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A COMPARATIVE ANALYSIS BETWEEN THE NEW CRIMINAL LEGISLATION AND THE OLD LEGISLATION

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Introduction

On December 25, 2023, the government enacted revised versions of the criminal laws namely, the *Bharatiya Nyaya Sanhita* (hereinafter, *BNS*),¹ the *Bharatiya Nagarik Suraksha Sanhita* (hereinafter, *BNSS*),² and the *Bharatiya Sakshya Adhinyam* (hereinafter, *BSA*).³ The Central Government notified *July 1, 2024* as the effective date for the enforcement of the provisions of *BNS* except Section 106 (2), *BNSS*, and *BNA*. This article expands upon the comparative analysis of the initial version of the new criminal laws with the old laws. It further delves into the modifications introduced *vide* the second enacted version *vis-a-vis* to the first set of bills.

Indian Penal Code, 1860 and the Bharatiya Nyaya Sanhita, 2023

The Indian Penal Code (hereinafter, *IPC*),⁴ has undergone various changes in terms of its legal scheme as well as in the arrangement of the provisions of the *BNS*. The disseminated offences relating to Women and Children under the *IPC* have been brought together under the scheme of the *BNS*. Similarly, offences affecting the human body have been clubbed together. The *BNS* consists of 358 Section as opposed to the previous 511 Section under the *IPC*.

- **Definition Clause-**

That *IPC* has multiple interpreting sections running from Section 6 to 52A. However, in the *BNS*, all interpretation sections have been clubbed together into a single definition Section, i.e., Section 2. Furthermore, new definitions have been included such as “*child*” and “*transgender*”. The meaning of terms such as “*court*” and “*document*” have also been expanded to include electronic and digital records.

- **Punishment Clause-**

The provisions of punishment, addressed in Section 53 of the *IPC* are now outlined in Section 4 of *BNS*. Along with the existing punishment, community service has been introduced as a punishment for minor offenses, such as attempted suicide, coercion or obstruction of a public servant's lawful duties, minor theft upon returning stolen property, and so on. However, *BNS* does not offer a specific definition of “community service”.

- **Offences Against Woman and Children-**

A paradigm shift in the legal provisions pertaining to sexual offences is evident in the *BNS*, notably within the ambit of what was formerly Section 375 in the *IPC*, now delineated as Section 63 in the *BNS* Act. While the definitions and underlying punitive measures have been retained, the penalties for the offence have been amplified.

¹ The Bharatiya Nyaya Sanhita 2023

² The Bharatiya Nagarik Suraksha Sanhita 2023

³ The Bharatiya Sakshya Adhinyam 2023

⁴ The Indian Penal Code 1860

In IPC, under Exception 2 to Section 375, sexual acts by a man with his own wife, who is not under the age of fifteen, do not constitute rape, regardless of whether it was done with or without her consent. The BNS has only increased the age of the wife from fifteen years to eighteen years.

For several decades, there has been an extensive discussion/debate for making the rules against rape gender- neutral. However, this opportunity for gender parity is lost as, even under the new legislation, only women are considered as victims of rape and men are considered as offenders under the new Act. Interestingly, while it is laudable that the BNS now gives recognition to the transgender community, however, it still continues to perpetuate the age-old patriarchal vision of rape and fails to address the offence of rape for all genders.

Further, making a promise to marry a woman without any intentions of fulfilling the same and deceitfully having sexual intercourse with such woman has been criminalized by BNS under Section 69. By a positive step through the explanation to Section 69, “deceitful means” now includes the act of false promise of employment or promotion, inducement or marrying after suppressing identity.

Where on one hand, Section 376D of the IPC does not prescribe death penalty for the offence of gang raping a woman aging between 12 to 16, Section 70(2) of the BNS provides death penalty for gang raping a woman under the age of 18 years.

- **Sedition-**

While the IPC deals with the offence of sedition under Section 124A, the BNS has no mention of the term sedition. However, under Section 152 of BNS pertains to an offence of similar nature, i.e. acts endangering sovereignty, unity, and integrity of India. Phrases such as “purposely or knowingly”, “electronic communication or by use of financial mean” and “secession or armed rebellion or subversive activities or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act” have been added. Further, Section 152 of BNS provides for imprisonment for life or with imprisonment which may extend to seven years for secession and separatist activities, armed rebellion, subversive activities or any act which puts in danger the sovereignty, unity and integrity of India with along with and shall also be liable to fine.

- **Dishonest misappropriation of property**

The BNS has specifically given the minimum period of punishment, i.e. six months of imprisonment extendible to two years, which under Section 403 IPC, was punishable with imprisonment for either a term which may extend to two years, or with fine, or with both.

- **Cheating**

The offence of cheating, covered under IPC Section 415 to 420, has been clubbed together into a single provision under Section 318 in BNS. Section 318 has increased the punishment of imprisonment to three years which was only one year under the IPC.

- **Criminal Breach of Trust**

The BNS has clubbed all the provisions of IPC (Section 405 to 409), which dealt with the offence of criminal breach of trust in a single provision (Section 316), but the term of imprisonment has been changed from three years to five years.

- **Mob Lynching-**

A new category of culpable homicide has been introduced by BNS that targets the issues of mob lynching. Section 103(2) addresses offence related to mob lynching, stating that when a group of five or more persons acting in concert commits murder on the grounds of race, caste or community, sex, place of birth, language, personal belief or any other similar ground, each member of such group shall be punished with death or with imprisonment for life as stipulated under 'Punishment for Murder', and shall also be liable to a fine as deemed appropriate.

- **Organized crime-**

Section 111 of the BNS introduces the offence of "Organized Crime", drawing significance from certain special state legislations like Maharashtra Organized Crime Act,⁵ the Gujarat Organized Crime Act, etc. The definition of "organized crime" is facing criticism for being vague and unclear since terms like "land grabbing," "contract killing," and "cybercrimes" are used without specific definitions, which can lead to different interpretations.

- **Terrorist act-**

Section 113 of the BNS defines the Terrorist act to be an act done with an intent of striking terror with an intent to threaten or likely to threaten the unity, integrity, sovereignty, security, economic security of India with an intent to strike terror in people or Section of the people in India or in any foreign country.

This Section under Explanation (b) includes counterfeiting Indian currency to be an act of terrorism.

It is to be noted that the Section 113(3) of BNS overlaps with Section 18 of Unlawful Activities (Prevention) Act, where both the Sections provide for imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life to a person who conspires or attempts to commit, or advocates, abets, advises or

⁵ Maharashtra Control of Organised Crime Act 1999

incites, directly or knowingly facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act.

- **Mischief by killing or maiming animals-**

By clubbing Section 428, i.e., mischief by killing or maiming animal of the value of ten rupees with Section 429, i.e., Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees of IPC, Section 325 of BNS aims at protecting the voiceless creatures in case of violations and issues by providing for imprisonment of five years, fine or both. As per the definition of 'Animal' under Section 2 (2) of BNS any living creature other than a human being will be considered to be an animal.

- **Offence of Snatching-**

The offence of snatching has been criminalised under the BNS whereas under IPC there was no mentioning of the said offence. The offence is covered under Section 304 of BNS which states that an act of forcibly seizing or grabbing of movable property from any person shall amount to snatching and will be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

- **Abetment of an offence committed in India by a person outside India⁶-**

Abetment of an offence committed in India by a person outside India has also now been made an offence under Section 48 of the BNS. This will criminalise the Acts of those persons who sit outside India and conspire to commit an offence in India.

- **Hit and Run -**

In Section 106(1) on 'causing death by rash or negligence act' the punishment has been increased from 2 years to 5 years' imprisonment. In case of medical practitioners, for offences of medical negligence, the punishment will be 2 years. A provision has been inserted to address the rising vehicular cases of hit and run, which has been made a punishable offence under Section 106(2) of the BNS. Furthermore, whoever causes death of any person by doing any rash or negligent act and escapes from the scene of incident without disclosing the incident to a Police officer or Magistrate shall be punished with imprisonment of either description of a term which may extend to ten years and with fine.

- **Punishment for Grievous Hurt-**

A new provision Section 117(3) has been introduced in the BNS to provide stringent punishment for such acts of grievous hurt which results in persistent vegetative state or in permanent disability. If the grievous hurt results in persistent vegetative state or

⁶ Key Highlights of the three new criminal laws introduced in 2023, SCC Times (Dec. 31, 2023), <https://www.sconline.com/blog/post/2023/12/31/key-highlights-of-the-three-new-criminal-laws-introduced-in-2023/>



in permanent disability, it will attract higher punishment of rigorous imprisonment for a term that shall not be less than ten years but which may extend to imprisonment for life (remainder of that person's natural life) as against up to seven years' imprisonment only for grievous hurt.

- **Attempt to commit suicide-**

The offence of 'attempt to commit suicide' has been removed from the BNS aligning it with the Mental Healthcare Act. However, under Section 226, the act of attempting suicide with an intent to compel or restrain the exercise of any lawful power by a public servant shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both, or with community service.

Code of Criminal Procedure, 1973 and Bharatiya Nagarik Suraksha Sanhita, 2023

When compared to the IPC, the Code of Criminal Procedure (hereinafter, **CrPC**) has undergone lesser changes in terms of its content. Under the CrPC there were 484 Section, 2 Schedules and 56 Forms, but under BNSS, the number of Section has increased to 533, however there are still 2 Schedules and 56 Forms. The key changes under BNSS include-

- **Production of Arrested Person-**

Under Section 40 of BNSS, in case of arrest by a private party, the production of person so arrested shall be produced before a police officer or shall be taken to the nearest police station within six hours.

- **Detention of under trials-**

As per Section 436A of CrPC, an under trial offender who has undergone detention for a period which is up to half the maximum imprisonment term for the offence (except for the where which are punishable with death) must be granted bail by Court.

BNS under Section 479 provides for early release of first-time offenders in case they have served 1/3rd of the sentence as an under trial. However, BNSS has further added a stricter provision denying bail if the under trial has pending investigations, inquiry or trial in multiple offences or cases.

- **Medical examinations under Section 51 to 53 and 184 of BNSS-**

Where earlier under CrPC, the medical examination of the victim was to be done by the Registered Medical Practitioner on the request of at least a sub-inspector, now under the BNSS, any police officer can request such an examination.

In case of rape, the registered medical practitioner shall send the examination report of a victim to the investigating officer within 7 days, who shall then pass it on to the Magistrate.

- **Forensic investigations-**

Section 176(3) of BNSS introduces a new requirement to the procedure for investigation prescribed under Section 157 CrPC i.e. collection of forensic evidence from crime scenes by a forensic expert. Section 176 (3) of BNSS, mandates that a forensic expert visit the crime scene and collect evidence for offences punishable by seven or more years of imprisonment, with a five-year period for implementing this provision. Under Section 157 of CrPC, there was no such requirement of a forensic expert to visit and collect forensic evidence.

- **Signatures and finger impressions-**

Section 311-A of the CrPC empowered the Magistrate to direct any person to provide specimen signature or handwriting. Expanding the scope of the same, BNSS under

Section 349 added the word "finger impressions" and "voice sample" to the same. It allows these samples to be collected from a person who has been arrested.

- **Gender Neutrality-**

Under Section 66 BNSS has established gender neutrality by including women as adult members of the family eligible to receive summons on behalf of the person summoned. The earlier reference to '*some adult male member*' has been replaced with '*some adult member*'.

- **Timelines for procedures-**

Key provisions underscore a commitment to expeditious justice, including:

Supplying necessary documents to the accused and victims within 14 days under Section 230 of BNSS, whereas Section 207 of CrPC did not provide a timeline. Allowing the accused to seek discharge within 60 days of committal under Section 250 of BNSS, whereas Section 227 of CrPC had no specific timeline for discharge.

- Framing charges within 60 days of the first hearing, as prescribed by Section 251 for session cases, and Section 263 for warrant cases under BNSS, while under CrPC, a charge sheet must be filed within 60 days from the date of arrest for cases triable by lower courts and 90 days for cases triable by the Court of Sessions.
- Pronouncement of judgment of acquittal or conviction within 30 days of completing arguments under Section 258 of BNSS.

- **Proclaimed Offender⁷-**

Earlier a person could have been declared a "proclaimed offender" only under few section. Even heinous offences like rape, trafficking, etc., were not covered under this category. Significant changes have been brought in Section 84(4) where it has been provided that proclaimed offender can be declared in all the offences which are punishable with imprisonment of 10 years or more, or with life imprisonment, or with death. In the newly introduced Section 86 of the BNSS, a police officer not below the rank of Superintendent of Police may make a written request to the Court to initiate the process of assistance from a court/authority in the contracting State outside India for identification, attachment and forfeiture of the property belonging to a proclaimed person.

⁷ Key Highlights of the three new criminal laws introduced in 2023, SCC Times (Dec. 31, 2023), <https://www.sconline.com/blog/post/2023/12/31/key-highlights-of-the-three-new-criminal-laws-introduced-in-2023/>



- **Attachment, forfeiture, and restoration of proceeds of crime⁸-**

In Section 107, a new provision has been added to enable the police, with the permission of the Court, to attach and forfeit any property obtained as proceeds of crime. For the first time such a provision on attachment, forfeiture, and restoration of proceeds of crime has been introduced in the BNSS. This provision will increase the liability on fugitive criminals and act as compelling factor for their participation in the proceedings instituted against them.

- **Zero FIR⁹-**

In Section 173, the provision of filing of Zero FIR has been introduced. Now, when information is received by the police that discloses the commission of an offence outside the limits of a police station, it shall be entered in the book to be kept by such officer. Further, the provision for lodging information through electronic communication (e-FIR) has been added with the enabling provision that the signature of the person giving such information be taken within 3 days before the e-FIR is taken on record. The BNSS introduced the right of the victim to get, free of cost, the copy of FIR in Section 173(2).

- **Attending Police Station¹⁰-**

In Section 179, the exemption from attending the police station is given to women, person above 60 years and a person with acute illness. Further, a proviso is added to allow the persons mentioned in the exemption category to attend the police station if he/she is willing so to do.

- **Police Custody¹¹-**

To address the issue of accused persons avoiding police custody in the initial 15 days, Section 187 gives the opportunity to examine the accused in custody for a maximum of 15 days spread over the first 40/60 days of the period of total detention of 60/90 days. Section provides that the police officer shall have such custody of an accused only if he is not on bail or if his bail has been cancelled. This provision strengthens investigation without curtailing the rights of the accused persons more than before. To further protect the right of the accused to bail, Section 480 specifically provides that the accused being required for police custody beyond the first 15 days, will not be the sole ground for refusing grant of bail to the accused. Further, Section 187 provides that the detention shall only be in a police station under police custody or in prison under judicial custody or any other place declared as a prison by the Central Government or the State Government.

⁸ ibid

⁹ ibid

¹⁰ ibid

¹¹ ibid

- **Information about the case to the victim¹²-**

In a step to make the law more victim centric, Section 193(3)(ii) mandates that the police officer must inform the progress of investigation to the informant or victim within 90 days of the investigation. Technology has been included as a valid mode of communication for conveying this to the victim/informant. Earlier, supplying the police report and other documents to the accused was often delayed due to vexatious tactics being used by the accused to cause unnecessary disruptions in the proceedings. To streamline the process of supply of copies to the accused, Section 193(8) has been introduced which makes the police officer responsible to submit such number of copies of the police report along with other documents duly indexed as required to be furnished to the accused persons, to the Magistrate at the time of filing of charge sheet for supplying to the accused. Further, to make this process of supply of documents citizen friendly and technologically compatible, supply of documents through the electronic communication has been included. In Section 230 this process has been further streamlined and the Magistrate has to supply the documents so received to the accused within 14 days from the date of production/appearance of the accused. Such supply of documents has also been made technologically compatible by including its supply through electronic communication. Proviso to Section 193(9) provides a timeline for conducting further investigation during trial. It has been provided that after filing of charge sheet, if further investigation is required, it shall be completed within 90 days, and any extension of time period beyond 90 days shall only be with the permission of the Court. This provision serves as a safeguard against the potential abuse of police power, makes the police more accountable, and prevents unnecessary delays in criminal proceedings.

- **Offences committed outside India¹³-**

In case of offence committed outside India, the jurisdiction of the Court where the offence is registered is also included in Section 208. Further, in case of receipt of evidence relating to offences committed outside India, the depositions or exhibits may be produced in electronic form as well.

- **Sanction for prosecution of public servants¹⁴-**

In an attempt to end the delay caused in receiving sanction for prosecution of public servants, it has been provided in Section 218 that the sanctioning authority shall take decision within 120 days from the date of receipt of the request, failing which, the sanction shall be deemed to have been accorded by such authority.

¹² ibid

¹³ ibid

¹⁴ ibid



- **Timeline for delivering Judgement¹⁵-**

In Sessions cases, timelines have been prescribed for delivering judgments. Section 258 provides for a period of 30 days, from the date of conclusion of arguments for giving the judgment. Such period may be extended to 45 days with reasons recorded in writing. Further, Section 392 (1) provides that judgment in every trial in any criminal court shall be pronounced no later than 45 days after the termination of trial. Section 392 also provides that the Court shall, within 7 days from the date of judgment, upload its copy on the portal.

- **Plea Bargaining¹⁶-**

As per Section 290, a period has been prescribed for filing an application for plea bargaining. An accused person, may within 30 days from the date of framing of charges, make such application. Further, a time period of 60 days has been prescribed for completing the process of 'mutually satisfactory disposition'. Section 293 adopts a lenient and rehabilitative approach in plea bargaining cases. In instances involving first-time offenders, where minimum punishment is prescribed, the Court may impose a sentence equal to one-fourth of the minimum punishment—marking a departure from the existing norm of one-half of the punishment. Further, in cases where the punishment is extendable and no minimum punishment is prescribed, a first-time offender may receive a sentence equivalent to one-sixth of the prescribed punishment, decreasing the quantum of punishment from the previous one-fourth standard. This provision underscores a commitment to a more progressive and individualized approach to sentencing, especially for the first-time offenders.

¹⁵ ibid

¹⁶ ibid

Indian Evidence Act, 1872 and Bharatiya Sakshya Adhiniyam, 2023

The BSA Act has replaced Indian Evidence Act (hereinafter, IEA), and now there are 169 Section under which 5 Sections have been removed in the new code i.e. Section 22A, Section 82, Section 88, Section 113, Section 166. The Act aims to establish general rules and principles of evidence for a fair trial, adapting to technological advancements and societal changes over the past few decades. Major points of amendments in the new code are as follows:

- **Removal of words-**

The words like ‘Parliament of the United Kingdom’, ‘Provincial Act’, ‘notification by the Crown Representative’, ‘London Gazette’, ‘any Dominion, colony or possession of his Majesty’, ‘Jury’, ‘Lahore’, ‘United Kingdom of Great Britain and Ireland’, ‘Commonwealth,’ ‘Her Majesty or by the Privy Council,’ ‘Her Majesty’s Government,’ ‘copies or extracts contained in the London Gazette, or purporting to be printed by the Queen’s Printer’, ‘possession of the British Crown,’ ‘Court of Justice in England’, ‘Her Majesty’s Dominions’, ‘Barrister’ have thus been deleted as they are no longer relevant. The language of BSA has been modernized and the words like ‘Vakil’, ‘Pleader’ and ‘Barrister’ have been replaced with the word ‘Advocate’

- **Definition of ‘documents’ under Section 2(1)(d) expanded-**

The definition of “documents” under Section 2(1)(d) has been expanded to encompass “*electronic or digital records*”, including emails, server logs, documents on computers, laptops, or smartphones, messages, websites, cloud data, locational evidence, and voicemail messages stored on digital devices. The update acknowledges the shift from traditional paper-based documentation to electronic communication and data storage in contemporary India. It guarantees that the legal system is equipped to deal with cases that involve digital evidence. It will offer legal professionals, law enforcement, and the judiciary a thorough structure to tackle digital evidence stored on different platforms.

- **Definition of ‘evidence’ under Section 2(1)(e) expanded-**

Similarly, the definition of “evidence” under Section 2(1)(e) has been expanded to include “*any information provided electronically*”. This provision enables witnesses, defendants, specialists, and victims to submit their evidence electronically. It further recognizes digital records as valid documentary evidence. The inclusion in the BSA showcases a technology-agnostic stance by validating electronically provided information and treating electronic communication on par with conventional in-person testimonies. This provision tackles the obstacles of securing frequent in-person appearances in court and provides a feasible solution, minimizing the necessity for physical transportation and associated costs.

- The term “Coercion” has been added to Section 22 as one of the acts rendering a confession irrelevant. Further, under Section 39, the definition of an expert has been broadened to include individuals who are particularly skilled in “any other field.”
- An explanation has been added to Section 24, clarifying that in cases where multiple individuals are tried jointly, if an accused person has absconded or failed to comply with a proclamation issued against them under the BNSS, and is absent during the trial, the trial will proceed as a joint trial.
- Section 52 of the BSA empowers the Courts to take judicial notice of laws with extra-territorial operations, international treaties, agreements, or conventions with other countries, as well as decisions made by international associations or other bodies. It also includes seals of Tribunals, State Legislatures, and the territory of India (instead of ‘The territories under the dominion of the Government of India’).

- **Section 57- Admissibility of Electronic Evidence**

In order to maximize the utilization of technology for evidence collection, substantial modifications have been implemented within the BSA to acknowledge modern technological methods, with data being dispersed and saved on different platforms in different formats. In Section 57, which addresses primary evidence, *four new explanations have been added, numbered 4, 5, 6, and 7* beyond the three explanations found in the IEA, to include the following:

- *“Explanation 4 states that when an electronic or digital record is created or stored, and this storage happens simultaneously or sequentially in multiple files, each of these files is primary evidence.*
- *Explanation 5 states that when an electronic or digital record is produced from proper custody, it is primary evidence unless disputed.*
- *Explanation 6 states that when a video recording is simultaneously stored in electronic form and transmitted, broadcasted, or transferred to another, each of the stored recordings is primary evidence.*
- *Explanation 7 states that when an electronic or digital record is stored in multiple storage spaces within a computer resource, each instance of automated storage, including temporary files, is primary evidence.”*
- The scope of secondary evidence has been expanded in Section 58. The current scope of admissible evidence encompasses verbal confessions, written confessions, and expert testimony on complex or extensive documents that are impractical to review in their entirety. Furthermore, the submission of a corresponding hash value from the

original document is now considered acceptable as secondary evidence. The focus is on verifying the authenticity of a particular file rather than the entire storage device.

- Section 61 establishes parity in the admissibility of electronic or digital records and other documents. Henceforth, electronic or digital records will have the same legal effect, validity, and enforceability as traditional documents.

- **Expanding the reach of ‘electronic evidence’-**

The BSA has introduced substantial modifications in the domain of electronic evidence, bringing about significant changes alongside considerations for primary and secondary evidence. Section 63 of the BSA expands the scope of electronic records to include those stored in semiconductor memories, in addition to records on paper and stored, recorded, or copied in optical or magnetic media. Furthermore, the provision extends its applicability to encompass “any communication device,” thereby broadening its reach. Subsection (3) of the provision refines the definition of a computer or communication device, providing a more comprehensive interpretation.

- Under the IEA, the form of the certificate required for proving secondary evidence, typically presented as an affidavit in practice, was not specified. However, Section 63(4)(c) of BSA introduces Schedule A and B for this purpose. Part A must be completed by the party producing the electronic or digital record, while Part B must be filled out by an expert. Part B should verify that the HASH value(s) of the electronic or digital record are produced from the specified algorithms, as detailed within the form itself.
- Furthermore, changes in Section 138 have been implemented to allow an accomplice to testify in court against the accused. It specifies that the conviction of the accused will not be considered illegal if it is based on corroborated testimony from the accomplice. The original provision stated that a conviction is not illegal solely because it relies on uncorroborated testimony from an accomplice.
- Additionally, a proviso has been appended to Section 165, stipulating that no court can compel the production of any communication between Ministers and the President of India.

Conclusion

The passage of the three criminal Acts is certainly a watershed moment in India's legal history. The new criminal justice system attempts to cleanse the criminal jurisprudence of the colonial era. With various deletions of colonial terminologies such as British India, Queen, British calendar, et. al. the legislature has paved the way for reforming the legislative text, reflecting an effort to modernize and adapt to technological and societal changes.

However, these changes come with notable challenges and ambiguities that need to be addressed to ensure a smooth transition and effective implementation. One of the primary concerns is the uncertainty regarding the application of the new laws to ongoing investigations, cases, trials, and inquiries. While the Repeal and Savings Section of the BNSS aims to ensure that existing cases continue under the old CrPC, it leaves several ambiguities. For example, it is unclear which legislation would apply if a party wished to revive litigation after a closure report is accepted or in cases of non-appearance of proclaimed offenders where trial *in absentia* is permitted under the new laws. This ambiguity has already led to legal challenges, with pleas filed before the Supreme Court and the Delhi High Court seeking clarity on the viability and implementation of the new laws, especially for cases arising before their enactment. Further, the code aims to address systemic issues by increasing police custody durations raising concerns about balancing law enforcement needs with civil liberties.

Furthermore, the BNS introduces broadly defined offences relating to state security, replacing "sedition" with "Acts endangering sovereignty, unity, and integrity of India." Despite efforts to clarify and limit definitions, the potential for over-criminalization and misuse remains a significant concern. Section 57 of the BSA's recognition of electronic records as primary evidence and provisions for the electronic presentation of oral evidence align with India's digital transformation. However, achieving the intended efficiencies requires addressing high vacancies, judicial overload, and the need for comprehensive infrastructure development and personnel training, especially for forensic experts and audio-video recording of statements.

Thus, the enactment of new criminal laws represents a significant step in modernizing India's legal system and addressing longstanding issues in the realm of criminal justice. These reforms are designed to enhance fairness, transparency, and accountability while protecting individual rights. However, their successful implementation depends on overcoming structural challenges, clarifying legal procedures, and striking a delicate balance between law enforcement priorities and civil liberties. To achieve these objectives, it is essential to navigate complexities with clear guidelines and make substantial investments in infrastructure and training. Ultimately, effective reforms are not just morally imperative but also essential for fostering a more equitable and responsive society. This requires concerted efforts across all levels of the justice system to ensure the reforms translate into tangible improvements in how justice is delivered and experienced by all citizens.



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