public misconduct under the influence of alcohol (Section 355 BNS), and denouncement (Section 356(2) BNS). Several other minor infractions, such as public annoyance, remain excluded from this provision. The Indian prison system is severely overburdened, with nearly three-fourths of inmates comprising under trial prisoners. By adopting community service as an alternative punitive measure, first-time offenders and individuals convicted of minor offences could be kept out of prisons, granting them an opportunity for rehabilitation and reintegration into society. However, the new legislation has not fully leveraged this potential reform. It is hoped that as the impact of these provisions becomes evident, the Government may consider expanding the possibility of community service in the future. Notably, the BNS does not provide a specific definition of community service, leaving its application entirely to judicial discretion. To ensure uniformity and fairness in its implementation, it is imperative that the particular High Courts and the SC establish a commission to devise standardized guidelines for awarding community service sentences<sup>34, 35</sup>.

## 7. CONCLUSION

There is a widespread agreement that the new criminal laws represent a significant step forward in modernizing the justice system. In the first 45 days following their implementation, there has been no notable criticism regarding the legislation or the efficacy of law enforcement, which underscores the enhanced capabilities and efficient service delivery of the system. Neither the media, judiciary, critics, nor even Parliament—which was in session—have flagged any systemic shortcomings during the initial phase of implementation, reflecting the commendable preparedness and dedication of all investors in the criminal justice system. The successful rollout of these transformative, victim-centric legal reforms was greatly facilitated by a ‘Whole

<sup>34</sup> Akhil Kumar; K.S., 2023. *The Bharatiya Nyaya (Second) Sanhita 2023: An Integrated Perspective-A Comprehensive Study and Analysis*. *Jus Corpus LJ*, 4, p.350.

<sup>35</sup> Available From: <https://indiafoundation.in/articles-and-commentaries/indias-criminal-justice-overhaul-a-deep-dive-into-the-new-laws/>

of Government' approach, ensuring seamless coordination and active participation across multiple government departments. However, as with any legal framework, these laws will remain subject to interpretation, judicial scrutiny, and periodic amendments to make them more inclusive and comprehensive. To fully realize the intent behind these new provisions, it is imperative to establish standardized procedures that eliminate ambiguity and minimize discretionary application. The police leadership must play a pivotal role in ensuring that these laws are applied judiciously, preventing misuse of authority and safeguarding against any miscarriage of justice.

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Conflict of interest declared none.

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