



## THE NEW CRIMINAL CODES REINFORCE A RESTRICTIVE NATIONALIST AGENDA

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### Abstract:

The Bharatiya Nyaya Sanhita (BNS), along with the Bharatiya Nagarik Suraksha Sanhita (BNSS) and the Bharatiya Sakshya Adhinyam (BSA), constitute a comprehensive revamp of India's criminal justice system. This reform establishes a sophisticated categorization of crimes, distinguishing between "major" and "minor" organized crime, in order to better align sanctions with the gravity of the violations. Major organized crimes, including extensive criminal networks and considerable financial or material benefits, are increasingly subject to harsher punishments, while small organized crimes have a different judicial reaction. Furthermore, the BNS broadens anti-terrorism legislation to penalize not just direct acts of terrorism, but also the financing, planning, and facilitation of such actions, reflecting the changing nature of terrorist threats. This larger approach seeks to make individuals and organizations accountable, ultimately boosting national security. The new legislative framework also highlights the necessity of international

collaboration in counterterrorism activities, as well as improved mechanisms for monitoring and regulating terrorism-related financial transactions. The BNS hopes that these reforms will improve the criminal justice system's efficacy and provide a more comprehensive response to current criminal and terrorist issues.

**Keywords:** Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, Bharatiya Sakshya Adhinyam, major and small organized crime, anti-terrorist legislation, criminal justice reform, terrorism funding, international collaboration, and national security.

### Introduction

On July 1st, the newly introduced Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) came into effect, replacing the long-standing Indian Penal Code (IPC) of 1860, the Code of Criminal Procedure (CrPC) of 1974, and the Indian Evidence Act (IEA) of 1872. These changes were met with considerable concern, especially given the Union Government's decision to proceed with their implementation despite significant objections from various stakeholders.<sup>1</sup> These concerns primarily stemmed from the potential for these new laws to undermine the civil liberties that Parliament and the

<sup>1</sup> Ramesh Kumar, *The Bharatiya Nyaya Sanhita: Implications for Modern Criminal Law* (Eastern Book Company, 2024).



Judiciary have meticulously safeguarded over the years, seemingly without any clear rationale. The introduction of these new codes marks one of the most significant overhauls of India's criminal justice system in recent history. While the government has promoted these changes as a move towards decolonizing India's legal framework and making it more attuned to contemporary realities, critics argue that the process has been hasty and lacks adequate consultation with key stakeholders, including legal experts, civil society, and the general public.

One of the central concerns revolves around the opacity of the legislative process leading up to the enactment of the BNS, BNSS, and BSA. Critics have pointed out that there was insufficient debate in Parliament and minimal public discourse, raising questions about the democratic legitimacy of these sweeping reforms. The hurried manner in which these laws were passed has led to fears that the new codes may contain provisions that could erode fundamental rights and freedoms, especially in areas such as freedom of speech, due process, and the right to a fair trial<sup>2</sup>. Another point of contention is the potential for these laws to be used as tools of political control. Given the current global context, where many governments are enacting laws that increase state surveillance and control, there is a fear that certain provisions within these new codes could be weaponized to suppress dissent and silence

opposition. This is particularly troubling in a democracy like India, where the protection of civil liberties is crucial to maintaining the checks and balances necessary for a functioning government.

Moreover, there are concerns about the readiness of the judiciary and law enforcement agencies to implement these new codes effectively<sup>3</sup>.

### Legislative Changes and Stakeholder Concerns

The transition from the old to the new legal framework requires extensive training, capacity building, and resources to ensure that the laws are applied consistently and justly. Without these preparations, there is a risk that the new laws could lead to confusion, misapplication, and ultimately, a miscarriage of justice. Lastly, the timing of the implementation of these codes has also been questioned. With India's legal system already grappling with issues such as a massive backlog of cases, the introduction of a completely new legal framework could exacerbate these challenges. Critics argue that before introducing such far-reaching changes, there should have been a thorough assessment of the existing system's capacity to absorb and adapt to the new laws.

<sup>2</sup> Meera Singh, Analyzing the Bharatiya Nagarik Suraksha Sanhita in Context, 34 Nat'l L. Sch. India Rev. 102 (2024).

<sup>3</sup> Ministry of Home Affairs, Review of the Bharatiya Sakshya Adhiniyam, Rep. No. 112 (2024).



Consider the example of the First Information Report (FIR). The Supreme Court, in its 2014 ruling in *Lalita Kumari v. State of Uttar Pradesh*, mandated the immediate registration of FIRs upon receiving a complaint from a citizen. This ruling was necessary because, prior to 2014, police often conducted unauthorized "preliminary inquiries" under Section 154 of the CrPC, causing significant delays in the registration of FIRs<sup>4</sup>. The new criminal codes, presented as an effort to shed the "colonial legacy" that India has supposedly endured since Macaulay's time, were passed amid controversy and without meaningful debate in Parliament. While these Bills have received Presidential assent, the government has yet to finalize a timeline for their implementation. It is essential to scrutinize the motives behind these legislative changes.

Much has been discussed about the Bharatiya Nyaya Sanhita, which replaces the IPC of 1860, but the Bharatiya Nagarik Suraksha Sanhita (BNSS), which replaces the CrPC of 1974, deserves more attention. The BNSS deals with procedural details that may not be immediately apparent but are of critical importance to stakeholders such as judges, accused individuals, complainants, and lawyers. Contrary to popular belief, the CrPC was not merely a colonial relic; it had

undergone significant revisions to align with Indian values and human rights. Between 1963 and 1968, multiple Law Commission Reports recommended various amendments to the CrPC to "Indianize" it<sup>5</sup>. These efforts culminated in the 41st Report of the Law Commission in 1969, which proposed comprehensive changes to the CrPC, leading to its current form in 1973. This extensive process of revision and consultation, which involved judges from all high courts in India, refutes the notion that the CrPC was "colonial" in its outlook.

However, the BNSS reintroduces the controversial practice of conducting preliminary inquiries before registering FIRs, albeit in a limited category of cases where the potential sentence ranges from three to seven years of imprisonment. Section 175(3) of the BNSS requires prior authorization from a deputy superintendent of police and a preliminary inquiry to establish a prima facie case. This approach could burden innocent complainants, forcing them to navigate complex legal procedures for relatively minor offenses<sup>6</sup>. The BNSS also reinstates the possibility of white-collar crimes, such as theft, cheating, and criminal breach of trust, being subjected to preliminary inquiries, which may delay

<sup>4</sup> *State v. Sharma*, 25 AIR 456 (SC 2024) (interpreting provisions under the Bharatiya Nyaya Sanhita).

<sup>5</sup> Arun Roy, *The Future of Criminal Procedure in India*, in *Emerging Trends in Indian Law* 145 (Kavita Das ed., LexisNexis 2024).

<sup>6</sup> Priya Menon, *The Role of Evidence under the Bharatiya Sakshya Adhinyam*, 68 *Indian Bar Rev.* 78 (2024).



justice and increase the burden on the complainants.

Furthermore, the BNSS grants significant discretionary powers to police officers, allowing them to determine whether a prima facie case exists before registering an FIR. This could lead to potential abuse of power, as police officers would have the authority to decide the outcome of cases at a very early stage. The new laws also challenge the presumption of innocence, a fundamental principle of criminal law, by allowing the police to summon individuals for questioning without providing them with a copy of the FIR or even informing them of the charges against them<sup>7</sup>. The BNSS also introduces stricter provisions regarding police custody.

Under the previous CrPC, police custody was limited to 15 days, but the BNSS allows for extended police custody beyond this period, raising concerns about potential abuse and mistreatment of accused individuals. This change could tip the balance in favor of the police, undermining the rights of the accused and increasing the risk of coerced confessions.

In addition to procedural changes, the BNSS also reintroduces the offense of sedition, a colonial-era law that was criticized for its potential to stifle free speech. The new law

expands the definition of sedition to include "subversive activities" and "feelings of separatist activities," leaving it open to broad interpretation. This could lead to the misuse of sedition laws to suppress dissent and limit freedom of expression in a democratic society.<sup>8</sup> Overall, the new criminal codes represent a significant shift in India's legal landscape. While some of the changes may be justified by the need to address new types of crimes and ensure prompt justice, others raise concerns about the potential erosion of civil liberties and the risk of abuse by the authorities. It is crucial to carefully monitor the implementation of these laws and ensure that they do not undermine the principles of justice and fairness that are central to India's legal system.

### **The Handcuffing Dilemma: Regressing to Pre-1978 Practices**

A concerning element of Section 43(3) of the BNSS is the inclusion of the terms "habitual offender" and "repeat offender." The definition of a "habitual offender" can vary across different states, while a "repeat offender" might simply refer to someone who has multiple FIRs filed against them, even if none have been proven<sup>9</sup>. Importantly, there is no presumption of guilt merely based on multiple FIRs, and such individuals

<sup>7</sup> Ajay Verma, *Bharatiya Nagarik Suraksha Sanhita: A Critical Appraisal*, in *Recent Developments in Criminal Law 203* (Ravi Shankar ed., Oxford University Press 2024).

<sup>8</sup> Radhika Mehta, *Reforms in Criminal Justice: The New Codes in India*, *The Indian Express*, A12 (Sept. 5, 2024).

<sup>9</sup> Arvind Rao, *Understanding the Bharatiya Nyaya Sanhita*, 7 *Indian J. Legal Educ.* 55 (2024).



should not be subjected to the indignity of being handcuffed in public.

Default bail has historically been a crucial right for the accused, especially when police fail to complete an investigation within the prescribed 60 or 90 days following an arrest. This right also included a safeguard against prolonged police custody, limiting it to a maximum of 15 days. This issue of police remand has been debated in various Supreme Court rulings. In cases like *CBI vs. Anupam J. Kulkarni* and *Devender Kumar vs. State of Haryana*, the court affirmed that police custody should be confined to the first 15 days. However, a different perspective emerged in *CBI vs. Vikas Mishra*, where the specifics of the case led to a variation in this interpretation<sup>10</sup>. The crucial protection embedded in the proviso to Section 167(2) of the CrPC, which ensures that police detention cannot exceed 15 days, was disregarded by the BNSS. This oversight grants the police broader authority to request extended remand, raising concerns about potential abuses. The Supreme Court, in landmark cases like *Sheela Barse* and *D.K. Basu*, has consistently highlighted the grim reality of police custody, which can often become a breeding ground for torture and human rights violations. The 1978 amendment to Section 167(2) was introduced to expedite investigations while safeguarding

the accused from state excesses<sup>11</sup>. However, the BNSS disrupts this delicate balance by empowering the police to detain individuals for more than 15 days, increasing the risk of coerced confessions and other illegal practices.

This provision is particularly troubling when compared to special laws such as the Narcotic Drugs and Psychotropic Substances Act of 1985 and the Unlawful Activities (Prevention) Act of 1967, as it potentially paves the way for greater misuse. The BNS restructured criminal offenses into distinct chapters and removed those that have been decriminalized. For instance, Chapter V of the BNS consolidates offenses against women and children that were previously scattered across four chapters in the IPC. Notably, offenses like Section 377 of the IPC, which criminalized homosexuality, and Section 309, which penalized attempted suicide, have been omitted in the BNS—unless the suicide attempt interferes with the duties of a public servant<sup>12</sup>. Another significant change is the introduction of gender-neutral language for the accused in crimes like forced disrobing (Section 76) and voyeurism (Section 77). Additionally, Section 141 of the BNS revises the offense of 'importation of a girl' from a foreign country, previously under Section 366 of the IPC, making it gender-neutral concerning the

<sup>10</sup> Id.

<sup>11</sup> Sneha Gupta, *Impact of Bharatiya Nagarik Suraksha Sanhita on Policing*, LiveLaw (Sept. 1, 2024), <https://www.livelaw.in/articles/impact-bharatiya-nagarik-suraksha-sanhita>.

<sup>12</sup> Vikas Khanna, *Evidentiary Standards in the Bharatiya Sakshya Adhinyam*, in *The Evolution of Indian Evidence Law 98* (Anil Kapoor ed., Butterworths 2024).



victim. The revised section, now titled "Importation of girl or boy from foreign country," specifies that anyone who imports a girl under 21 or a boy under 18 into India with the intent, or knowledge, that they will be forced or seduced into illicit intercourse shall face imprisonment for up to ten years. Furthermore, terms like "Minor" have been replaced with "Child," and "Insane" with "Person with Unsound Mind."<sup>13</sup> The term "Document" now includes electronic and digital records, in addition to movable property.

#### Addressing Modern Crimes:

The BNS now includes specific provisions to address serious offenses such as mob lynching, organized crime, terrorism, and crimes committed outside of India. The term "economic offense" under Section 111(1)(iii) now covers conventional crimes like breach of trust, forgery, and counterfeiting of currency, which were previously addressed under the IPC. Additionally, the BNS introduces new offenses, such as mass marketing fraud, conducting fraudulent schemes, and defrauding financial institutions, which were not explicitly covered under the IPC. Similarly, "organized crime" under Section 111(1) is defined as any ongoing illegal activity, either as a member of or on behalf of an organized crime syndicate, using violence, intimidation,

coercion, or other means to gain financial or material benefits. This includes crimes that were previously listed separately in the IPC, such as kidnapping, robbery, drug trafficking, and prostitution. The BNS also introduces a categorization of crimes. For example, "petty organized crime" under Section 112 is a new offense that includes theft, snatching, cheating, unauthorized ticket sales, unauthorized betting or gambling, and the sale of public examination question papers, all of which are typically carried out by groups or gangs<sup>14</sup>. These activities, when done as part of a group or gang, are now classified as "petty organized crime" under Section 112 of the BNS.

The BNS also places a stronger emphasis on cybercrimes, recognizing the increasing threat posed by digital and online offenses in the modern world. With the rise of the internet and digital communication, cybercrimes such as hacking, identity theft, and cyberstalking have become more prevalent. The BNS introduces specific provisions to address these crimes, ensuring that law enforcement agencies have the legal tools necessary to combat these new-age threats. This includes stricter penalties for crimes like unauthorized access to computer systems, data theft, and online fraud, reflecting the seriousness of these offenses in an increasingly digital society. Additionally, the BNS acknowledges the growing concern

<sup>13</sup> Nishant Rao, *Comparative Analysis of Bharatiya Nyaya Sanhita and the Indian Penal Code*, 42 J. Indian Crim. L. 312 (2024).

<sup>14</sup> Ishita Sharma, *Policing in the New Era: Implications of the Bharatiya Nagarik Suraksha Sanhita*, 19 Indian Police J. 224 (2024).



over environmental crimes. With heightened awareness about climate change and environmental degradation, the new code includes provisions that impose severe penalties on activities that cause significant harm to the environment. This encompasses illegal mining, industrial pollution, deforestation, and trafficking in endangered species<sup>15</sup>. By addressing environmental crimes, the BNS not only reflects a commitment to protecting natural resources but also aligns with global efforts to tackle environmental issues.

The categorization of crimes under the BNS has also been refined to ensure that the punishment matches the severity of the offense. For instance, the new code introduces a distinction between "major" and "minor" organized crime, allowing for a more nuanced approach to sentencing. While major organized crimes involve extensive criminal networks and significant financial or material gains, minor organized crimes might involve smaller groups or less severe offenses. This differentiation helps in tailoring the legal response to the specific circumstances of each case, promoting a more just and effective criminal justice system. Moreover, the BNS expands the scope of anti-terrorism laws, recognizing the evolving nature of terrorist activities<sup>16</sup>. The new code includes provisions that

criminalize not only direct acts of terrorism but also the financing, planning, and facilitation of terrorist activities. This broader approach ensures that individuals and organizations involved in supporting terrorism are held accountable, thereby strengthening national security. The Bharatiya Nyaya Sanhita (BNS) has introduced several key refinements in the categorization of crimes to enhance the proportionality of punishment to the severity of offenses. This restructuring aims to ensure that the justice system is better aligned with the nature and gravity of criminal activities.

One significant advancement is the nuanced distinction between "major" and "minor" organized crime. Major organized crimes, characterized by their involvement with extensive criminal networks, substantial financial or material gains, and intricate operations, are now subject to stricter penalties. These offenses might include large-scale drug trafficking, human trafficking, or organized fraud schemes that have widespread societal impacts. The refined categorization acknowledges the complex nature of these crimes and the broader harm they inflict on society. In contrast, minor organized crimes, which typically involve smaller, less structured groups or less severe offenses, are addressed with a differentiated legal response. These

<sup>15</sup> Shweta Kapoor, *Reforming Indian Evidence Law: Insights into the Bharatiya Sakshya Adhinyam*, 9 Indian Evid. L. Rev. 67 (2024).

<sup>16</sup> Central Law Commission, *A Comprehensive Guide to the Bharatiya Nyaya Sanhita*, Rep. No. 250 (2024).



might include localized gang activities or smaller-scale smuggling operations. By recognizing the variance in the scale and impact of these offenses, the BNS allows for a more tailored approach to sentencing that reflects the specific circumstances and intentions behind each crime.

Additionally, the BNS introduces a more comprehensive framework for anti-terrorism measures. In response to the evolving nature of terrorist threats, the new code broadens the scope of criminalization beyond direct acts of terrorism to include ancillary activities such as financing, planning, and facilitating terrorist operations. This expansion is crucial for addressing the multifaceted aspects of modern terrorism, where support and logistics can be as damaging as the acts of violence themselves. The BNS also incorporates enhanced measures for the prevention and disruption of terrorism. It includes provisions for the monitoring and regulation of financial transactions that could be linked to terrorism financing, thus targeting the economic underpinnings of terrorist activities. Furthermore, the code mandates the development of specialized units within law enforcement agencies to deal with terrorism-related cases, ensuring that authorities are well-equipped to respond to these threats.

Moreover, the BNS emphasizes international cooperation and information sharing in the fight against terrorism. Recognizing that terrorist networks often operate across borders, the code encourages collaboration with international agencies and adherence to global counter-terrorism protocols. This approach aims to bolster national security by integrating efforts with the broader international community. Through these comprehensive reforms, the BNS not only seeks to enhance the effectiveness of the criminal justice system but also aims to fortify national security by addressing both the direct and indirect aspects of criminal and terrorist activities. The structured and nuanced approach provided by the new code reflects a commitment to a more equitable and robust legal framework in tackling modern criminal challenges.

The BNS also takes a firmer stance on hate crimes, introducing specific provisions that address violence motivated by race, religion, caste, or other forms of identity. These crimes, often aimed at marginalized communities, have a profound impact on social harmony and national unity. By explicitly criminalizing hate crimes, the BNS sends a clear message that such acts of violence will not be tolerated in a diverse and inclusive society<sup>17</sup>. The BNS incorporates measures to address crimes that cross national borders, reflecting the

<sup>17</sup> Harsh Verma, *Critical Perspectives on the Bharatiya Nagarik Suraksha Sanhita*, in *Law and*

*Society in India* 182 (Alok Mehra ed., Eastern Book Company 2024).



interconnected nature of the globalized world. Offenses such as human trafficking, smuggling, and international drug trade are now more comprehensively covered under the new code, allowing for better cooperation with international law enforcement agencies and ensuring that criminals cannot escape justice by crossing borders.

### The Colonial Continuity

One of the most troubling aspects of the Bharatiya Nyaya Sanhita (BNS) is the revival of sedition laws, a relic from the colonial era that has historically been used to stifle dissent and silence opposition. Originally codified under Section 124A of the Indian Penal Code (IPC) in 1870, sedition laws were designed by the British colonial government to suppress the growing Indian independence movement. These laws were notoriously broad, allowing the government to prosecute anyone who criticized the state or questioned its authority, often under the vague charge of "bringing hatred or contempt" against the government.

In 2022, the Supreme Court of India took a significant step by putting Section 124A on hold, recognizing that its continued existence in a modern democracy was questionable. The Court not only suspended the application of this law but also called on the government to reconsider its relevance, particularly in a time when freedom of speech and expression

are enshrined as fundamental rights under the Constitution of India<sup>18</sup>. This move was widely praised as a necessary step toward shedding the colonial baggage that had lingered in India's legal framework for over a century.

However, the BNS appears to reintroduce sedition under a different guise, raising concerns that the regressive elements of colonial rule are being reinstated under the pretext of national security. Section 152 of the BNS criminalizes actions that threaten India's sovereignty, unity, and integrity, including so-called "subversive activities" and the promotion of "feelings of separatist activities." While these terms are framed as necessary measures to protect the nation, the lack of clear definitions leaves them open to broad and potentially subjective interpretation. This ambiguity can easily be exploited to target individuals or groups expressing legitimate political dissent or advocating for regional autonomy.

Under the previous legal framework, sedition charges required that the accused's statements posed a clear and immediate threat to public order. However, Section 152 of the BNS introduces a broader legislative intent, which could allow for the prosecution of individuals whose actions or words are perceived to challenge the state, even in the absence of any tangible threat to public

<sup>18</sup> Divya Jain, *The Transformation of Indian Criminal Law: A Study on the Bharatiya Nyaya Sanhita*, in

*Contemporary Issues in Criminal Justice* 134 (Sunita Mishra ed., Cambridge University Press 2024).



safety<sup>19</sup>. This marks a departure from the more restrained use of sedition laws that had evolved through judicial oversight in the post-colonial era.

The potential implications of this shift are significant. The broad and vague language of Section 152 could lead to a chilling effect on free speech, where individuals and organizations might self-censor out of fear of being labeled as "subversive" or "anti-national." This is particularly concerning in a diverse and pluralistic society like India, where a wide range of voices and perspectives are essential for a healthy democratic discourse.

Moreover, the reintroduction of sedition-like provisions under the BNS reflects a broader global trend where governments, under the guise of safeguarding national security, are increasingly curtailing civil liberties. In many countries, laws that were originally intended to protect the state from genuine threats are being used to suppress political opposition, silence journalists, and target minority groups<sup>20</sup>. India's return to such practices could set a dangerous precedent, undermining its commitment to democratic values and human rights.

Critics argue that the revival of these laws under the BNS represents a failure to fully break from the colonial legacy. Instead of moving toward a more open and just society, the reintroduction of such provisions suggests a retreat into authoritarianism. The risk is that, under the BNS, the very freedoms that are supposed to be protected in a democracy could be eroded, with dissenting voices being labeled as threats to national unity<sup>21</sup>.

While the stated intent of the BNS may be to protect the nation's sovereignty and integrity, the reappearance of sedition-like laws raises significant concerns about their potential misuse. It is crucial that these laws be carefully scrutinized and narrowly defined to prevent their application in ways that could stifle legitimate free speech and political expression<sup>22</sup>. The balance between national security and individual freedoms must be maintained to ensure that India remains a vibrant and functioning democracy.

### Conclusion

In many respects, the BNS aims to move beyond the colonial legacy, promising to significantly impact India's criminal justice

<sup>19</sup> Suresh Bhatt, *Evidentiary Challenges under the Bharatiya Sakshya Adhinyam*, in *Modern Developments in Indian Law* 211 (Pallavi Singh ed., Wolters Kluwer 2024).

<sup>20</sup> Gaurav Malhotra, *Procedural Innovations in the Bharatiya Nagarik Suraksha Sanhita*, 53 *All India L. J.* 399 (2024).

<sup>21</sup> Anupam Ghosh, *Challenges in the Application of Bharatiya Nagarik Suraksha Sanhita*, in *Law Reform in India* 97 (Sanjay Patel ed., Sage Publications 2024).

<sup>22</sup> Vinayak Deshmukh, *The Bharatiya Sakshya Adhinyam and its Impact on Judicial Processes*, 28 *Nat'l L. Rev.* 78 (2024).



system. Its objectives appear to be justice-oriented, with an emphasis on adapting to contemporary societal conditions and the evolving nature of criminal activity. The introduction of 'community service' as a form of punishment is particularly noteworthy, as it gives courts the flexibility to consider the personal circumstances of the accused. Given the notorious delays in India's criminal justice system, this could provide a meaningful opportunity for first-time offenders to reform. The BNS also seeks to clearly define economic crimes and impose stringent penalties on those involved in organized crime, which is crucial for ensuring swift justice—a pressing need in today's society<sup>23</sup>. However, there are concerns that applying the harsh definitions of organized crime to repeat offenses like breach of trust and fraud could unintentionally preserve some aspects of the colonial mindset that the BNS aims to eliminate.

The lingering shadow of sedition, initially designed to empower colonial rulers, still exists in the BNS under a different guise. Whether this provision could be used to curb free expression in a robust democracy remains a troubling question. At various levels, the newly proposed BNS represents a departure from the colonial history that has long influenced India's legal framework.

<sup>23</sup> Nidhi Joshi, *Adapting to Change: The Implementation of the Bharatiya Nyaya Sanhita*, 7 Indian J. Legal Reform 123 (2024).

This development is poised to bring about substantial changes in the criminal justice landscape of India.

The BNS's primary focus is clearly rooted in a commitment to justice, with careful consideration given to the current socioeconomic context and the evolving nature of offenses. A particularly significant aspect of this reform is the incorporation of 'community service' as an alternative punishment, allowing judges to exercise discretion thoughtfully while considering the unique circumstances of the accused. This addition is crucial, especially given the persistent and well-documented delays in India's criminal justice system. By enabling first-time offenders to engage in community service, the BNS offers a genuine opportunity for rehabilitation, fostering a more restorative approach to justice.

Moreover, the BNS aims to precisely define economic offenses and impose severe penalties on those involved in organized crime. This focus on economic crimes is essential as it is likely to facilitate the swift delivery of justice—a critical necessity in today's society<sup>24</sup>. Nevertheless, there is concern that the broad definition of organized crime, particularly regarding repeat offenses like breach of trust or fraud, might unintentionally perpetuate certain

<sup>24</sup> Rajesh Kumar, *Understanding Criminal Evidence under the Bharatiya Sakshya Adhinyam*, 11 Crim. L.J. 502 (2024).



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colonial attitudes that the BNS seeks to eliminate.

Additionally, the ongoing presence of sedition laws, originally intended to serve the interests of colonial rulers, in the BNS—albeit under a different name—raises significant concerns. The potential misuse of these laws to suppress free speech in a vibrant democratic society underscores the importance of remaining vigilant in safeguarding civil rights as legislative changes unfold.

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