

International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2025– ISSN 3048-7501
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



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The Changing Face of Criminal Law: Analysing BNS, BNSS, And BSA 2023

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Received 17 June 2025; Accepted 16 July 2025; Published 19 July 2025

The Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA) demonstrate a bring storming moment in criminal law in India in the sense of providing an innovative replacement of colonial modes of criminal law in India, namely the Indian Penal Code, Code of Criminal Procedure, and Indian Evidence Act. Briefly, each statute aims to reform the criminal justice system to reduce the time taken for investigations and trials; also to take advantage of modern technology, such as online complaints and electronic summons, so all manners of facilities can be provided for the public; and to expand the ambit of crimes, to counter modern crimes such as cybercrime, terrorism, and gender-based crimes. From the lens of women and children, the BNS provides clear definitions and enhanced penalties for crimes committed against women and children; the BNSS has some innovative sections, like Zero FIR and police custody enhanced to expedite process justice. The BSA updates standards of evidence by permitting the admissibility of digital evidence and improving procedural fairness. While each of the reforms is progressive, there remain uncertainties about the broader authority of police, and existing challenges of implementation, around the availability of resources to supplement technological frameworks to enable implementation of these changes. Overall, the BNS, BNSS, and BSA signal a definitive shift toward an efficient, accessible, responsive, and victim-centric criminal justice system in India, while also embedding the important requirement of measured oversight that balances greater enforcement authority with the rights and protections of individuals.

Keywords: *Bharatiya Nyaya Sanhita, bnss, bsa, criminal law reform, India.*

INTRODUCTION

The trio of the landmark statutes of 2023-Bharatiya Nyaya Sanhita (BNS),¹ Bharatiya Nagarik Suraksha Sanhita (BNSS),² and Bharatiya Sakshya Adhiniyam (BSA),³ have witnessed the criminal scene here in India being shaken to its very foundations. This changeover has pronounced a clear and clean severance from the colonial Indian Penal Code 1860, Code of Criminal Procedure 1973, and Indian Evidence Act 1872 into a justice system that tends to respond to Indian realities and challenges of today.

The BNS merges and amends substantive criminal law, creating new offences or redefining the existing ones to meet newer forms of crimes and concerns of society. The BNSS takes care of the procedural core concerned in so far as keeping investigation, trial, and bail processes in check; it also caters to technology to bestow upon the administration of criminal justice more efficiency and transparency.⁴ The BSA, simultaneously, updates the law of evidence with provisions for digital and electronic evidence so that it moves side-by-side with advances in technology and communication.

The entire gamut of statutes embodies an effort to consciously eradicate the legality of colonial jurisprudence and to put into place a legal system capable of adjusting itself to the needs of a fast-changing society. This paper examines the popular changes affecting criminal law in India with the emphasis on their transformation of justice, on individual rights, and on the rule of law, offering a critical account of the salient features, novelties, and possible implications arising out of the BNS, BNSS, and BSA, 2023.

OVERVIEW OF NEW CRIMINAL LAW CODES

In 2023, India rolled out three fresh Codes: Bharatiya Nyaya Sanhita (BNS) 2023, the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, and the Bharatiya Sakshya Adhiniyam (BSA) 2023. Sweeping changes swept across criminal law. Aiming to deliver quicker, clearer justice, these

¹ Bharatiya Nyaya Sanhita 2023

² Bharatiya Nagarik Suraksha Sanhita 2023

³ Bharatiya Sakshya Adhiniyam 2023

⁴ Law Commission of India, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (Law Com No 277, 2018)

laws replace the old, colonial Indian Penal Code, Code of Criminal Procedure, and Indian Evidence Act with rules that speak to modern India.⁵

Bharatiya Nyaya Sanhita (BNS) 2023: Bharatiya Nyaya Sanhita (BNS) 2023 signals a turning point, dropping the 1860 Indian Penal Code that ruled crime for more than a century and a half.⁶ The new draft strives to match criminal justice with the spirit of a self-governing republic and to tackle today's shifting offences. With 358 sections spread across 20 chapters, the BNS trims clutter, updates dusty terms, and places victims at the heart of every provision.

In recent times, some offences have been newly created under the BNS in line with the changing nature of India being a plural society. Organised crimes, terror, mob lynching, or different forms of identity-based violence, caste, language, religion, etc., are now punishable acts⁷. Increased provisions are now to be made to provide for cybercrimes, financial frauds, and technology-enabled offences, which were either deficient or missing from the IPC.⁸ This is done so that the law always keeps pace with changes in criminal behaviour.

The BNS introduces possible reforms on a large scale on gender justice and sexual offences. In its essential framework, it provides for protection in cases of sexual assault, but enhanced protection is also provided against them. For example, it fixes the minimum age of the victim in gang rape cases from 16 years to 18 years.⁹ Stalking, voyeurism, insulting the 'modesty' of a woman, continuation of the existing crimes, but with perhaps more clarity, are also taken note of. It also includes forms of harassment that are digital and online, thus recognising the developing concern of cyber-violence against women.¹⁰

One of the remarkable changes and subject to much debate in the BNS is the abolition of the sedition law, i.e. Section 124A of the IPC. This new law is added to counteract acts prejudicial to the sovereignty, unity, and integrity of India by way of maintaining a counterbalance between the interests of national security and the right to free expression enshrined under the

⁵ Indian Penal Code 1860

⁶ Bharatiya Nyaya Sanhita 2023

⁷ *Ibid*

⁸ *Ibid*

⁹ Bharatiya Nyaya Sanhita 2023, s 70(2)

¹⁰ *Ibid*

Constitution of India. In essence, the BNS has made a conscientious attempt to detach itself from that colonial mindset where the State was revered above civil liberties.

The BNS also seeks to introduce community service as a sentencing option for some minor offenders, marking the advent of reformatory justice. This serves to reduce some burden off the over-filled prisons and offers an opportunity for the offender to rejoin society. Simultaneously, the punishment for serious offences is also upgraded.¹¹ There are now several crimes for which minimum punishments have been prescribed to bring about equality in sentencing, and therefore, to have the imposition of punishment act as the strongest deterrent.

Another example in which the law ensures that human rights are protected under the BNS is that torture by any public servant and custodial violence are now offences under the Act. Human rights concerns have been widely debated previously in India, and they still exist even now. From a victim's perspective, the law offers protection and dignity to the individual while also concentrating on vulnerable groups.¹²

The BNS is more logically constructed in that offences are somewhat more precisely compartmentalised. For the use of the layperson and the legal professional, the language has been simplified for ease of understanding. The introduction of gender-neutral terminology is reflective of a more inclusive approach to criminal law. Apart from updating the legal system, these changes seek to make it more accessible and fairer.¹³

In essence, the Bharatiya Nyaya Sanhita, 2023, makes a revolutionary impact in the world of Indian criminal law. The goal of the code is to secure justice, which is speedy, fair, and centred around the people by integrating modern realities and rejecting colonial inheritances¹⁴. However, its implementation, law enforcement adaptation, court interpretation, and public awareness shall be the real test concerning its origin.

¹¹ *Ibid*

¹² National Human Rights Commission, *Annual Report 2021-22* (2022)

¹³ M.R. Madhavan, 'Revamping the criminal justice system to fit the bill' *The Hindu* (11 November 2023) <<https://www.thehindu.com/opinion/lead/revamping-the-criminal-justice-system-to-fit-the-bill/article67522334.ece>> accessed 25 May 2025

¹⁴ Vaibhav Ojha, 'Lok Sabha Debates Landmark Bills to Overhaul Indian Criminal Laws, Proposing Replacements for IPC, CrPC, and Evidence Act' (*Law Chakra*, 21 December 2023) <<https://lawchakra.in/legal-updates/lok-sabha-debates-landmark-bills-to-overhaul-indian-criminal-laws-proposing-replacements-for-ipc-crpc-and-evidence-act/>> accessed 25 May 2025

Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023: CrPC is substituted by Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, for laying down the procedural law dealing with the administration of criminal justice and its implementation in India.¹⁵ The new code is proposed to enhance the time-boundedness, efficiency, and technology-friendly of the system. It will set limits for investigation, submission of chargesheet, and for court cases and delivery of judgement, and underlines the need for expeditious trials to reduce pendency.¹⁶ Delays at various stages are being actively diminished to ensure that justice is not only done but is also seen to be done speedily.

Approaching the issue as a victim-centric one allows BNSS to empower the status of victims in the criminal justice system. Victims should be informed and involved at all levels, particularly when major crimes are concerned.¹⁷ Another great development is the increased use of technology, which also accommodates provisions regarding the use of digital signatures, video conferencing, electronic records, and electronic communication during investigation and court proceedings.¹⁸

This is one way of making things more transparent and enhancing the system of providing justice. Also, the code increases the law enforcement agency's powers, letting police seize property and search electronic equipment before the case is filed. To make sure that the guarantees of the constitution are met, the above powers are counterbalanced with the protection of the accused, which includes the need to be informed about the causes of the arrest, the need to be subject to a medical check after the arrest, the right to a lawyer during the interrogation, etc.¹⁹

It is also essential to repair the plea bargaining and bail laws. Plea bargaining has been limited in terms of scope to make it accountable in cases involving more severe crimes, and some cases involving categories related to the tightening of bail to prevent its misuse. To have 39 chapters

¹⁵ Bharatiya Nagarik Suraksha Sanhita 2023

¹⁶ *Ibid*

¹⁷ *Ibid*

¹⁸ Alaya Purewal, 'Standing Committee Report Summary The Bharatiya Nagarik Suraksha Sanhita, 2023' (*PRS India*, 15 November 2023) <https://prsindia.org/files/bills_acts/bills_parliament/2023/SCR_Summary-Bharatiya_Nyaya_Sanhita_2023.pdf> accessed 25 May 2025

¹⁹ Bharatiya Nagarik Suraksha Sanhita 2023

and 531 parts to cover all the details of the process, starting with an arrest and finishing with a sentence execution, BNSS is more thoroughly organised compared to the previous version.²⁰

The Bharatiya Sakshya Adhiniyam (BSA) 2023: The Bharatiya Sakshya Adhiniyam (BSA), 2023, was adopted to use modern evidence and introduce changes into the Indian Evidence Act of 1872, which was enacted during colonial rule.²¹ This new law is a revelation of a step that is moving towards a fairer and efficient legal system, and hence a move that governs the admissibility, relevance, and evaluation of evidence in court proceedings. The BSA, composed of 170 sections, modifies and enlarges the earlier legislation to regulate current legal matters. Among the changes launched by BSA, one must single out the official acceptance and control of digital evidence.²² With the increased use of technology in our everyday lives, the law has now specifically made provisions on how electronic documents, emails, text messages, and digital signatures are to be admitted. This change is necessary to fight modern-day crimes such as financial fraud, internet bullying, and internet crime.

The BSA also gives more specific definitions and criteria to such other forms of evidence as secondary, documentary, and oral evidence, too.²³ These amendments are aimed at removing confusion and providing a more logical framework to determine the strength of evidence on the part of jurors and attorneys. More importantly, the legislation introduces the framework towards guarding against misuse of the police confession, repeating the principle that a confession will not be accepted based on duress or when it lacks the judicial element, protecting the rights of the convicted.²⁴

Moreover, the new Act is meant to streamline the evidence procedure by eliminating the vestigial use of practices and inconsistencies that often led to a slowdown or unfairness. The radical change of structure ensures that the rules of evidence are in line with international good practices and the Constitution²⁵. The BSA works to enhance the resilience, reliability, and

²⁰ *Ibid*

²¹ Bharatiya Sakshya Adhiniyam 2023

²² Richa Gupta and Puneet Bafna, 'Digital Evidence and it's Admissibility under the Indian Legal Regime' (2024) 16(1) International Journal of Communication Networks and Information Security <<https://ijcnis.org/index.php/ijcnis/article/view/7142/1606>> accessed 25 May 2025

²³ *Ibid*

²⁴ *State (NCT of Delhi) v Navjot Sandhu* (2005) 11 SCC 600

²⁵ Constitution of India 1950, art 21

responsiveness of the evidence system to the needs of the modern legal system, as well as strengthen the foundation of the right to a fair trial.²⁶

The 2023 codes of criminal law are one of the major reforms of India's jurisprudence to enhance effectiveness, applicability, and technological advancement of the administration of justice. Those laws are intended to balance the social needs, the rights of people, and justice in the fast-changing world by responding to the new forms of crime, streamlining procedures, and improving the evidentiary requirements.

PROVISIONS, REFORMS, AND KEYS

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) 2023 led to the transformation of the Indian criminal justice system. These reforms aim at the modernisation, simplification, and efficiency, technical and citizen-focused, of the legal system.

Bharatiya Nyaya Sanhita (BNS) 2023: The Bharatiya Nyaya Sanhita (BNS), 2023, has several revolutionary changes that aspire to make criminal law more relevant to contemporary society. The repeal of the sedition law in the colonial era and its substitution with the statement is one of the largest changes wherein the sentences that threaten India its integrity, unity, and sovereignty are being punished. The law also introduces new crimes, terrorism, organised crime, cybercrime, and mob lynching, where five or more people attack based on identifying features such as caste or religion.²⁷ Some crimes in the BNS attract the practice of community service as a form of penalty to reinforce positive change, besides retaliatory justice, which moves towards restorative justice.

To instil more deterrence, BNS also suggests that the punishment be more severe in cases of heinous crimes, especially those that relate to organised violence, terrorist activities, as well as crimes against women and children. It also shows changing values of the society as it repeals Section 377 (unnatural offences) and decriminalizes acts such as adultery, making it coherent with progressive court judgments.²⁸ The sanctions against the practice of torture by government

²⁶ 'New Criminal Laws' (Ministry of Home Affairs) <<https://www.mha.gov.in/en/commoncontent/new-criminal-laws>> accessed 25 May 2025

²⁷ *Ibid*

²⁸ *Navej Singh Johar v Union of India* (2018) 10 SCC 1

officials and the replacement of the term of mental illness by dismissive terms and phrases, such as unsound mind, indicate a high degree of human rights attention and its more auspicious and all-embracing treatment²⁹. Lastly, legal language is modernised, and the crime committed in a virtual environment is recognised, and the framework and the philosophy of the law are taken to a new level by the code reflecting the reality of the electronic age.

Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023: The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, proposes several important procedural reforms, aiming at enhancing the performance, transparency, and fairness of the criminal justice system. One of the most important changes is the need to incorporate technology and forensic tools. All the crimes that have a sentence of seven years or above in jail are under the mandate of the modern upgrading of the forensic investigation and the electronic collection and documentation of evidence that would guarantee an added scientific finesse and reliability.³⁰ Strict time limits are also imposed in other stages of the criminal process by the code: charge sheets are to be filed within nine months (though they can be extended an additional three months), trials within six months, and judgment within 30 days of the conclusion of the hearing and online within seven days. Other amendments are on bail and undertrial detention.³¹ To decongest jails, BNSS carries out early release practices among first-time undertrials, besides those indicted for serious crimes.

Other actions, such as regular updates in cases and a well-organised witness protection program further go a long way in enhancing the rights of the victims and witnesses, making them much safer and more engaged. Moreover, the act increases accessibility and transparency in the procedure, allowing, in certain cases, electronic registration of FIR and initial investigation.³² Besides greater responsibility of such custody activities as arrest, search, seizure and property attachment, which entail the necessity of storing the data on a digital platform requiring digital records, and video recordings of crime scene investigations, a new set of regulations permits any police officer to initiate a medical examination of the accused.

²⁹ Bharatiya Nyaya Sanhita 2023, s 367

³⁰ *Ibid*

³¹ Sonam Diki Dolma Bhutia, 'An Overview on the Paradigm Shift in Bail Proceedings Under Bnss, 2023 for Time Bound Delivery of Criminal Justice' (2025) 7(3) International Journal for Multidisciplinary Research <<https://www.ijfmr.com/papers/2025/3/45363.pdf>> accessed 25 May 2025

³² Apurva Vishwanath, 'On FIRs and hearing of accused, how BNSS sections fly in face of Supreme Court rulings' *Indian Express* (02 July 2024) <<https://indianexpress.com/article/explained/explained-law/on-firs-hearing-of-accused-bnss-sections-fly-in-face-of-sc-rulings-9427078/>> accessed 25 May 2025

Bharatiya Sakshya Adhiniyam (BSA) 2023: The Bharatiya Sakshya Adhiniyam (BSA) 2023 creates significant amendments to the evidential framework, which considers the digital age. Among the most notable changes, we note the official adoption of digitised and electronic records as primary evidence, the extension of the secondary evidence to include digital literature, oral or written confessions of witnesses, and professional opinions regarding the study of the documents. Another milestone towards easily accessible and technically new justice has been the capacity of the law to capture oral testimony in an electronic form, thus allowing witnesses and even victims to testify by remote control³³. The definition of what constitutes a document has been expressly amended to include modern sources such as emails, server logs, and websites, as well as voicemails and other electronic information.³⁴ To eliminate the possibility of coercion, it is now mandatory to have fresh guard rules to reduce the admissibility of confessions, particularly those made to police officers, unless they are recorded before a magistrate. Moreover, the Information Technology Act, 2000, is much in line with the Act, and this will ensure logicity and consistency of the statutes regarding the electronic evidence.³⁵ Lastly, it is a symbolic yet profound way of reinforcing the concept of Indianization and being more considerate, which BSA does by replacing archaic colonial-era words or terminologies with more inclusive and culturally acceptable ones, especially when referring to people with mental sickness or other oppressed groups.

COMPARATIVE ANALYSIS - OLD VS NEW CRIMINAL LAWS

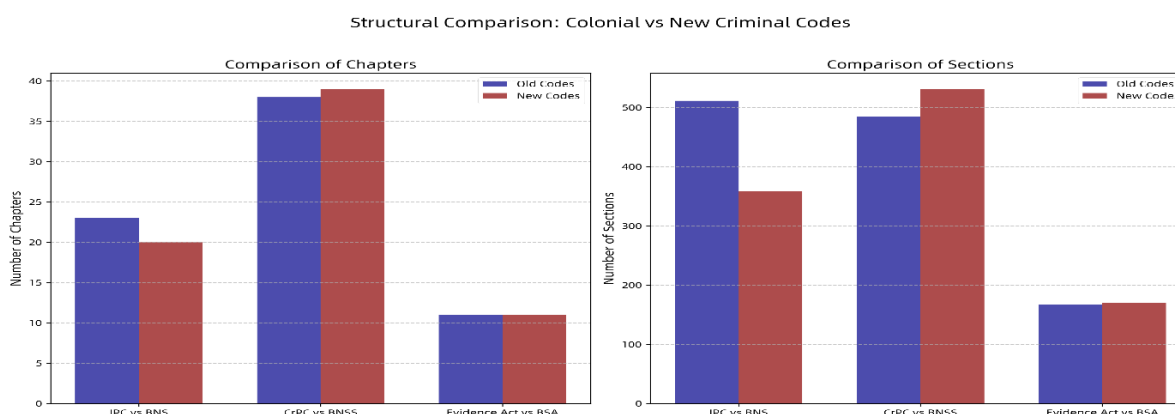
Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act have all been formulated under the colonial rule and have been largely substituted by the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) in 2023. The old and the new code are contrasted here concerning several important parameters.

³³ R.K. Vij, 'E-evidence, new criminal law, its implementation' *The Hindu* (01 March 2024) <<https://www.thehindu.com/opinion/lead/e-evidence-new-criminal-law-its-implementation/article67900858.ece>> accessed 25 May 2025

³⁴ Divyansha Goswami, 'Electronic Evidence in Focus: Navigating Legal Shifts in the Law on Electronic Evidence under the BSA, 2023' (*SSC Online*, 23 October 2024) <<https://www.sconline.com/blog/post/2024/10/23/electronic-evidence-in-focus-navigating-legal-shifts-in-the-law-on-electronic-evidence-under-the-bsa-2023/>> accessed 25 May 2025

³⁵ Information Technology Act 2000, s 65

Substantive Criminal Law: The 1860 IPC v BNS 2023: The Indian Penal Code (IPC), 1860, was a pseudo-statute enacted during the colonial period that had 23 chapters and 511 sections, where the majority were of the British ruling, like colonial terms and inflexibility in the structure. Conversely, the Bharatiya Nyaya Sanhita (BNS), 2023, is rearranged to be more readable and understandable to a common reader, and it has 20 chapters and 358 sections.³⁶ The code is less daunting or uneasy to understand because modern Indian vocabulary may be used instead of those terminologies that are not in use anymore.



The most significant changes by the BNS include the addition of new crimes that are not in the IPC.³⁷ These shortcomings are dealt with under the BNS, which criminalises terrorism, mob lynching, organised crime, and cybercrimes, where the IPC failed to deal with modern crimes like cybercrime or terrorism or organised violence. In an endeavour to compare the code to the contemporary reality, definitions have also been altered, and newer forms of unlawful actions have been brought in.³⁸

The treatment of sedition has also been transformed massively. Section 124A under the IPC, which punished and defined sedition, became a controversial clause that was often used to restrain any opposition.³⁹ To maintain a balance between civil liberties and the security of the country, the BNS repeals this section and replaces it with a crime that is more constitutional and aims at activities that thwart the unity, integrity, and sovereignty of India.

³⁶ Indian Penal Code 1860

³⁷ *Ibid*

³⁸ 'Reforming The Indian Penal Code: Insights into Bharatiya Nyaya Sanhita, 2023' (*Lexis Nexis*, 15 January 2025) <<https://www.lexisnexis.in/blogs/bharatiya-nyaya-sanhita-2023/>> accessed 25 May 2025

³⁹ Indian Penal Code 1860, s 124A

On penalties, the IPC would mainly employ fines and imprisonment, making it quite difficult to employ penalties that were more reformatory. Nevertheless, the BNS imposes more severe minimum conditions on more serious crimes and creates charges of community service for less serious offences.⁴⁰ This transformation is the sign of reformation as well as a deterrent to enhance the responsiveness and equity of the criminal justice system.

Criminal Procedure: CrPC 1973 v BNSS 2023: Criminal Procedure Code (CrPC), 1973 has long been used to govern criminal law in India; however, the change is inevitable because of its defects, especially in respect to delays, outdated methods, and poor care for the victims⁴¹. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, focuses on the improvement of such drawbacks and puts the stress on the integration of technologies, empowerment of victims, and efficiency. One of the greatest increases is the introduction of strict timelines on investigations, trials, and delivery of rulings made in a BNSS system. This was arrived at to solve the problem of lingering court cases, which the CrPC failed to clear.

BNSS also gives a victim-centred approach, which ensures the active participation of the victims in the system of law and recognition of the rights of the victims, such as victim impact statements.⁴² It also enhances the protection of the accused by non-necessarily providing the reason why the accused was to be arrested, the provision of an advocate where the CrPC had the least protection, and even the most archaic laws.

One of the main modernisation features of BNSS is the fact that the company is highly technological. It permits the application of electronic communication, video conferencing, and digital documentation during the trial and investigation. Conversely, the CrPC had few clauses on how to deal with electronic evidence or conduct a virtual hearing.⁴³

Procedural safeguards like mandatory medical examinations after arrests and documented procedures to curb abuse of these powers are provided to counter the increased police authority in the form of authorisation to seize digital products and assets even before an official accusation. Such a two-fold approach reflects so much a change in the bigger yet not too regulated police

⁴⁰ Bharatiya Nagarik Suraksha Sanhita 2023

⁴¹ Criminal Procedure Code 1973

⁴² Bharatiya Nagarik Suraksha Sanhita 2023

⁴³ Criminal Procedure Code 1973

powers in the CrPC and reflects a move to look for a middle ground between the right of the Constitution and the need to enforce law as well as policy.⁴⁴

Law of Evidence: BSA 2023 v Indian Evidence Act 1872: The Indian Evidence Act of 1872 was an innovative law at the time and focused on oral and written evidence⁴⁵. It was, however, ambiguous on newer forms of evidence like electronic records. The Bharatiya Sakshya Adhiniyam (BSA) 2023, on the contrary, is the first law in the Bharatiya legal framework to explicitly recognise the value of digital and electronic evidence of its admissibility and admissibility in the court by providing specific criteria to that effect⁴⁶. Such a change is necessary in the modern digital age, where there are many cases of crime involving electronic communications and online transactions.

However, since there were 167 provisions under the Evidence Act, its interpretation was subject to being confusing or even obsolete. BSA further increases it to 170 sections and updates and revises no less than 23 significant clauses to consider new wraps in technology and existing legal topics. It simplifies the law and makes it more applicable by redefining rules, clarifying what is admissible in the law, and making the provisions uniform.⁴⁷

Another notable difference is the security against the abuse of power. The Evidence Act lacked adequate measures that protected against police misconduct or duress confessions.⁴⁸ To fill in this gap, the BSA adds more severe prerequisites to assert that confessions made, particularly to law officials, must be offered voluntarily and without annoying. The changes are aimed at maintaining judicial integrity and fair trials, as well as protecting the rights of the person on trial.

PROBLEMS AND OBJECTIONS

In 2023, the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) were adopted, leading India to a substantial reform of its criminal justice system. Although the aim of implementing these amendments is to modernise

⁴⁴ Constitution of India 1950, art 21

⁴⁵ Indian Evidence Act 1872

⁴⁶ Bharatiya Sakshya Adhiniyam 2023, s 61

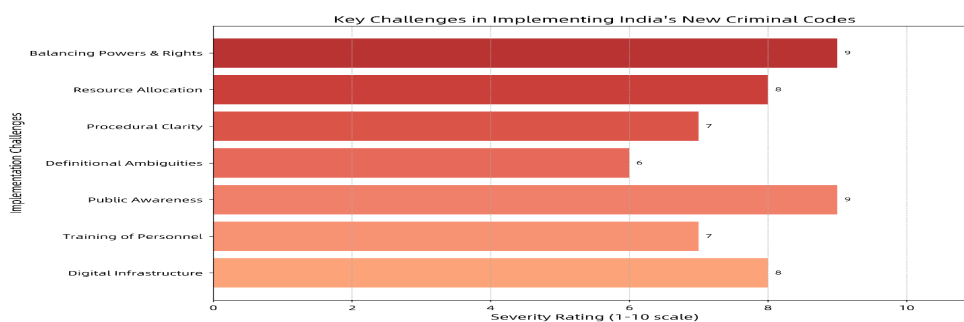
⁴⁷ Kunal Ambasta, 'One hundred (and fifty) years of solitude: the Indian Evidence Act 1872 as a lost project of law reform' (2024) 8(1) Indian Law Review <<https://doi.org/10.1080/24730580.2023.2283644>> accessed 25 May 2025

⁴⁸ *State (NCT of Delhi) v Navjot Sandhu* (2005) 11 SCC 600

and simplify criminal law, legal professionals, experts, and civil society have paid much attention to and criticised these amendments. Analysis of the principal objections and challenges that these new codes seek to address is given as follows.

Implementation Challenges: Although new criminal codes, BNSS, BSA, and BNS are a sign of progressive legal reform, there exist quite a few major stumbling blocks in their implementation. One of the primary victim-oriented issues is the lack of awareness and training of the stakeholders.⁴⁹ To make this possible, it is important to point out that all the police officers, judges, prosecutors, and defence attorneys should be extensively retrained to not only understand the new requirements but to follow them accordingly, especially the rules regarding digital evidence, stricter procedural connections, and victim-oriented routines.⁵⁰ States still vary concerning their performance benchmark, however, and this casts doubt on haphazard enforcement and the very fact that the law might be unclear.

Another major barrier is the resource shortage. The adoption of the knowledge base and the technological development implied in these regulations, such as safe management of electronic data evidence, videoconferencing, and case tracking, requires major infrastructure input and highly qualified human resources. Universal short-term adoption is not possible because the basic digital infrastructure and skilled labour are few in most districts, particularly in urban and semi-urban settings.⁵¹



⁴⁹ Law Commission of India, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (Law Com No 21, 2018)

⁵⁰ Potnuri Bala Nirguna Naga Sathwik and Maghavatpriya, 'Impact of Technology on Access to Justice in India: Opportunities and Challenges' (2024) 4(5) Indian Journal of Integrated Research in Law <<https://ijirl.com/wp-content/uploads/2024/09/IMPACT-OF-TECHNOLOGY-ON-ACCESS-TO-JUSTICE-IN-INDIA-OPPORTUNITIES-AND-CHALLENGES.pdf>> accessed 25 May 2025

⁵¹ 'Strategy for New India@75' (NITI Aayog, 19 November 2018) <https://niti.gov.in/sites/default/files/2019-01/Strategy_for_New_India_o.pdf> accessed 25 May 2025

More so, the issue of gross public unawareness may compromise the main agenda of justice and transparency. The new codes must be made known to the people about the changes in them, their rights, and legal recourse to them. Without any concerted efforts of awareness creation and legal literacy programmes, the victims may risk remaining oblivious of their rights or on how to go about utilising the new dispensation, ultimately foiling the administration of justice.

Substantive Criticisms of Bharatiya Nyaya Sanhita (BNS) 2023: Being propagated as a modern revision of the Indian Penal Code, the Bharatiya Nyaya Sanhita (BNS), 2023, has attracted a lot of criticism due to its substantive content. Another major cause of concern is the ambiguity and vagueness of a few sections, particularly the ones related to organised crimes, terrorism, and community services. There are no specific definitions for terms such as economic security and organised crime, which means they can be interpreted in different ways and even abused by the authorities.⁵² Opponents additionally argue that overcriminalization and proliferation of force can take place in the case of including complex crimes such as terrorism in general criminal legislation, with the absence of protection and elucidation.

It is also criticised that the BNS upholds antique notions and gender prejudice, especially in its policies concerning marital rights and sexual misconduct.⁵³ The code has been blamed for tending to have certain patriarchal assumptions and a failure to fully accept the autonomy and consent of a woman, although there is legal progress in other areas. Moreover, omissions and gaps in the code weaken the comprehensiveness of the code; severe offences such as necrophilia are not punished, and various offences that have been considered as an offence in the IPC have been entirely omitted, leaving legal loopholes that could make it harder to secure justice.⁵⁴

Another issue is the overlap of laws such as the Unlawful Activities (Prevention) Act (UAPA) and BNS requirements.⁵⁵ Criminal behaviour of law enforcement and court procedures can be complicated due to this duplication and cause confusion, jurisdiction conflicts, and parallel proceedings. Lastly, since such ambiguous terms may become a tool to suppress opposition or

⁵² V. Vankatesan, 'New criminal laws push India toward a regressive past' *Frontline Magazine* (02 July 2024) <<https://frontline.thehindu.com/the-nation/india-new-criminal-laws-justice-civil-rights-ipc-bns-controversy/article68359016.ece>> accessed 25 May 2025

⁵³ 'India: Authorities must immediately repeal repressive new criminal laws' (*Amnesty International*, 01 July 2024) <<https://www.amnesty.org/en/latest/news/2024/07/the-laws-in-their-current-form-will-be-used-as-pretext-to-violate-the-rights-of-all-those-who-dare-speak-truth-to-power/>> accessed 25 May 2025

⁵⁴ Indian Penal Code 1860

⁵⁵ Unlawful Activities (Prevention) Act 1967

comments in the name of national security, the broad and vague provisions on other activities that threaten sovereignty and unity have also led to a call that they may have a chilling effect on freedom of speech. These are major weaknesses, indicating the importance with which legislation must be formulated so that reform does not lead to loss of civil freedoms or lack of clarity regarding the law.

Criticisms - BNSS 2023: The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), is accused of many flaws regarding procedures, regardless of the intentions of reforms. Along with that, there is one grave concern: the ambiguity of important terminology that lacks clear definitions, such as community service and public interest. Such uncertainty can be construed differently by different jurisdictions and can also be used for arbitrary sentencing. Moreover, BNSS allows the police to enjoy greater power, such as working with digital technologies and surveillance systems. These are the powers that draw reasonable suspicion of misuse and infringement on civil liberties without strict privacy laws or an objective watchdog, especially in politically sensitive cases.⁵⁶

Poor protection of women, children, and disadvantaged communities is one of the other areas cited by those opposed to the BNSS. Although the code boasts of being victim-centric, it does not formulate harsh protection on issues like systemic abuse, particularly on arrest, questioning, and imprisonment.⁵⁷ It is also perceived that the BNSS has limitations in its operations regarding administration, such as the lack of detailed protocols on electronic filing of FIRs, private arrest, gathering of forensic evidence, and protection of witnesses. Such omissions may complicate the implementation process and result in some delays in the law process or injustice.⁵⁸

Lastly, both oppositionists and lawyers have attacked the quick enactment of the BNSS with minimal consultation with the masses or even parliamentary debate. According to the thoughts of many individuals, such a vast transfer of criminal procedure required a more general debate

⁵⁶ Pooja, 'Powers of Police: A Context of India according to Bharatiya Nagarik Suraksha Sanhita' (2024) 4(6) Indian Journal of Integrated Research in Law <<https://ijirl.com/wp-content/uploads/2024/11/POWERS-OF-POLICE-A-CONTEXT-OF-INDIA-ACCORDING-TO-BHARATIYA-NAGARIK-SURAKSHA-SANHITA.pdf>> accessed 25 May 2025

⁵⁷ 'India's new criminal codes: The Hindu's detailed coverage' *The Hindu* (23 August 2024) <<https://www.thehindu.com/news/national/indias-new-criminal-codes-the-hindus-detailed-coverage/article68347477.ece>> accessed 25 May 2025

⁵⁸ Law Commission of India, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (Law Com No 21, 2018)

among practitioners, legal scholars, and civil society groups.⁵⁹ The absence of such general discourse has brought about concerns with the democratic legitimacy and long-term practical effectiveness of the law.

Concerns raised about the BSA 2023: Although the BSA (2023) recognises digital and electronic evidence officially, this is a significant shift. There are many practical problems that question how to use the BSA. One issue is the authenticity and reliability of digital evidence, as digital records can easily be altered, tampered with, and manipulated, as well as being vulnerable to use by individuals who have no authority to access them. In many areas of India, there is still a lack of advanced digital forensics expertise, which will be essential if we are to assess digital evidence and verify the integrity of electronic records.⁶⁰ The evidential value could be unsafe, and wrongful conviction or acquittal could occur due to a lack of forensic labs, qualified personnel, and appropriate methodology.

Furthermore, BSA relies on its technical infrastructure; however, representatives indicated that some police stations and courts are lacking the resources to work with electronic data (note: limited access to secure servers, either no high-speed or no internet connection, limited access to video conferencing technology).⁶¹ The lack of infrastructure makes it increasingly complicated to safely collect, update, and present electronic evidence. In addition, the bill would place substantial, administrative, and technical responsibility on already overwhelmed judicial and investigating authorities. The responsibility of maintaining and managing digital chains of custody, securing cybersecurity, and adhering to rigorous evidentiary protocols could hinder the legal process rather than expedite it.⁶² Therefore, although the BSA is a law for the future, the legal industry must invest heavily in training, capacity, and technical preparation.

⁵⁹ Mahalakshmi Pavani, 'New Criminal Laws criticised for hasty implementation and superficial changes' (*Lawstreet Journal*, 02 July 2024) <<https://lawstreet.co/vantage-points/new-criminal-laws-criticised-for-hasty-implementation-and-superficial-changes>> accessed 25 May 2025

⁶⁰ Bhagesh Gupta and Sarthak Bhatnagar, 'Bridging the Cybersecurity Gap in India: Legal, Technical, and Public Awareness Issues' (2024) 44(3) *Library Progress International* <<https://bpasjournals.com/library-science/index.php/journal/article/download/2100/1364/3075>> accessed 25 May 2025

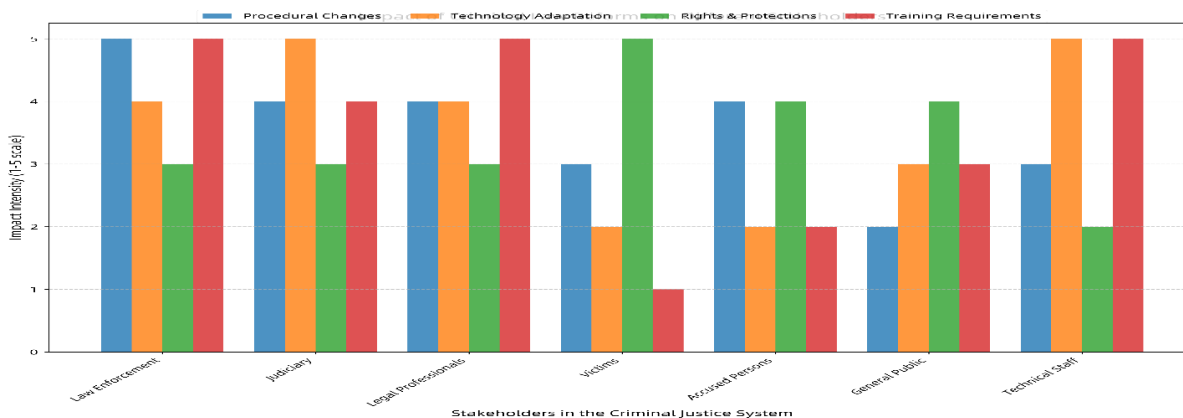
⁶¹ 'Inter-operable Criminal Justice System (ICJS)' (*Ministry of Home Affairs*, 13 September 2024) <<https://www.mha.gov.in/en/commoncontent/inter-operable-criminal-justice-system-icjs>> accessed 25 May 2025

⁶² Sunil Khandbahale, 'Can Technology Defuse the Ticking Pendency Bomb for the Indian Judiciary System?' (2024) *Vedhas Law Journal* <<https://dx.doi.org/10.2139/ssrn.4962328>> accessed 25 May 2025

EFFECTS ON STAKEHOLDERS

The criminal justice system in India underwent a fundamental overhaul in 2023 with the enactment of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA). There will be considerable impacts on stakeholders, such as law enforcement, the judiciary, lawyers, forensic scientists, victims, the accused, and society in general.

Impact on Law Enforcement Agencies (Forensic, Police, and Prison Staff): The introduction of the new criminal law codes BNS, BNSS, and BSA has meant a significant change in the way law enforcement agencies - police, prison personnel, forensic specialists, etc are mandated to operate. The government has delivered extensive training and capacity building through the Bureau of Police Research and Development (BPR&D) to ensure changes are successfully implemented. So far, more than fifty thousand police officers have undergone training in nationwide training sessions and generated thirteen content-based training modules. This was all extensive training provided to familiarise those engaged with the new legal provisions and procedures, and the shift to a more public-focused justice system.⁶³



Technological advances are another important aspect of this transformation. Today, law enforcement agencies have tools such as eSummon, which provides electronic court summonses, NyayShruti, with access to legal provisions and databases, and the digital documentation of crime scenes using eSakshya. These technologies aim to improve accountability, reduce time delays, and assist in open, technology-driven policing. In addition, police and affiliated

⁶³ 'Imparting Training of Stakeholders for Implementation of New Criminal Laws' (*PIB*, 24 July 2024) <<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2036414>> accessed 25 May 2025

personnel must be more thoughtful and effective given procedural changes that highlight crime victim participation, the use of plain language, and investigative timeframes. This represents a shift from rigid, colonial ways of working and supplants them with a larger emphasis on accountability, justice, and humanity in law's implementation.⁶⁴

The legal and judicial fraternity: A fundamental shift in the practice of the legal profession and by judges will be required, considering the implementation of new criminal codes, especially the Bharatiya Sakshya Adhiniyam (BSA) 2023. Judges, magistrates, and court personnel received an understanding of the new provisions of law, specifically the provisions relating to digital evidence and procedures, through planned training.⁶⁵ This training is important to ensure judges, magistrates, and court staff can consistently apply the new laws and correctly interpret them in their rulings. The new codes seek to reduce legal uncertainty and enhance consistency in rulings while also improving case management by reducing the legal provisions contained in the various legislation and consolidating them.

As a result, it is expected to address one of the oldest problems in the Indian legal system.⁶⁶ Also, lawyers, prosecutors, and defence lawyers are required to change their tactical, procedural, and technological/forensic knowledge to accommodate the BSA's explicit acceptance of both electronic evidence and electronic/digital evidence. The development of law practice to comply with modern evidentiary standards compels lawyers to ensure evidence is both technically sound and legally admissible.⁶⁷ Overall, they signal a revolutionary shift toward improving the efficiency, technologically sophisticated, and justice-oriented rationale of India's legal system.

Changing Roles of Prosecutors Considering New Codes: It is expected that prosecutors will undertake more proactive, technologically capable roles under the new criminal law environment, especially in the context of Bharatiya Sakshya Adhiniyam (BSA), 2023, which emphasises the admissibility of electronic and digital evidence. Prosecutors now must be

⁶⁴ Raj Kumar Singh, 'The evolution of the Indian police: From colonial legacy to contemporary challenges' (2024) 6(8) International Journal of Multidisciplinary Trends <<https://doi.org/10.22271/multi.2024.v6.i8a.467>> accessed 25 May 2025

⁶⁵ 'Training Of Judicial Officer' (PIB, 09 August 2024) <<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2043477>> accessed 25 May 2025

⁶⁶ Ministry of Law and Justice, *India Justice Report 2022* (2023)

⁶⁷ Anubhav Singla and Ekta Gupta, 'The impact of technology on legal profession' (2024) 10(2) International Journal of Law <<https://www.lawjournals.org/assets/archives/2024/vol10issue2/10077.pdf>> accessed 25 May 2025

competent to account for the collection, legal storage, and presentation of digital and electronic evidence, so the prosecutors must be competent to apply the provisions of BSA (2023) for electronic records and storage made by a competent authority, accompanied by metadata, for example, digital forensics and cybercrime materials. This is a continuous learning task as the pool of knowledge for prosecutors will have to evolve in cooperation with technology experts. There is also community service as a lesser punishment for some offences in the Bharatiya Nyaya Sanhita (BNS), 2023.⁶⁸

We must also now think more relevantly about alternative sentencing in cases, particularly when young, first, or juvenile offenders are concerned; prosecutors also have the power to suggest rehabilitative punishment. For the prosecution to achieve the right result in the contemporary legal arena, it must balance the demands and interests of society, victims, and the accused.⁶⁹ This demonstrates a shift to restorative justice.

An Equally Balanced Approach to Accused Persons and Victims: The new criminal law codes- especially the 2023 Bharatiya Nagarik Suraksha Sanhita (BNSS) - simply envisage a more even-handed approach to the legal system by focusing on victims and giving them a much fairer opportunity to receive justice. Victims now have increased rights to participate, have access to support services, receive information on their case, are heard at bail and when sentencing occurs, to name a few. Victims can legitimately claim that they matter in court proceedings that have traditionally not concerned them at all and have solely focused on the state and the accused.⁷⁰ Furthermore, the amendments enhance procedural fairness by strengthening the rights of the accused. Key protections are the obligation to disclose the reason for the arrest, a medical assessment post-arrest, and the right to legal counsel during questioning.

These protections provide immunity from unpredictable state action and help to safeguard the principles of the Constitution.⁷¹ Moreover, there is a change towards restorative justice in the form of community service as a sanction for offences. It gives offenders an opportunity to amend

⁶⁸ Bharatiya Nyaya Sanhita 2023, s 4

⁶⁹ Dr. Ajay Kumar Singh and Dr. Vinay Kumar Kashyap, 'Protection to Victims of Crime and Witnesses in New Criminal Laws: A Comparative Study' (2024) 16(1) Dehradun Law Review

<<https://www.dehradunlawreview.com/wp-content/uploads/2025/03/2.pdf>> accessed 25 May 2025

⁷⁰ Sakshi Sharma, 'Victimology and Victims' Rights in Indian Criminal justice system' (2024) SSRN

<<https://dx.doi.org/10.2139/ssrn.4789802>> accessed 25 May 2025

⁷¹ Constitution of India 1950, art 21

their ways and find a way to contribute to society, a process which may reduce recidivism and overcrowding in prisons. Collectively, these provisions offer a fairer approach to justice by protecting the rights of the accused to a fair trial, offering rehabilitation when necessary, and protecting victims.⁷²

Effect on the General Public: The new criminal law codes, BNS, BNSS, and the BSA, will have a considerable and direct effect on the population⁷³. The government has implemented a large awareness campaign with social media posts, explanatory videos, and public meetings, followed up by traditional media resources to ensure citizens know what the changes entail. By informing people of their rights, duties, and the changes, we hope to provide some increased knowledge and literacy regarding the law.⁷⁴ The reforms are also geared to empower citizens by streamlining the legal processes, reducing delays in the system, and improving overall accessibility and transparency. The reforms specifically advocate women's safety with the expectation that regulations will strengthen mitigating behaviours against gender-based violence, redefine sexual offences, and provide increasing penalties for conduct that includes stalking, harassment, and gang rape. The new codes will be tailored to increase the public's confidence in the justice system by modernising the criminal law while contributing positively to citizens whose interests are or may have been at stake in neighbouring the law.⁷⁵

Technical and Operational Stakeholders: Technical and administrative readiness is essential for a successful rollout of the new criminal law codes. The National Crime Records Bureau (NCRB) has made a significant contribution to that readiness by modernising the Crime and Criminal Tracking Network & Systems (CCTNS) system to accommodate the bidding of the new Bharatiya Nyaya Sanhita (BNSS) and BSA.⁷⁶ Those improvements allow for heightened integration and transparency in the criminal justice system, and place into the digital arena the ability to manage FIRs, evidence, charge sheets, and court actions. NCRB has also worked to

⁷² Sharma (n 70)

⁷³ *Ibid*

⁷⁴ 'Legal Awareness/Literacy' (National Legal Services Authority) <<https://nalsa.gov.in/legal-awareness-literacy/>> accessed 25 May 2025

⁷⁵ Satya Vrat Pandey, 'Criminal Law Reforms In India: Striking the balance between Justice and Efficiency' (2025) 5(1) Indian Journal of Integrated Research in Law <<https://ijirl.com/wp-content/uploads/2025/01/CRIMINAL-LAW-REFORMS-IN-INDIA-STRIKING-THE-BALANCE-BETWEEN-JUSTICE-AND-EFFICIENCY.pdf>> accessed 25 May 2025

⁷⁶ 'Crime and Criminal Tracking Network & Systems (CCTNS)' (Digital Police) <<https://digitalpolice.gov.in/DigitalPolice/AboutUs>> accessed 25 May 2025

implement regional call centres and establish functional support teams to facilitate the transition within the state and union territory police forces.⁷⁷ These teams can respond to operational issues, provide real-time fixes for technology-related challenges while ensuring that all law enforcement entities have made the necessary adjustments for functioning under the new legislative framework.⁷⁸ This coordinated approach also enables institutional readiness while promoting consistency in implementation for the jurisdiction.

CONCLUSION

The passage of three laws in 2023, the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam, constitutes a major and transformative point in India's legal history. Those laws replace colonial-era laws, which, although foundational in their time, have steadily become increasingly outdated and disconnected from a modern and democratic society. The new laws are bold in scope and aspirational in intent, having the intent to preserve justice, accountability, and human rights, while also providing justice that is more accessible, expedient, and technologically adept.

The three codes have different but interrelated functions. While the BNS reinterprets substantive criminal law by defining new offences, increasing penalties, and emphasising victim rights and gender justice, the BNSS reformulates procedural law by prescribing tight timelines, enabling digital tools, and facilitating balancing police discretion and protections for the accused. Meanwhile, the BSA addressed longstanding gaps in evidentiary protections, ensures clarity in standards of admissibility, and explicitly distinguishes digital evidence, bringing evidence law into an age of technology in the 21st century.

However, the successful implementation of these measures will be critical for their achievement. Training of stakeholders, administrative coordination, and advancements in technology, such as the NCRB's changes in CCTNS, will help ensure that the new legal framework has real-life consequences. Similarly, legal education, judicial preparedness, and public knowledge are also equally important to ensure that these rules aren't misappropriated or abused. Ultimately, India's criminal justice system can be more robust and reset by these new regulations. If these

⁷⁷ Ministry of Home Affairs, *Annual Report 2023–24* (2024)

⁷⁸ 'Awareness Regarding New Laws' (PIB, 24 July 2024)

<<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2036407>> accessed 25 May 2025

regulations are implemented sincerely, transparently, and inclusively, they can make justice more responsive, equitable, and consistent with the aspirations of New India.