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Criminal Law Reforms and Their Impact on the Administration of Justice

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Abstract

Reform of criminal law remains a prominent focus of the current endeavor to improve the delivery of justice within the modern legal framework. In the Indian context, the criminal justice system had been hitherto regulated by the colonial legislation of a bygone era, which, despite various amendments, tended to lack consonance with the changing values of the new order. With a view to address the grievances of procedural congestion, acquittals, marginalized victims, and the lack of access to justice, a vast legislative reform is being currently undertaken. The passing of the "Bharatiya Nyaya Sanhita," "Bharatiya Nagarik Suraksha Sanhita," and "Bharatiya Sakshya Adhinyam" signals a new era of a more responsive and rights-conscious criminal justice delivery system.

This paper will critically discuss the nature and extent of these reforms of the criminal law and their effects on the administration of justice. The paper will not only focus on the changes that have been affected by the new legislative regime but will specifically zero in on what constitutes new definitions of crimes, new changes in sentences, the introduction of cyber trials, and new standards of proof. This paper will also discuss how these changes are expected to effectively strike a balance between divergent considerations of punishment and detection, and the need to provide judges with increased measures of accountability and the mitigation of delay in trials.

On the other hand, the study mentions some key challenges posed during the implementation of the reforms, which include infrastructural challenges, difficulties posed by the capacity of the institutions, challenges posed by the mandatory sentencing provisions, and challenges posed by digital exclusion. The study adopts a brief comparative approach to discuss the Indian reforms and place them within the framework of the global attempts and trends to transform

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and develop the penal systems. The study concludes that the Indian reforms brought about a great improvement and that the success of the reforms depends on the implementation and ongoing assessment and involvement to bring about justice within the realm of procedural justice through the application of the reforms.

Keywords: Criminal Law Reforms, Administration of Justice, Criminal Justice System, Procedural Efficiency, Victim Rights

1 Introduction

The criminal justice system of every country is an important starting point of the state's role in ensuring the continuation of order and the making of commitments to the pledges of justice, liberty as well as equality under the Constitution. Indeed, the Indian evolution of the criminal law is an object of intense study because of the complicated interplay of inherited colonialism and post-constitutional aspirations of fairness and social justice. For several decades following independence, the Indian criminal justice system continued to operate on the basis of three major colonial legislative Acts namely, the Indian Penal Code, 1860 (IPC), the Code of Criminal Procedure, 1973 (CrPC), and the Indian Evidence Act, 1872. Although these Acts of British Imperial Legislation gave a satisfactory format that stands the test of time, they have largely been criticized because of an inability to address the challenge of today's realities and an indifference to modern technology.¹

The issues surrounding procedural delays, pending cases, low levels of conviction, the marginalization of victims, and the lack of adoption of scientific and digital evidence emerged as the dominant topics in judicial pronouncement and literature.² The Law Commission of India had reiterated several times for criminal law reform aimed at ensuring speedy trials and greater access to justice. The colonial structure continued as it was notwithstanding periodic amendments to the law, which leads to the belief that piecemeal amendments were not effective enough to iron out the inefficiencies. The most major milestone before the 2023 reform was the Criminal Law Amendment Act, 2013 passed against backdrop of national outrage after incidents of sexual violence. The amendment widened the definition of offenses, aggravated

¹ V.N. Shukla, Constitution of India (Eastern Book Company, 14th edn., 2022).

² Upendra Baxi, "Access to Justice and the Crisis of the Indian Legal System." 1 SCC (Jour) 1(1982).

³ Criminal Law (Amendment) Act, 2013.

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punishments, and provided stronger victim-centric provisions. However, this legislative intervention was largely reactive and did not really cover holistic reform to the entire criminal justice system. Structural problems relating to investigation delays, evidentiary hurdles, and trial inefficiencies persisted.³

This changed in December 2023 when Parliament passed three new criminal legislations-the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the Bharatiya Sakshya Adhiniyam, 2023 (BSA)-which replaced the IPC, CrPC, and Evidence Act, respectively. These legislations mark the farthest-reaching reform of the Indian criminal justice framework since independence. Among the stated goals of the reforms are decolonization of criminal law, simplification of legal language, the inclusion of digital and scientific developments, fortification of victim rights, and procedural efficiency.³ Early indications are that the reforms have started to take effect in terms of the actual practice of delivering justice by 2025. Many states report an improvement in conviction rates and procedural efficiency due to digitization, better clarity over timelines, and integration of forensic investigation. However, there are challenges in how the reforms are implemented. There is opposition on constitutional grounds to the increased police powers and mandatory timelines for procedures on the ground that efficiency should not be sought at the expense of individual liberty. Infrastructural adequacy, digital accessibility, and uniform implementation across states are some other major issues.⁴

2. Philosophical and Policy Foundations of Criminal Law Reform

Criminal law reform, thus, is more than a legislative phenomenon and signifies the changing philosophical perceptions about crime, punishment, and justice in a given society. The underlying principles of criminal law are inextricably connected to the principles of moral philosophy, constitutionalism, and policy imperatives of societal relevance. As societies transform in a given way, criminal law must, therefore, be adjusted to cater to the emerging forms of criminal conduct, social change, and increasing demands for justice, accountability, and humanity. By the year 2025, criminal law reform in India, thus, had incrementally

³ Ministry of Home Affairs, Government of India, *Statement of Objects and Reasons*, Criminal Law Bills, 2023.

⁴ *Times of India*, "Conviction Rate Rises from 12% in 2024 to 19% in 2025" (Pune Edition, 2025).⁶

H.L.A. Hart, *Punishment and Responsibility* (Oxford University Press, 2nd edn., 2008).

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embraced the integrated approaches emerging from classical approaches to jurisprudence, among others.

Philosophically, the justice of criminal law traditionally rested on the following theories: retribution, deterrence, prevention, and rehabilitation. The classical version of the first theory holds that punishing criminals corresponds to a moral reaction to their misdeed, which is based on the belief that offenders should be punished according to the measure of their guilt. The target of this reaction is the criminal's misdeed, which undermines.⁶ Nevertheless, the modern legal system has gradually diverged from purely retributive policies in favor of more complex approaches that seek a combination of deterrent and rehabilitation schemes. Deterrence theory relies on the preventive role of criminal law in deterring crimes committed by offenders in an attempt to discourage them using the fear of punishment, whereas rehabilitation is committed to the transformation of an offender that assists in their re-entry into society.⁵ The Constitutional philosophy has fulfilled decisive role in formulating the policy foundations of criminal law reform in India. The adoption of the Constitution in 1950 introduced a rightsbased framework that places individual liberty, dignity, and equality at the centre of state action. Articles 14, 19, and 21 have profoundly influenced criminal jurisprudence, requiring that criminal laws be just, fair, and reasonable.⁶ The Courts have interpreted this ceaselessly to mean that the procedure established by law must not be arbitrary, oppressive, or disproportionate. This constitutional mandate has generated sustained pressure to reform criminal laws that were drafted in a colonial context with limited regard for fundamental rights.⁷ Issues associated with access to justice are some of the key considerations in the reform agenda. This system has always characterized by unreasonably delayed trials, arrears of cases, and complexity of trials, especially as against the socially marginalized sections of society. A consideration of the related policies shows that criminal justice reform has come to be seen as a way of regaining the trust of society as a whole. The consideration of speedy trials, simplified procedures, and the usage of alternative dispute

⁵ Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 6th edn., 2015).

⁶ Maneka Gandhi v. Union of India, AIR (1978) 1 SCC 248.

⁷ Upendra Baxi, "The Crisis of the Indian Legal System" (Vikas Publishing, 1982).

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resolution techniques associated with less serious offenses is part of the broader consideration of making the justice system more accessible.⁸

Another paradigm-shifting development in the philosophy of criminal law reform up to 2025 is the recognition of "victimology." In the traditional framework of criminal law, crimes have long been viewed through the lens of violation of state rights, and victims have been treated as "collaterals." However, new approaches to criminal law reform focus on redefining the position of victims as key "stakeholders" in the justice process and recognizing their rights to information, participation, protection, and compensation. "Victims as key stakeholders" share the philosophy of "Restorative Justice," which concentrates more on restoration and reconciliation than punishment and retribution. "Restorative Justice" philosophies have played an important role in shaping policies in India regarding sentencing reforms and compensation and witness protection programs.¹¹ Technological advancements have been identified as a significant policy enforcer to shape the reform of criminal laws during the current period. Modernisation brought by the digital revolution has introduced new ways and forms of crimes, such as cybercrime and electronic fraud, which were not properly contemplated by the conventional criminal laws and practices. On the other hand, advances in criminal justice administration and investigations and trial procedures, such as through electronic evidence, forensic analysis, and remote judicial hearings, brought by technological advancements, are being gradually infused into policy and legal reform until the year 2025.⁹ Finally, the update of criminal law is influenced by wider notions of social justice and proportionality. Increasingly, it is recognized that extremely tough or rigid prison policies might end up worsening inequalities in society as well as prison overcrowding, without necessarily leading to enhanced public security. It is now a trend to focus instead on proportional sentencing policies,

⁸ Law Commission of India, 245th Report on Arrears and Backlog: Creating Additional Judicial Capacity (2014).

¹¹ Ved Kumari, "Victim Justice and Restorative Approaches in Criminal Law," 62 *Journal of the Indian Law Institute* 215(2020).

⁹ K.S. Puttaswamy v. Union of India, AIR (2017) 10 SCC 1.

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alternatives to prison terms, as well as differentiated sentencing treatments based on the severity of crimes as well as the cases of offenders.¹⁰

3. Major Criminal Law Reforms in India: Legislative Overhaul

This legislative transformation of the Indian criminal law regime is an important juncture in the developing scenario of the Indian justice delivery mechanism. For the last one hundred years, India's criminal law regime rests on three foundational statutes: the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872. Although these Acts have been subject to various changes and modifications, they have remained colonial relics and have been proven wanting in a variety of modern crimes, new conceptualizations of the Constitution, and new advances in technology.¹¹ After much deliberation and discussion at the parliamentary committee level, the Indian Parliament introduced three new criminal laws in December 2023, named the "Bharatiya Nyaya Sanhita, 2023" (BNS), the "Bharatiya Nagarik Suraksha Sanhita, 2023" (BNSS), and the "Bharatiya Sakshya Adhinyam, 2023" (BSA). All three laws, effective from 2024, substituted the IPC, CrPC, and the Evidence Act. This legislative makeover marks the most profound restructuring of India's criminal justice system since independence and reflects an explicit attempt to decolonize criminal law while aligning it with constitutional morality and modern governance needs.

3.1 Bharatiya Nyaya Sanhita, 2023

Bharatiya Nyaya Sanhita replaces as well as supersedes Indian Penal Code and makes radical changes to the definition, classification, and punishment of offenses. The main intention of the Bharatiya Nyaya Sanhita is to bring about the modernization of the classification of offenses, keeping in view the actuals of the new millennium.¹² The BNS seeks to simplify archaic language, remove redundant provisions, and rationalise punishment structures to ensure proportionality between crime and penalty. One of the striking features of the BNS is the sentence of community service as a punishment in most minor offences. It is a philosophical departure from overreliance on incarceration and embodies the principles of rehabilitative

¹⁰ United Nations Office on Drugs and Crime, Handbook on Alternatives to Imprisonment (2018).

¹¹ K.I. Vibhute, "Criminal Justice System in India: An Overview," 60 *Journal of the Indian Law Institute* 1(2018).

¹² Ministry of Home Affairs, Government of India, Statement of Objects and Reasons, Bharatiya Nyaya Sanhita Bill, 2023.

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justice and restorative justice.¹³ The statute at the same time prescribes enhanced punishments and mandatory minimum sentences for serious offences, indicative of deterrence approach towards grave crimes. Critics are wary that mandatory sentencing may restrict judicial discretion and should be resorted to with caution so as to avoid disproportionate results.¹⁴

3.2 Bharatiya Nagarik Suraksha Sanhita, 2023

Bharatiya Nagarik Suraksha Sanhita supplants the old law and ushers in comprehensive procedural reforms to bring efficiency, transparency, and accountability into the system. BNSS places much emphasis on time-bound investigation and trial processes, with provisions for specific timelines for filing charge-sheets and completion of trials.¹⁵ These provisions are intended to address chronic delays that have historically eroded public trust in the criminal justice system. Digitization forms a cornerstone of the BNSS. The statute formally recognises electronic First Information Reports (e-FIRs), digital summons, and video conferencing for witness examination and judicial proceedings.¹⁶ Through institutionalizing technology, the BNSS intends to promote removal of bottlenecks and improve access, especially within far-off locations. Another area that is covered by the new legislation and improved is victim and witness protection. This is because those involved within a criminal case are vulnerable.¹⁷ However, there have been concerns about the extended powers afforded to the police through the BNSS, such as the extended periods of custody in certain circumstances. These have raised constitutional issues about compatibility with Articles 21 and 22 of the Constitution, based on the need for strict judicial scrutiny in their application.

3.3 Bharatiya Sakshya Adhiniyam, 2023

Bharatiya Sakshya Adhiniyam supersedes old law and aims at updating the rules of evidence in conformity with advancements in science and technology. One of the most progressive changes brought under the new Act is the regulation of electronic and digital evidence, which

¹³ Ved Kumari, "Rehabilitative Justice and Sentencing Reform in India," 63 *Journal of the Indian Law Institute* 245(2021).

¹⁴ Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 6th edn., 2015).

¹⁵ *Supra* note 15 at Bharatiya Nagarik Suraksha Sanhita Bill, 2023.

¹⁶ Law Commission of India, *Report on Reform of Criminal Procedure* (2022).

¹⁷ Malathi Rao, "Victim Protection and Fair Trial Rights in India," 12 *NUJS Law Review* 89(2020).

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had been governed by judicial interpretations and amendments until now.¹⁸ The BSA aims to reduce ambiguity in admissibility standards and enhance the reliability of forensic and scientific evidence in criminal trials. With regard to simplification of evidence procedures, the BSA aims at reducing the technical challenges that trigger the loopholes in conviction rates during trials. This addresses an evolving focus on outcome-based justice and upholds mechanisms that could mislead scientific evidence. Academics in the field have observed that the success of such interventions is largely dependent on forensic capacity and court capacity in scientific evidence analysis.¹⁹

3.4 Assessment of the Legislative Overhaul

Together, the BNS, BNSS, and BSA form a holistic framework to ensure that the provisions are met within the realms of criminal justice. The initial signs, as of 2025, show improvement in procedural speed and the rate of convictions for some states that have adopted digitization and the representation of timelines within the statutes. Nevertheless, disparities and infrastructural difficulties make it clear that the delivery of justice cannot be ensured only through legal changes.²⁰ The radical change brought about by the legislation is a bold move to ensure the criminal justice system in India adjusts to the principles of the constitution, the realities of technology, and the demands of the people. Much will depend on the long-term implementation to ensure greater justice that may not suffer at the hands of greater efficiency.

4. Impact of Criminal Law Reforms on Administration of Justice**4.1 Access to Justice and Procedural Efficiency**

The significance of criminal law reforms to the administration of justice cannot be limited to the assessment of legislation but must instead be understood in the context of the impact it makes on the administration of justice itself. The coming into force of the Bharatiya Nyaya

Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023 is a comprehensive effort to reform the criminal justice system that had been long overdue in the Indian context. These reforms have already started to make their mark on

¹⁸ *Anvar P.V. v. P.K. Basheer*, AIR (2014) 10 SCC 473.

¹⁹ Ratanlal & Dhirajlal, *The Law of Evidence* (LexisNexis, 27th edn., 2023).

²⁰ *Times of India*, “Conviction Rate Rises Following Implementation of New Criminal Laws” (2025).

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the administration of justice by 2025 in several facets such as efficient justice delivery, equitable justice delivery, accessible justice delivery, victims' involvement in justice delivery, and accountability in justice delivery.

Among the most important effects of the recent reforms has been the focus on procedural efficiency and delay. Delays in criminal trials and investigations were traditionally some of the factors that dented the credibility of the criminal justice system operating under the Indian legal framework. They cause undertrial detention and deterioration of the quality of evidence.²¹ The Bharatiya Nagarik Suraksha Sanhita provides specified timelines for the conduct of investigations, the filing of the charge-sheet, as well as the trial being completed. This adds to the efficacy of the speedy trial being a part of Article 21 of the Constitution, as specified under the Constitution.²² Early implementation reports suggest that adherence to structured timelines, coupled with digital case management, has contributed to improved case disposal rates in certain jurisdictions.

4.2 Fairness and Equality Before Law

The reforms have also had an effect on access to justice, specifically through the digitalization of the criminal justice process. Provisions for the electronic registration of FIRs, the online service of summons, and video conferencing for the examination of witnesses have eliminated physical inhibitions to access to justice.²³ Victims and witnesses, and especially those in rural areas or under intimidation, have benefited in terms of greater interaction with the judicial system through this approach. However, the advantages of digitalization are dependent on technological development and digital knowledge and skills.²⁴ Fairness and equality as an aspect of impact of reforms would involve considerations pertaining to criminal trials. The modernization of rules of evidence by the Bharatiya Sakshya Adhiniyam has minimized 'technical formalism,' which occasioned undue delay and resulted in acquittals. The inclusion of 'electronic and forensic evidence' takes note of modern-day reality and helps to focus evidence. Another aspect of fairness would be equality before courts of law.²⁵ In this regard,

²¹ Law Commission of India, 245th Report on Arrears and Backlog: Creating Additional Judicial Capacity (2014).

²² *Hussainara Khatoon v. State of Bihar*, AIR (1980) 1 SCC 81.

²³ Ministry of Home Affairs, Government of India, Implementation Guidelines under BNSS (2024).

²⁴ *Supra* note 2 at 55.

²⁵ Bharatiya Sakshya Adhiniyam, 2023.

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however, the judiciary has pointed out that while reliance on scientific evidence must be ensured, this must be coupled with certain procedural safeguards to avert abuse. The new reforms therefore attempt to achieve this balance of expediency with fairness by reaffirming the principle of justice being swift as well as substantively just.²⁶

4.3 Victim Participation and Protection

Reforms in criminal laws have further emphasized the involvement of victims in the judicial system. The Indian criminal law system had viewed crimes as acts against the state, where the involvement of victims was minimal. However, the recent amendments have emphasized a victim-oriented approach through the inclusion of provisions regarding victim information, victim protection, as well as victim participation in criminal proceedings.²⁷ Improved witness protection services and an understanding of victim rights will make crime reporting easier. This is consistent with 'restorative justice' ideals that regard crime as a violation of personal and communal rather than just public interests.³¹ The reforms have also impacted sentencing practices and correctional outcomes. Community service and other forms of alternative punishment for minor offences under Bharatiya Nyaya Sanhita indicate a shift away from undue incarceration. Such an approach ensures that prison overcrowding is minimized and that punitive justice gives way to reformatory justice. On the other hand, the prescribing of minimum sentences necessary for certain serious offences has raised debate on issues of proportionality and judicial discretion. As long as deterrence remains a legitimate aim, it is incumbent upon the courts to ensure that sentencing does not become mechanical or disproportionate to individual circumstances.²⁸ From an institutional standpoint, the innovations brought by the reform measures have improved accountability and transparency in the functioning of criminal justice. The ability to access documents digitally, case-tracking electronically, and following proper procedural steps makes it possible to monitor law enforcement actions. The possibility of arbitrated tardiness is eliminated, thereby improving public trust and confidence in the justice process.²⁹ Training is, however, necessary among law enforcement, prosecution, and judges to avoid symbolic legislation. Indications emerging from

²⁶ Anvar P.V. v. P.K. Basheer, AIR (2014) 10 SCC 473.

²⁷ Malathi Rao, "Victim Participation in the Criminal Justice Process," 13 *NUJS Law Review* 67(2021). ³¹ Ved Kumari, "Restorative Justice and Victim-Centric Criminal Law Reform," 62 *Journal of the Indian Law Institute* 215(2020).

²⁸ *Bachan Singh v. State of Punjab*, AIR (1980) 2 SCC 684.

²⁹ Supreme Court of India, *E-Courts Project Status Report* (2024).

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some states indicate that, by 2025, procedural simplification, clarity of evidence, and technology support have impacted positively on conviction rates and disposal of cases.³⁰ Yet, overall ARY impact on criminal justice reform varies from place to place, reflecting the disparity in resources, administrative support, and other factors. All this indicates that criminal justice reform, as a legislative measure, is impossible without concurrent development of the institutions.

5. Comparative Perspective: Global Reforms and Lessons

The issue of reforming criminal law remains an paramount focus for any global legal framework that is faced with new trends of crime, an amplified role of justice, new technologies, and commitments towards human rights. Even if every country has its own set of unique circumstances, it is evident that certain trends associated with new approaches to reform can be identified through a global comparative study. These include modernization of substantive crimes, procedural efficiency, victim's rights, electronic evidence regimes, and alternative forms of sentencing. Experience from foreign jurisdictions can offer appropriate learnings for India's comprehensive reform process through its new legislation of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam.

5.1 United States: Bail and Sentencing Reforms

The United States has increasingly been focused on reform of criminal justice, both at the federal and state level. Among these reforms, one of the most salient has regarded pre-trial detention and bail. Traditional cash bail systems were criticized for disproportionately affecting economically disadvantaged defendants and, in essence, criminalizing poverty while being a major factor in the overcrowding of jails.³¹ As a reaction, risk assessment tools were implemented by several States aimed at mitigating bail and ensuring that decisions on bail are grounded on the principle of public safety as opposed to financial ability. This policy struggle reflects the Indian situation where the protection of public security and the protection of liberty continue to face a struggle as reflected in debates related to custodial authority and safeguards provided by the Bharatiya Nagarik Suraksha Sanhita.³²

³⁰ *Times of India*, "Pune Courts Report Rise in Convictions Following Procedural Reforms" (2025).

³¹ Michelle S. Phelps, *Mass Probation: Toward a More Robust Theory of State Variation in Punishment* (Cambridge University Press, 2017).

³² Pretrial Justice Institute, *Reforming Bail and Pretrial Practices in the United States* (2020).

Similarly, sentencing laws in the United States aim to deal with the ramifications of too harsh sentencing systems, especially with regard to drug crimes. The First Step Act of 2018 is an example of a law that reduced the mandatory sentencing requirements for non-violent drug crimes and expanded rehabilitative initiatives in federal correctional facilities. These trends illustrate the need to maintain a scale between deterrence and the principles of proportionality and rehabilitation, which are equally relevant to sentencing laws in India, like the provision of the possibility of community service as per the “Bharatiya Nyaya Sanhita.”³³

5.2 United Kingdom: Procedural Innovation and Rehabilitation

The UK has been working on criminal justice reform, focusing on efficiency measures and a rehabilitation strategy. The system in the UK is experiencing a shift towards community sentences and a method of restorative justice, trying to limit imprisonment wherever possible.³⁴ Electronic monitoring, drug treatment orders, and specialised courts are examples of procedural innovations intended to tailor responses to individual needs rather than relying solely on imprisonment.

An important aspect of the reforms that is different in the United Kingdom is the focus given to victim services as well as the restorative justice system. This is intended to provide victims with a voice throughout the process. This is relevant to the reforms witnessed today in India, where reforms include greater provision for victims.³⁵

5.3 Canada: Indigenous Justice and Restorative Models

In Canada, criminal justice reform has also included an important focus on indigenous justice and restorative approaches. The Gladue principles require the Courts to consider the unique systemic and background factors affecting Indigenous offenders, placing emphasis on culturally appropriate sentencing.³⁶ The Canadian experience with the application of restorative justice schemes, such as community panels and circle sentencing, holds many lessons related

³³ Michael Tonry, *Sentencing in America: A Balance of Smarts and Heart* (Oxford University Press, 2013).

³⁴ Ministry of Justice (UK), *Community Sentences: Reducing Reoffending and Supporting Rehabilitation* (2019).

³⁵ J. Doak, *Victims' Rights, Human Rights and Criminal Justice* (Hart Publishing, 2008).

³⁶ *R. v. Gladue*, [1999] 1 SCR 688 (Can.).

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to context-driven approaches to justice. These models illustrate the ability of criminal justice systems to remedy long-embedded inequalities in society, which remains a pertinent issue even in the diverse Indian socio-legal context.³⁷

5.4 South Africa: Constitutional Criminal Procedure Reform

The post-apartheid constitutional order of South Africa presents a good case study on criminal procedural reform based on rights protection. In the early phase of its democratic transformation, it revamped its criminal procedural justice system to be compliant with a vibrant Bill of Rights that enshrines the right to a fair trial, dignity, and equality.³⁸ *The South African Constitution* fully articulates the need for arrests, searches, and detentions to be reasonable and justifiable, with the view to ensuring a fair and expeditious trial for the accused. Indeed, the South African model is instructive with regard to the integration of human rights into criminal justice reforms. This is particularly important for a country such as India.³⁹

5.5 European Union: Digital Evidence and Cross-Border Cooperation

The European Union has been at the vanguard in the harmonization of criminal justice responses to digitized and transnational crimes. EU Directives on electronic evidence, data preservation, and mutual legal assistance are intended to spur on cross-border cooperation while ensuring data protection and privacy rights. As crimes increasingly transcend national borders, frameworks like the EU's offer critical insight into how to balance law enforcement needs with privacy and human rights—a challenge that India faces as it expands digital evidence rules under the Bharatiya Sakshya Adhiniyam.⁴⁰

5.6 Lessons for India

The following are some lessons that the relative experience of criminal justice reform internationally yields for India:

³⁷ Gerry Johnstone (ed), *Restorative Justice: Ideas, Values, Debates* (Routledge, 3rd edn., 2017).

³⁸ South African Constitution, 1996.

³⁹ *S. v. Makwanyane and Another*, 1995 (3) SA 391 (CC).

⁴⁰ European Parliament and Council Directive (EU) 2019/212 on the strengthening of certain aspects of criminal proceedings for obtaining electronic evidence in criminal matters.

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- **Balancing Liberty and Security:** Reforms must balance public safety with the rights of individuals; thus, the provisions relating to bail and custody have to be continuously reviewed to avoid unwarranted deprivation of liberty.
- **Proportional Sentencing and Rehabilitation:** Excessive punitive approaches result in limited effect on long-term social reintegration, while alternatives such as community service or treatment programs have been able to limit recidivism.
- **The victim-oriented approach:** Any improvement in victim rights and services adds to assurance in the system of justice and in meeting the ends of restorative principles.
- **Technology and Evidence Law:** The developing nature of digital crime requires a continuous evolution of legal frameworks to accommodate electronic evidence while upholding privacy and due process.
- **Indigenization and Cultural Sensitiveness:** Community and indigenous models also highlight the importance of culturally responsive justice practices, the dimension that becomes informative for reforms in the pluralistic society of India.

6. Challenges and Critiques

Although the recent laws reforms in India is a very ambitious effort to develop and rationalize the delivery of justice, it also led to considerable debate and criticism against it. Any reform, especially of the scale observed in the Indian legislation, is inevitably marked by concerns regarding constitutional suitability, the level of preparedness, and social equity. A close analysis of such concerns is necessary to check whether the proposed legislation is helpful to the administration of justice or not.

6.1 Institutional Capacity and Implementation Gaps

Among the most significant criticisms, the critique of implementation capacity and institutional preparedness do feature. Criminal law reforms have been successful only when the police forces, prosecution agencies, judiciary, and forensic institutions can keep up with novel procedures and technologies. India's criminal justice institutions have long struggled with

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understaffing, inadequate training, and infrastructural deficits.⁴¹ There are challenges posed by the adoption of the digital processes of investigation, the time-sensitive nature of such investigations, and the heightened standards of evidence required. If this capacity building is not undertaken, there could be a danger of incomprehensive implementation of procedural reforms, or even mere mechanical compliance with the process instead of substantive justice," etc.

Moreover, another important aspect that has raised concern is the increased powers of law enforcement agencies through custodial arrangements within the new procedural framework. Some people argue that if these powers are not coupled with strong guarantees of liberty, they could erode liberty.⁴² The Indian experience under its constitution has always reinforced that the removal of liberty needs to be properly controlled, just, and proportionate. Notably, the vulnerability of lack of effective monitoring has raised concerns about potential abuses of increased powers, especially against disadvantaged groups.⁴⁷

6.2 Balancing Discretion and Minimum Penalties

The reforms have also attracted criticism related to mandatory minimum sentencing provisions. While meant to enhance the deterrent effect for serious crimes, mandatory sentencing removes discretion from the court and may continue to result in disproportionate outcomes in many cases.⁴³ Historically, Indian courts have operated on judicial discretion, which is exercised to justification for mitigated punishment, socio-economic factors, and the rehabilitation chances of the culprit. This reduced discretion disrupts compatibility between the aspects of proportionality, justice for individuals, and the constitution, which form the elements of criminal jurisdiction.⁴⁹

6.3 Equity and Access Issues

Digitization of the system is a trend well-received across all quarters, but it comes with a set of challenges of its own. The trend is expected to be based on e-FIRs, online hearings, as well as online evidence. This requires a certain degree of technological literacy. This is particularly

⁴¹ Law Commission of India, 245th Report on Arrears and Backlog: Creating Additional Judicial Capacity (2014).

⁴² Amnesty international India, *Criminal Justice and Police Powers in India* (2023).⁴⁷

Maneka Gandhi v. Union of India, AIR (1978) 1 SCC 248.

⁴³ Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 6th edn., 2015).⁴⁹
Supra note 32 at 20

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expected to be a problem as it can widen the “digital divide” between those who have equity to tap into such technology. This is especially true with regard to those who live in rural areas.⁴⁴

Reforms in the area of evidence to recognize electronic and forensic evidence have received cautious support. Although scientific evidence may improve the accuracy and efficiency of the legal process, its validity may still depend on its collection, preservation, and analysis. Although the forensic system in India still faces challenges in delay in forensic analysis and the unavailability of experts, excessive reliance on forensic evidence may cause wrongful convictions and maltreatment of evidence, in the absence of expert training for the judiciary to deal with scientific information.⁴⁵

On a macro level policy analysis, it can well be argued that the new legislation is overly focused on the concepts of efficiency and conviction rates. There is a possibility that the imperative to expedite the justice delivery system may come at the cost of the due process. The need for speedy disposal of the investigative as well as the trial aspects of justice should never come in the way of the defendant realizing the protections afforded to him or her against unfairly facing the justice system. The Supreme Court has always maintained that justice expedited may result in justice denied. There is a need for a balance sought between the concepts of efficiency and justice.⁴⁶

7. Future Directions and Recommendations**7.1 Consolidation Rather Than Continuous Legislative Change**

1. In the years after 2025, the criminal law reform trend should move from making regular changes in the criminal law to integrating the system in place.
2. Continuous changes may cause uncertainty to arise among the enforcement agencies and judges.
3. Rather, future legislative actions should be informed by periodic assessments, and not by reactive amendments.

⁴⁴ *Supra* note 2 at 100.

⁴⁵ *National Human Rights Commission*, Report on Forensic Infrastructure in India (2022).

⁴⁶ *P. Ramachandra Rao v. State of Karnataka*, AIR (2002) 4 SCC 578.

7.2 Institutional Capacity Building and Training

1. To ensure the long-term success of reforms, there is a need to improve the institutional capacity of the police, prosecution, judiciary, and forensic science services.
2. Regular and mandatory training sessions need to be institutionalized to familiarize officials with procedural innovations and evidentiary updates.
3. Specialized academies for the training of criminal justice personnel could be set up at the regional level to standardize practices.
4. Performance assessment schemes must be aligned to values instead of conviction rates.

7.3 Strengthening Judicial Oversight and Constitutional Safeguards

1. It is imperative to note that reforms after the year 2025 should focus on judicial oversight of extended investigative and detention powers
2. The courts must develop appropriate doctrine to prevent improper procedure and violation of rights.
3. The judicial review must retain its central role in ensuring that due process is not undermined by reforms promoted through greater efficiency.
4. The involvement of the magistrates in monitoring the time spent in investigation and the period of detention must be enhanced.

7.4 Development of Structured Sentencing Frameworks

1. The future of sentencing reform needs to emphasize the evolution of structured guidelines that will enhance consistency and maintain judicial discretion.
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2. These models may help decrease the degree of randomness and geographical disparity in sentence outcomes.
 3. Special focus should be on proportionality, rehabilitation, and restorative justice, especially for non-violent and first offenders.
 4. The sentencing policy needs to undergo changes as a new field of criminal justice reform.

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7.5 Strengthening Forensic and Scientific Infrastructure

1. Future reforms should focus on investing in forensic labs, training, and quality control mechanisms.
2. Basic standards for the collection and analysis of forensic evidence must be the same across the nation.
3. Enhanced capacity-building for the judiciary in interpreting scientific evidence is necessary to reduce the risk of excessive reliance or improper use.
4. Such independent oversight mechanisms can improve credibility and reliability for forensic processes.

8. Conclusion

The criminal law reforms in Indian society are a defining period in the evolution of the justice delivery system in the country. The repeal of colonial laws by new statutes reflects the need to change the criminal law system in consonance with the values enshrined in the constitution, the societal needs of the country, and technological shifts. The need to decouple the justice system from the colonial past, which had a dominant theme of governing through the criminal justice system, reflects the need to have a justice system that is people-friendly and based on the tenets of justice and accountability. This is not only a moment of legislative shift but also a moment of philosophical transformation in the delivery of criminal justice in Indian society. Early implementation has shown that the reforms have started to remove some of the deepseated deficiencies in the criminal justice administration system. Clarity in procedures, investigations bound by time, more scope for scientific and digital evidence, and greater participation by victims have contributed to efficiency and transparency in the disposal of criminal cases. At the same time, the thrust on streamlined processes and technological integration has the potential to reduce delays that have conventionally eroded confidence in the justice delivery system. Simultaneously, underlying these reforms is an attempt at rebalancing the traditional emphasis of criminal jurisprudence to recognize the rights and interests of the victim alongside those of the accused.

Nevertheless, the transformative potential of criminal law reform is still hinged upon proper and fair execution. Challenges with the structure, including a lack of capacity, imbalanced developments, as well as imbalances with internet access, definitely constitute important hurdles to implementing the policy nationwide. Indeed, issues pertaining to increased

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investigative authority, rigidity with sentencing laws, as well as the possible degradation of procedural rights signify the need to remain vigilant over potential breaches with our constitution.

Thus, criminal law reform must be viewed as a dynamic process rather than a closed-end result. The revamped criminal justice system offers a solid foundation for building a more efficient and more humane justice system, but its long-term success must rely on its regular assessment, research-based improvement, and commitment to inclusivity. It must ensure that criminal justice reform helps ensure justice in form as well as substance through the active involvement of lawmakers, judiciary, civil society, and the entire justice system. If this happens, the criminal justice reform in the Indian context could have the potential to enhance the rule of law in the coming years.