
THE BHARATIYA NYAYA SANHITA, 2023: A CRITICAL ANALYSIS OF REFORM, IMPLEMENTATION, AND IMPACT ON INDIA'S CRIMINAL JUSTICE SYSTEM

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Abstract

The Bharatiya Nyaya Sanhita (BNS), which replaced the Indian Penal Code (IPC) of 1860, which was implemented during the colonial era, drastically altered India's criminal justice system in 2023. The BNS simplifies and unifies criminal provisions, cutting them from over 500 to 358, making them more accessible and easier to understand while also bringing laws into line with contemporary social ideals, technological advancements, and human rights standards. It eliminates outdated provisions such as sedition, defines organized crime and terrorism more precisely, and gives preference to gender-neutral language that respects the rights of individuals of all gender identities, including transgender individuals.

The BNS promotes victim-centric justice, alternate forms of punishment like community service, and stronger penalties for crimes against women, children, and poor populations. However, despite these progressive changes, there are still significant implementation challenges. These include a lack of expertise, unclear laws, limited infrastructure, and issues collaborating with state-level laws. This paper critically evaluates the objectives, features, initial findings, and challenges of BNS 2023 and offers suggestions for more advancements in order to ensure an inclusive, efficient, and equitable criminal justice system in India.

1. Introduction

From August 2023 to July 1, 2024, the Bharatiya Nyaya Sanhita (BNS) replaced the Indian Penal Code (IPC), which had governed India's criminal laws since 1860. For almost 160 years, the IPC represented many colonial-era beliefs that were either outdated or incompatible with the goals of an independent, democratic India. India's criminal justice system has a long history

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that includes Islamic jurisprudence in the Middle Ages, British colonial rule, customary law in antiquity, and the Indian Penal Code, which was mostly drafted by Thomas Babington Macaulay. Macaulay claims that the IPC is the "most comprehensive Penal Code anywhere in the world," but its relevance in contemporary society has significantly decreased.

Recognizing the need for an overhaul, lawmakers and legal experts collaborated to write the BNS 2023, which aims to reflect modern legal, social, and technology realities. It offers a more effective, victim-centered, and technologically adaptable criminal law framework for India.

2. Key Features of the Bharatiya Nyaya Sanhita, 2023

- By cutting components from 511 (IPC) to 358 (BNS), the modernized code makes it easier to navigate and understand. As part of the rearrangement of offenses, comparable parts (including conspiracy, attempt, and abetment) were combined into a single chapter.
- The gender-neutral provisions recognize voyeurism and sexual assault as crimes perpetrated by people of any gender, as well as transgender people.
- Breaking down Old Laws: This gets rid of sedition and replaces it with more targeted threats to sovereignty and integrity.
- Stricter penalties: Mob lynching, organized crime, child exploitation, gang rape of youngsters, and terrorism will all be subject to more severe penalties.
- "Snatching," auto theft, stealing government property, and making bogus marriage vows are some of the new acts that have been discovered.
- Introduction of Community Service: For six minor offenses, community service is employed in lieu of jail time.
- Extraterritorial jurisdiction imposes penalties for aiding and abetting crimes outside of India that affect Indian interests.
- The Tech-Focused Evidence Framework encourages the use of digital evidence, crime scene filming, and e-courts.

3. Key Implementation Challenges

3.1 The Infrastructural and Digital Divide : Many rural police stations and courts lack enough internet access, contemporary equipment, and trained personnel, despite the BNS's encouragement of digitization. This makes e-FIRs, video-recorded statements, and electronic case tracking more challenging to implement.

3.2 Training and Capacity Building Requirements: Effective enforcement depends on the judges, legal professionals, and trained law enforcement. However, there are major disparities in training, especially for lawyers and personnel in semi-urban and rural areas.

3.3 The Law and Procedure's Ambiguity: There is ambiguity in certain contemporary definitions (such offenses against national integrity), which leads to different interpretations. For outstanding cases, the move from IPC to BNS is more challenging due to the absence of suitable transitional procedures.

3.4 Forensic and Inquiry Limitations: BNS requires forensic exams for serious offenses (which carry sentences of seven years or more), even though the majority of districts lack certified experts or modern forensic facilities. NFIES and other government programs are still in the implementation stage, despite their potential.

3.5 Legal Liabilities and Social Sensitivity: Men, transgender, and non-binary persons still have little rights, despite the fact that some parts employ gender-neutral language. Likewise, contemporary threats like cyberbullying, artificial intelligence-related crimes, and digital privacy violations are not adequately handled.

3.6 Consistency between Federal and State Laws: Since criminal law is on the Concurrent List, it may be difficult to implement federal and state laws when they contradict or overlap, especially when states have distinct definitions or procedures.

3.7 Public knowledge and legal literacy: Many legal professionals are among the majority who are still unaware of the new code's impact. In addition to rights being abused or underutilized, the public's trust in the legal system may be weakened.

4. Assessment of Early Outcomes

4.1 Infrastructure and Technology Deficits : Many courts do not fully employ the digital technologies promised under the BNS. Police still take handwritten notes due to a lack of technology, and crime scene videography is still rare outside of large cities.

4.2 Insufficient Education : Most practicing attorneys, especially those in district courts, are not familiar with BNS requirements, despite the fact that judges and senior police officers have received some training.

4.3 Legal Ambiguity and the Potential for Abuse : Sections like BNS §152, which deals with acts that undermine national unity, generate concerns about silencing dissent due to their vague phrasing. Without clear guidelines, there is a risk of abuse.

4.4 Perplexing Techniques : Due to the fact that many digital platforms still operate under IPC regulations, it can be difficult to determine which laws apply to acts conducted near or after the BNS introduction deadline.

4.5 Unworkable Schedules : Trials for some offenses must be finished within 45 days, according to the BNS. Staff shortages and the more than 5 crore pending cases mean that these deadlines are often missed, posing a risk of procedural violations.

4.6 Inconsistent Framework for Community Service Because courts lack the operations and infrastructure required to implement community service, it is implemented inconsistently in practice.

5. Areas for Future Reforms and Integration

- Universal Digital Infrastructure: Ensure that internet connection and digital case systems are accessible everywhere.
- Inclusive and Standardized Training: All lawyers must complete BNS training, especially in regional languages.
- Clearer Legal Definitions: To clarify unclear legislation, judicial interpretation or legislative amendments are needed.
- Increasing the number of judges, forensic experts, and secretarial staff will help reduce delays.
- Public Legal Education: Efforts to raise awareness among stakeholders and the general public are conducted nationally through print, online, and social media platforms.
- Establish review committees to update the BNS annually in response to emerging crime trends as part of a regular legislative review.

- Tech-crimes: Include definitions and provisions that address digital fraud, data breaches, and crimes involving artificial intelligence.

6. Judicial and Stakeholder Impact

6.1 Judiciary Judges now have to interpret unclear BNS regulations, which could lead to significant precedents. Implementing community service and ensuring trial deadlines are among the new responsibilities.

- More digital work calls for stronger infrastructure and tech staff.

6.2 Police and Investigative Units: Although they increase police power, longer detention restrictions, computerized filing, and the use of more video evidence also increase the possibility of abuse. If extended detention powers are not closely monitored, they may be used to violate civil liberties.

6.3 Lawyers and Court Staff: Despite making access easier, digital records and e-filing present challenges for lawyers who are not used to using digital systems. Lawyers need to be up to date on their professional education in order to avoid outdated practices.

6.4 Other Broad Interested Parties: In addition to civil society protesting vague terrorist laws and expansive definitions of threats to sovereignty, victims' rights and visibility in court procedures are strengthened.

Academic institutions and non-governmental organizations must assist with training, implementation assessments, and awareness-raising.

Conclusion

The Bharatiya Nyaya Sanhita (BNS), 2023, is a landmark attempt to modernize India's criminal law by removing colonial legacy and accounting for contemporary concerns. Its progressive stance is demonstrated by its emphasis on victim rights, gender neutrality, simplification, and digital integration. However, the success of BNS depends as much on effective implementation, talent development, technical preparedness, and public involvement as it does on legislative reform. If the government wants to drastically change the criminal justice system, it must prioritize infrastructure upgrades, standardize training, clarify ambiguous rules,

and launch massive public awareness campaigns. As BNS gets traction, its long-term survival will depend on institutional cooperation, tenacious political will, and a shared commitment to equality, justice, and human dignity.

References

- <https://thelegalcrusader.in/understanding-the-bharatiya-nyaya-sanhita-indias-new-criminal-law/>
- <https://www.scconline.com/blog/post/2024/07/01/decolonisation-of-ipc-understanding-bharatiya-nyaya-sanhita-2023/>
- <https://www.jagranjosh.com/general-knowledge/what-is-bharatiya-nyaya-sanhita-bns-1820000548-1>
- <https://lawjournals.celnet.in/index.php/njcl/article/view/1872>
- <https://www.ijllr.com/post/a-critical-study-on-the-advantages-and-challenges-in-implementing-the-three-new-indian-criminal-laws-1>
- <https://innovateindia.mygov.in/awareness-programme-law/>
- <https://www.ijfmr.com/papers/2025/3/44676.pdf>
- <https://www.lexisnexis.in/blogs/bharatiya-nyaya-sanhita-2023/>
- <https://indianexpress.com/article/opinion/columns/one-year-of-new-criminal-laws-the-challenges-of-implementation-10097366/>
- <https://www.lawjournals.org/assets/archives/2025/vol11issue4/10287.pdf>
- <https://www.jusscriptumlaw.com/post/implementation-of-new-criminal-laws-in-india>
- <https://thekanoonadvisors.com/complete-guide-to-new-criminal-laws-in-india-2025-bharatiya-nyaya-sanhita-explained/>
- <https://ecolaw.in/why-india-changed-its-criminal-laws-in-2025/>