

BHARATIYA NYAYA SANHITA 2023: RELEVANCE AND CHALLENGES

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Abstract: The Bharatiya Nyaya Sanhita, 2023 (BNS); The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS); and The Bharatiya Sakshya Adhinyam, 2023 (BSA), have been introduced to reform and modernise India's aging criminal justice system which has replaced The Indian Penal Code 1860, The Code of Criminal Procedure 1973, and The Indian Evidence Act, 1872, respectively. The new legislative frameworks have been drafted meticulously to meet the contemporary legal, technological, and societal challenges. The IPC, 1860 has served as the bedrock of India's criminal justice system for a century but has been replaced because of its outdated provisions (as they don't reflect the current socio-economic and technological dynamics), complexity and ambiguity in the interpretation of provisions, offender-centric approach focus, procedural delays and backlogs in the court systems, and it served as a colonial legacy. BNS has 358 Sections, reduced from 511 in the IPC. It introduces 21 new crimes, extends the duration of imprisonment in 41 crimes, raises fines for 82 crimes, introduces minimum punishments for 25 crimes, includes community service as a penalty in six crimes and removes 19 sections. BNS aims to streamline the legal framework by reducing redundancy, nevertheless, it poses challenges in the following context, marital rape remains unrecognized as a criminal act; the offences of sexual harassment, stalking, and rape continue to be gender-specific; defamation continues to be categorised as a criminal act; complete omission of Section 377- effective decriminalisation of bestiality and non-consensual same-sex intercourse; the offence of sedition replaced by 'act endangering sovereignty, unity, and integrity of India'; lack of provisions to address the growing use of facial recognition technology; and inadequate training of law enforcement and judicial personnel.

Keywords: Criminal Laws, Bharatiya Nyaya Sanhita 2023, The Indian Penal Code 1860, Gender Neutrality, Technology, Artificial Intelligence.

INTRODUCTION

The Indian Penal Code, enacted in 1860, was outdated in addressing the contemporary legal issues, social realities, human rights standards, and technological advancements; therefore, Bharatiya Nyaya Sanhita 2023 was introduced to modernise the India's criminal justice system. With the new laws, i.e., the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhinyam 2023

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(BSA), being rolled out, it has become facile to approach police. People can file an e-FIR and Zero-FIR (wherein victims can file complaints regardless of jurisdiction by the virtue of Section 173 of the BNSS, 2023); expect police to be fairer with audio and video recording of procedures, such as search and seizures; and held police accountable as the new laws have prescribed deadlines for following of procedures. As stated by the Hon'ble Prime Minister, Sh. Narendra Modi, the underlying principle of the new criminal laws is "citizen first, dignity first and justice first", with danda (baton) being replaced by 'data' as a policing tool. The new laws enable registration of all FIRs under the provisions of BNS. However, all cases registered before 1st July 2024 will continue to be tried under IPC, CrPC and Indian Evidence Act until final disposal.¹ The new laws have modernised the criminal justice system by incorporating contemporary legal standards and practices to address current societal and criminal issues more effectively; by eliminating archaic offences such as adultery, in recognition of the Supreme Court's decision to decriminalise it; enhancing penalties for certain offences with the aim to deter crime and ensure a more robust response to grave criminal activities; introducing new categories of crimes such as cybercrimes and organised crime, addressing the evolving criminal activities; streamlining legal framework by consolidating multiple laws and reducing redundancy for simplification of the processes for law enforcement and the judiciary; promoting alternative sentencing methods such as community service for fostering rehabilitative justice rather than purely punitive justice²; introducing gender neutrality offences of 'Voyeurism' and 'Assault to disrobe a woman' with respect to the offender; incorporating provision for victims to be informed of the progress of investigation within 90 days in specified offences; updating guidelines on admissibility of electronic and digital records to be categorised as 'primary evidence'; encompassing mandatory forensic investigation for offences punishable with seven years of imprisonment or more; and prescribed timelines for framing of charges, delivery of judgment, submission of medical examination reports, etc.³

¹ Bharti Jain, '3 new criminal laws kick in today, data ousts 'danda' as policing tool' *The Times of India* (New Delhi, 1 July 2024) < <https://timesofindia.indiatimes.com/india/3-new-criminal-laws-kick-in-today-data-ousts-danda-as-policing-tool/articleshow/111387621.cms> > accessed 1 August 2024

² Anonymous, 'Bharatiya Nayaya Sanhita 2023: Background, Need, Features' (*Textbook*, 2 July 2024) < <https://testbook.com/ias-preparation/bharatiya-nyaya-sanhita-2023> > accessed 1 August 2024

³ Naveed Ahmad, Ayushi Sharma & Aayush Mallik, 'What's worse? Marriage fraud or forced labour?' *The Times of India* (New Delhi, 29 June 2024) < <https://www.msn.com/en-in/news/India/7-yr-jail-for-marriage-fraud-1-yr-for-forced-labour-what-s-worse-though/ar-BB1p8Hih?apiversion=v2&noservercache=1&domshim=1&renderwebcomponents=1&wseo=1&batchservertelemetry=1&noservertelemetry=1> > accessed 1 August 2024

I. COMPARATIVE ANALYSIS OF KEY OFFENCES UNDER THE BHARATIYA NYAYA SANHITA, 2023

The Bharatiya Nyaya Sanhita, 2023 represents a transformative shift towards a modern, progressive legal framework, moving beyond the colonial-era Indian Penal Code.⁴ The BNS introduces reformatory approaches to justice, such as community service for minor offences, helping reduce prison overcrowding and lengthy trials. It effectively addresses emerging challenges like cybercrime, which were not previously covered, and strengthens protections for women's rights. The BNS is a forward-looking legal reform designed to meet the dynamic needs of contemporary society.

The Bharatiya Nyaya Sanhita, 2023 brings significant revisions to key criminal offences, marking a shift from the Indian Penal Code. The BNS introduces changes to the definitions, classifications, and punishments for various crimes. By revising the penalties and adjusting the scope of certain offences, the BNS aims to create a more effective and just legal framework. The following analysis compares the key offences under the IPC with those under the BNS⁵.

The punishment for murder, previously under IPC Section 302, is now codified under BNS Section 103, prescribing either the death penalty or life imprisonment along with a fine. Culpable homicide not amounting to murder (IPC 304; BNS 105) carries imprisonment for life, or a term ranging from five to ten years alongside a fine, while causing death by negligence (IPC 304-A; BNS 106) imposes imprisonment of five years and a fine, with a reduced term of two years if committed by a registered medical practitioner. Attempts to commit murder (IPC 307; BNS 109) impose imprisonment of ten years and a fine, whereas attempts to commit suicide (IPC 309; BNS 226) impose imprisonment of one year, or fine, or both, or may include community service. Offences affecting vulnerable populations, such as infanticide (IPC 315; BNS 91), are punishable with imprisonment for ten years, or fine, or both. Rioting (IPC 147; BNS 191(2)) is punishable with two years of imprisonment, or fine, or both, and theft (IPC 379; BNS 303(2)) allows for imprisonment up to three years or a fine, with enhanced penalties for repeat offenders, and theft in dwelling house, or means of transportation, or places

⁴ Arushi Bajpai, Akash Gupta & Akshath Indusekhar, 'Revisiting Criminal Law Bills: An In-Depth Critical Analysis of Bharatiya Nyaya Sanhita Bill and Bharatiya Nagrik Suraksha Bill' (2024) 45(3) Statute Law Review <<https://academic.oup.com/slr/article/45/3/hmae043/7758840>> accessed 30 September 2024

⁵ Rana, Gurender, *Comparative Table: Indian Penal Code 1860 & Bharatiya Nyaya Sanhita 2023* (July 2024), <https://wblroa.in/wp-content/uploads/2024/07/COMPARATIVE-TABLE-OF-IPC-1860-BNS-2023-ADV-GURENDER-RANA.pdf>.

of worship, etc. (IPC 380; BNS 305) carries imprisonment of up to seven years and a fine. Extortion (IPC 384; BNS 308(2)) also carries a maximum of seven years' imprisonment or a fine, or both. Dacoity with murder, previously dealt under IPC Section 396 and now addressed in BNS Section 310(3), is punishable with the death penalty, life imprisonment, or rigorous imprisonment for a term not less than ten years, along with a fine. Similarly, robbery or dacoity involving an attempt to cause death or grievous hurt, earlier covered under IPC Section 397 and now incorporated in BNS Section 311, prescribes rigorous imprisonment for a minimum of seven years.

II. CRIMES AGAINST WOMEN

The Bharatiya Nyaya Sanhita, 2023 introduces significant reforms to enhance the protection of women and children, placing related offences under a dedicated chapter (Chapter V).⁶ It imposes strict penalties, including life imprisonment or death, for serious crimes. The new provisions address sexual intercourse obtained under false promises, which ensures greater accountability. The law has made gender-neutral provisions, which ensures that both victims and perpetrators, regardless of gender, are treated equally. It also removes age differentials for gang rape victims, ensuring consistent punishment for all victims under 18. Victims are given additional protections, including audio-video recording of their statements during investigations and timely medical reports within 7 days. The law ensures free medical treatment for victims and promotes sensitivity by allowing victims' statements to be recorded by a woman Magistrate where possible.⁷ The following table provides a comparison of Sections of IPC and BNS in terms of crimes against women.

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Molestation, previously addressed under Section 354 of the IPC, is now covered under Section 74 of the BNS, prescribe imprisonment ranging from one to five years along with a fine. Sexual harassment, mapped from IPC Section 354-A to BNS Section 75(2), carries rigorous imprisonment for up to three years or a fine, or both. Stalking, previously under IPC Section 354-D and now under BNS Section 78, is punishable with imprisonment up to three years and a fine, while subsequent convictions impose imprisonment up to

⁶ MHA, 'Bharatiya Nyaya Sanhita in place of Indian Penal Code' (*PIB*, 26 March 2025) < <https://pib.gov.in/PressReleasePage.aspx?PRID=2115169>.>

⁷ MHA, 'Crimes Against Women and Children Given Precedence Under BNS' (*PIB*, 11 March 2025) < <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2110361>>

⁸ J.K. Verma, *Bharatiya Nyaya Sanhita, 2023 (Offences & Penalties): A Commentary* (EBC 2024)

five years alongside a fine. The provisions for rape, aligned from IPC Section 376 to BNS Section 64, impose rigorous imprisonment of a minimum of ten years that may extend to life imprisonment, along with a fine. Penalties for aggravated crimes; causing death or a persistent vegetative state of the victim (IPC 376-A, BNS 66) is punishable with rigorous imprisonment of at least twenty years, potentially extending to life or the death penalty. Similarly, gang rape (IPC 376-D, BNS 70(1)) is subject to rigorous imprisonment of not less than twenty years, which may extend to life imprisonment for the remainder of the offender's natural life, alongside a fine⁹.

III. ADDITION OF NEW SECTIONS AND PARTLY ADDED PROVISIONS IN THE BNS, 2023

The Bharatiya Nyaya Sanhita, 2023 brings forward key additions and revisions to India's criminal law. The legislation incorporates new sections while updating existing provisions to better address contemporary challenges and enhance the functioning of the criminal justice system. This comprehensive overhaul aims to ensure the law resonates with modern societal values, fostering a more effective, just, and inclusive legal framework. A brief analysis of these changes is provided below.¹⁰

Notably, Section 2 introduces key definitions including "child" (below 18 years), an inclusive definition of "gender" encompassing male, female, and transgender persons, and a cross-reference provision ensuring alignment with definitions from the Information Technology Act, 2000 and the Bharatiya Nagarik Suraksha Sanhita, 2023. Section 4(f) introduces *community service* as a novel form of punishment. Section 48 criminalises abetment of an offence in India from outside its territory. In matters of sexual conduct, Section 69 penalises sexual intercourse obtained through deceitful means or false promises of marriage with an imprisonment up to ten years and fine. Section 70(2) redefines *gang rape* by extending special protections to women under 18 years of age (increased from 16), including life imprisonment or death penalty with mandated victim compensation. Addressing child exploitation, Section 95 introduces penalties for hiring or engaging children in criminal acts, with a minimum sentence of three years.

In a significant and socially responsive addition, Section 103(2)¹¹

⁹ Jha, R., *As a New Era Begins, Here's Why You May Find It Easier to Approach Police*, The Times of India (July 1, 2024), <https://timesofindia.indiatimes.com/city/delhi/new-delhi-police-implements-new-laws-for-easier-approachability/articleshow/111388803.cms>.

¹⁰ UPP, 'Corresponding Section Table of Bharatiya Nyaya Sanhita 2023' (BNS) https://uppolice.gov.in/site/writereaddata/siteContent/Three%20New%20Major%20Acts/202406281710564823BNS_IPC_Comparative.pdf accessed 30 September 2024

¹¹ KTDSPTA, 'Some important highlights of BNS' (*Tripura Gov*, 2025) < <https://ktdspta.tripura.gov.in/web/sites/default/files/2025->

introduces punishment for *mob lynching*, holding groups of five or more accountable for murder based on identity factors, with penalties including life imprisonment or death. Section 106(2) targets negligent vehicular homicide coupled with failure to report the incident, prescribing up to 10 years' imprisonment. This provision aims to deter reckless driving that leads to non-culpable deaths on the roads, as well as discourage drivers from fleeing the scene. It mandates that individuals who fail to report the incident to a police officer or magistrate promptly afterward will face either simple or rigorous imprisonment for up to 10 years, in addition to a fine, reinforcing accountability under the BNS framework. Section 111 introduces comprehensive provisions for *organised crime*, defining it broadly to include crimes like kidnapping, robbery, land grabbing, vehicle theft, extortion, cybercrime, economic offence, contract killing, and trafficking, including detailed penalties based on the severity of the crime. The provision establishes differentiated liability for the members, abettors, conspirators, harbourers, and possessors of property derived from or obtained through organised crime, with the level of liability aligning with the degree of culpability. A member of an organised crime syndicate, defined as two or more individuals, acting individually or collectively, engaging in ongoing unlawful activities or anyone attempting, committing, conspiring, or assisting in such crimes, faces a mandatory minimum imprisonment of five years, or life imprisonment. In cases where organised crime results in a death, the punishment can include either the death penalty or life imprisonment. The newly inserted provision, along with its expanded definition of organised crime, improves upon existing state laws such as the Maharashtra Control of Organised Crime Act, 1999 (MCOCA) and the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. The law further criminalises *petty organized crimes* under Section 112, targeting gang-based offences such as snatching, cheating, or gambling, punishable by up to seven years' imprisonment. This provision defines petty organized crime to encompass activities like trick theft, vehicle theft, dwelling houses or business premises, pickpocketing, card skimming, shoplifting, ATM theft, snatching, unauthorised ticket sales, illegal gambling and betting, and the selling of public examination papers or any other similar criminal act. Perpetrators of these crimes face imprisonment ranging from one to seven years, along with fines.

Terror-related activities receive extensive attention under Section 113, providing a detailed framework for defining, penalising, and prosecuting terrorism and associated activities. Section 113 of the BNS introduces terrorism as an offence within the general penal framework of India. While

terrorist acts are primarily addressed under the Unlawful Activities (Prevention) Act, 1967 (UAPA), there was a need to incorporate a more comprehensive penal provision within the BNS. This section defines terrorism as an act intended to threaten the unity, integrity, sovereignty, security, or economic security of India, or to instil fear or terror in people or any section of society, whether within India or abroad. Such acts may involve the use of bombs, dynamite, explosives, firearms, lethal weapons, poisonous substances, or other hazardous materials. The provision also specifies punishments for various parties involved, including perpetrators, conspirators, accomplices, instigators, organizers of terrorist training camps, recruiters, harbourers, and those in possession of property derived from or obtained through terrorist acts. The sentences for these offences vary, depending on the severity of the act as outlined in the respective clauses.

In Section 117, provisions for *voluntarily causing grievous hurt* have been enhanced, particularly in cases leading to permanent disability or persistent vegetative state. It also added punishment for mob violence based on discriminatory grounds. Section 143(1) introduces stringent anti-trafficking measures, defining exploitation broadly and declaring victim consent irrelevant. Section 152 criminalises acts endangering the sovereignty, unity, and integrity of India through various forms of expression or financial means. A newly inserted provision in the BNS, which appears to be a modified version of the repealed sedition law (Section 124-A of the IPC), criminalises intentional acts whether spoken, written, or visually represented that incite or attempt to incite secession, armed rebellion, subversive activities, or promote separatist sentiments, or that endanger the sovereignty, unity, or integrity of India. This offence is punishable with life imprisonment or a term of up to seven years, along with a fine. However, the provision expressly excludes mere expressions of disapproval of government measures or administrative actions, provided they lack any intent to incite such acts. While the language closely mirrors that of the old sedition law, it notably leaves key terms such as “exciting secession,” “encouraging separatist feelings,” and “subversive activities” undefined within the BNS.¹²

Section 195 punishes assault or obstruction of public servants suppressing riots, with increased fines and distinguishes between cognizable and non-cognizable offences during riot. Section 197 makes it a cognizable offence to publish misleading content jeopardizing national integration, with higher penalties if committed in places of worship.

Section 226 criminalises suicide attempts meant to coerce public servants from exercising lawful powers. Such acts are punishable with simple imprisonment for a term up to one year, or fine, or both. Theft-related reforms

¹² J.K. Verma, *Bharatiya Nyaya Sanhita, 2023 (Offences & Penalties): A Commentary* (EBC 2024)

appear in Section 303(2), which offers *community service* for first-time petty thefts under ₹5,000 upon return of stolen goods, and escalated punishment for repeat offences. Section 304 defines *snatching* as a distinct, cognizable offence punishable by three years' imprisonment and fine, while Section 305 enhances penalties for *theft in dwelling houses, transport systems, places of worship*, or involving government property, with up to seven years' imprisonment and fine. Section 324 significantly expands the scope of *mischief* and enhances penalties based on the value of the damage caused. A person who commits mischief resulting in loss or damage to any property, including that of the government or a local authority, is punishable with simple or rigorous imprisonment for up to one year, or with a fine, or both. If the mischief causes loss or damage amounting to ₹1 lakh or more, the offender is liable to simple or rigorous imprisonment for up to five years, or with a fine, or both.

Further, Section 341 details degrees of punishment for counterfeiting seals or instruments used in forgery, including possession and fraudulent use. Lastly, Section 358 formally repeals the *Indian Penal Code*, signalling a definitive legislative transition to the BNS.

IV. REPEALED IPC PROVISIONS FROM THE BNS, 2023

The BNS represents a clear shift away from the IPC by eliminating provisions that are outdated or no longer applicable.¹³ This repeal reflects the BNS's commitment to modernise the penal code, streamline legal processes, and align laws with current societal norms. It seeks to simplify legal frameworks while fostering a more equitable and just legal system. The BNS has omitted the following provisions of the IPC.¹⁴

Notably, Section 14, which defined a “Servant of Government,” and Section 18, which delineated the territorial extent of India excluding Jammu and Kashmir, has been removed. Procedural clarifications such as Section 50, denoting parts of a Chapter by prefixed numerals, and Section 53A, which replaced the archaic term “transportation for life” with “imprisonment for life,” were also repealed. Sections addressing sedition and public safety, including Section 124A (sedition) and Section 153AA (punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms), were eliminated¹⁵.

¹³ BPRD, ‘Bharatiya Nyaya Sanhita (BNS) Handbook’ (*Delhi Police Academy*, January 2024) https://bprd.nic.in/uploads/pdf/1715852525_852f82459fd399a38f9f.pdf

¹⁴ IC, ‘The Indian Penal Code, 1860’ (India Code) < <https://www.indiacode.nic.in/bitstream/123456789/4219/1/THE-INDIAN-PENAL-CODE-1860.pdf> >

¹⁵ Gaur, K.D., *Textbook on Indian Penal Code* (6th ed., Universal Law Publishing 2019).

Economic and fraud-related provisions, such as Sections 236-238, dealing with counterfeiting of coins, and Sections 264-267, addressing the use or possession or making/selling of false weights and measures, were similarly repealed. Several personal conduct-related provisions, including Section 309 (attempt to commit suicide), Sections 310-311 (criminalisation of Thug-related activities), Section 377 (unnatural offences), and Sections 444-446 (house trespass and house-breaking at night), were removed to align with contemporary legal standards. Finally, Section 497, which criminalised adultery while exempting women from punishment, was repealed to align with gender equality and individual autonomy in matters of consent¹⁶.

V. AI-RELATED LEGAL PROVISIONS IN THE BHARATIYA NYAYA SANHITA, 2023

The BNS acknowledges the threats posed by AI-powered deepfakes, including synthetic audio, video, and text, which can harm an individual's dignity, reputation, and privacy.¹⁷ By adopting technology-neutral provisions, the BNS creates a flexible legal framework to address the varied risks of AI. This approach not only safeguards individual rights but also ensures adaptability to emerging AI challenges.

VI. SIGNIFICANCE, CONCERNS, AND BEST PRACTICES WITH RESPECT TO THE BNS

The Bharatiya Nyaya Sanhita, 2023, is a significant overhaul of India's criminal justice system, which aims to address contemporary issues. It has broadened the scope particularly with regards to access to justice, reinforced a culture of legality, guaranteed legal certainty, evaluated the adequacy of sanctions and assessed the impact on the penitentiary system. However, it also raises several concerns regarding clarity, gender inclusivity, and the scope of judicial discretion. The following analysis highlights the significance,¹⁸ concerns, and best practices related to the BNS, providing an overview of its impact and potential.¹⁹

¹⁶ Chandrasekharan Pillai, K.N. & Shabistan Aquil, *Essays on the Indian Penal Code* (Indian Law Institute 2005).

¹⁷ MeitY, 'India well-equipped to tackle evolving online harms and cyber crimes; Government to Parliament' (PIB, 08 August 2025) <<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2154268>>

¹⁸ MHA, 'Highlights of New Criminal Laws' (PIB, 30 July 2024) <<https://pib.gov.in/PressReleasePage.aspx?PRID=2039055#:~:text=For%20the%20first%20time%2C%20Community,section%20of%20BNS%2C%202023.>>

¹⁹ Shekar, Prashant, 'Bharatiya Nyaya Sanhita- Significance and Concerns- Explained Pointwise' (*Forum IAS*, 1 July 2024) <<https://forumias.com/blog/bharatiya-nyaya-sanhita->

1. Revamping the Criminal Justice System²⁰

- Significance: Modernising the legal structure for efficiency and fairness.
- Concern: There persists ambiguity in terminology and definitions. As AI becomes central to both criminal activity (e.g., cybercrime, AI-generated misinformation) and enforcement (e.g., predictive policing, automated surveillance), clear legal definitions are essential to avoid overreach or misuse.
- Best Practice: Updating legal definitions and procedures to reflect contemporary standards and ensure clarity in implementation. Regular review and refinement can help avoid ambiguity. Facilitate inclusive consultation with legal experts, policymakers, researchers, and stakeholders to ensure reforms are rooted in present-day needs and contexts.

2. Gender Neutrality and Gender Inclusivity²¹

- Significance: The definition of “gender” now includes transgender individuals, promoting inclusivity and equality.
- Concerns: The exclusion of marital rape from the criminal framework perpetuates the outdated notion of irrevocable spousal consent, undermining a woman’s autonomy and bodily integrity within marriage. Additionally, the absence of any legal provision to address sexual offences against animals²² highlights a lack of recognition for non-human victims of violence, an area increasingly acknowledged in international legal discourse on cruelty and ethics.²³
- Best Practice: A truly progressive and equitable legal system must adopt a victim-centric approach that prioritises consent and bodily autonomy above traditional or cultural norms. This necessitates the criminalisation of marital rape, recognising it

2023-explained-pointwise/>

²⁰ Ratanlal, Ranchhoddas & Dhirajlal Keshavlal Thakore, *The Bharatiya Nyaya Sanhita, 2023* (37th ed., LexisNexis 2025).

²¹ Press Information Bureau, *Highlights of New Criminal Laws* (July 30, 2024), <https://pib.gov.in/PressReleasePage.aspx?PRID=2039055>.

²² Surya Kumar, ‘Unveiling Legal Constraints: Limitations and Challenges of the New Criminal Bills’ (*BNB Legal*, 8 January 2024) < <https://bnblegal.com/article/unveiling-legal-constraints-limitations-and-challenges-of-the-new-criminal-bills/>>

²³ Parashar, Himanshu, *Unveiling Legal Constraints: Limitations and Challenges of the New Criminal Bills*, *BNB Legal* (2024), <https://bnblegal.com/article/unveiling-legal-constraints-limitations-and-challenges-of-the-new-criminal-bills/>.

not as a private matter but as a serious violation of individual rights and dignity. Legal protections against sexual violence must be extended to all individuals, irrespective of gender identity or the relational context in which the offence occurs. However, inclusivity should not be confined to mere definitional changes; it must translate into concrete reforms in the implementation of laws, including sensitised investigative procedures, equitable access to justice, and institutional support for transgender and non-binary individuals. Moreover, the legal framework must keep pace with evolving ethical standards by addressing issues such as sexual abuse of animals, an area often overlooked despite its growing relevance in global discourse on cruelty and moral responsibility. Together, these measures would reflect a deeper commitment to justice, empathy, and human dignity in modern law.

3. Community Service as an Alternate Form of Punishment²⁴

- **Significance:** Community service for minor offences promotes personal growth and social responsibility of an individual. Offenders get the chance to positively contribute to society, learn from their mistakes, and build stronger community bonds.
- **Concern:** Absence of a clear definition and rehabilitation strategy.
- **Best Practice:** Define community service with structured guidelines and implement mechanisms to monitor rehabilitative outcomes. AI-driven monitoring systems can be established to assess progress, ensure compliance, and match offenders with suitable community programs.

4. Proportional Fines and Legal Harmonisation

- **Significance:** Under new laws, the fines imposed for certain crimes have been aligned with the severity of the offences, which ensures fair and proportional punishment, deters future offences, and maintains public trust in the legal system.
- **Concern:** Various provisions of the BNS overlap with special laws, such as the Unlawful Activities (Prevention) Act, 1967, and state legislations on organised crimes like the

²⁴ Gaur, K.D., *Textbook on the Bharatiya Nyaya Sanhita, 2023* (9th ed., LexisNexis 2024).

Maharashtra Control of Organised Crime Act, 1999 and Gujarat Control of Terrorism and Organised Crime Act, 2015. This means that there exist parallel procedures and mechanisms to try such offences. This leads to an increase in the burden of compliances and costs. Further, this also adds to uncertainty in proceedings when trying such offences.²⁵

- Best Practice: Review and reconcile overlaps with existing special laws to reduce compliance burdens and legal uncertainties. Create integrated procedures for handling overlapping offences to simplify the legal process. Additionally, AI-supported tools can be considered for case screening, legal analysis, and precedent mapping to enhance judicial efficiency and reduce case backlogs.

5. Simplified Legal Processes²⁶

- Significance: The legal processes have been simplified to make them easier to understand and follow, ensuring fair and accessible justice.
- Concern: BNS missed the opportunity to decriminalise various offences, which can be considered as civil disputes. The offence of defamation under Section 356 of the BNS could have been left out, to be dealt as a civil dispute *inter se* the relevant parties.
- Best Practice: Reassess which offences could be better resolved through civil proceedings to reduce judicial backlog.

6. Regulation of Fake News

- Significance: Criminalisation of publishing false and misleading information.
- Concern: Ensuring that criminalisation does not infringe on free speech; establishing clear guidelines and definitions. AI-generated fake news (e.g., deepfake videos, synthetic articles) poses a complex threat. Social media algorithms driven by AI can amplify such content, making detection and accountability difficult.
- Best Practice: Leverage technology to detect and manage fake news effectively while ensuring that legal frameworks respect

²⁵ NDA, 'Navigating Through Criminal Law Reforms: Part I- Review of Bharatiya Nyaya Sanhita, 2023' (*Nishith Desai Associates*, 12 January, 2024) <<https://nishithdesai.com/NewsDetails/13888>>

²⁶ Deswal, Vageshwari & Saurabh Kansal, *Bharatiya Nyaya Sanhita 2023: Law and Practice* (Taxmann 2024).

free speech rights. Promote public awareness and education on media literacy to prevent the spread of misinformation and support responsible information sharing.

CONCLUSION

Despite the challenges, The Bharatiya Nyaya Sanhita, 2023 has the potential to enhance public safety as the new laws aim to deliver swift justice, promote transparency in legal processes, enhance victim protection while ensuring fair treatment for both accused and victims, and simplify access to legal remedies. To effectively implement these modernised criminal laws, several key measures are essential which includes investment in infrastructure development, capacity building for law enforcement officials, providing comprehensive training at the ground level, formation of specialised training for handling sensitive cases, strengthening interagency and intra agency collaboration, monitoring and evaluation of law enforcement practices, creation of a centralised legal oversight committee, development of community based outreach programs to ensure accessibility for marginalised and vulnerable sections, generating public awareness, implementation of restorative justice practices, integrating advanced technology, and facilitation of cross-border legal cooperation.

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