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**Laws in Books versus Laws in Action: Implementation Hurdles in the
Enforcement of New Criminal Laws**

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Abstract

The implementation of new criminal laws usually faces challenges that are very hard to overcome to allow practical implementation of the new legislation despite well-intentioned changes in the legislations. The paper examines the gap between laws in books and laws in action by focusing on the issues around the application of the recently established criminal legislation in India the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA). Its main aim is to modernise the criminal justice system by the use of forensic investigation, computerised legal processes, and improved efficiency of the procedure. There are however institutional, legal, technical and social-legal barriers that prevent their implementation. This encompasses the inaccessibility of training of police and judicial officers, lack of forensic and digital investigation facilities, lack of clarity in provisions, and severe deficits of judicial officers and judicial personnel.

The change in the law definition, section numbering, and introduction of new offences against the previous law regime, has generated uncertainty in the transition of the former legal regime to the new legal regime. Also, the differences in enforcement between urban and rural areas, the threat of misusing the expanded police authority, and the insufficient knowledge of the populace about the reform process make the process more complicated. In order to seal the intent-enforcement gap between legislatures, the paper suggests interventionist policies such as extensive training programs, infrastructural improvements, judicial accuracy via landmark cases, and better coordination between police, judiciary and policymakers. Moreover, there should be sound security measures against abuse of technology in judicial processes as well as data protection.

Provided that these issues are resolved in a multi-stakeholder environment, the new criminal laws in India will be in a position to achieve its ultimate goal of developing an efficient, transparent and fair system. The significance of the correct approach to implementation of reforms is illuminated in this

research, which allows having a real impact on the ground and helps in the perfection of the implementing newly developed criminal laws.

Keywords: Criminal Law Implementation, Legislative Reforms, Judicial Challenges, Law Enforcement Adaptation, Forensic and Digital Integration

[1] Introduction

It is common practice in most legal systems around the world to have a wide disjuncture between laws on paper, i.e. laws written, and laws in practice, i.e. laws enforced. This loophole is brought about by several structural, institutional and socio-political factors that make it impossible to implement. Even though legislative reforms are introduced on the basis of tackling contemporary legal and social problems, their functioning is mostly based on the efficient implementation of reforms. According to the theoretical explanations of legal implementation, it manifests that even professionally drafted laws might fail because of the lack of institutional capacity, opposition to change, vagueness in procedural devices, and lack of public understanding. In numerous instances, regulatory frameworks have lagged behind technological advances, and the Organisation for Economic Co-operation and Development (OECD) has outlined numerous examples of this kind of regulatory lag, demanding constant legal restructuring. As an example, the development of electronic financial services has made many countries restructure their financial laws. Nonetheless, practices are subpar because of the shortage of trained employees and the lack of technology.¹ Similarly, a report by the World Bank observes that though legal reforms are meant to promote better governance and economic stability, their success is determined by the effectiveness of their implementation mechanism and not the intention of the legislation.²

In India, reforms in criminal law have played a key role in the delivery of justice, effective governance, and the rule of law. Over the years, legal frameworks have been altered to fit the transformation of society, technology, and security threats. In 2023, the Government of India started the three necessary criminal law amendments (the BNS, the BNSS, and the Bharatiya Sakshya Adhiniyam (BSA)) to make the criminal law more conducive to modernisation. The legislation seeks to abolish the Indian Penal Code (IPC), the CrPC, and the Indian Evidence Act, respectively, with reformulated provisions

¹OECD/KDI, Case Studies on the Regulatory Challenges Raised by Innovation and the Regulatory Responses (OECD Publishing, 2021), available at: <https://doi.org/10.1787/8fa190b5-en> (last visited on Dec. 18, 2025).

²Daniel Oto-Peralías and Diego Romero-Ávila, “Legal Reforms and Economic Performance: Revisiting the Evidence”, Background Paper for the World Development Report 2017: Governance and the Law (2017).

to boost the efficiency of the process, development of forensic science, and enhanced law enforcement provisions. Crime and punishment are redefined through the BNS, which addresses the new forms of crime and adjusts the punishment to the norms of the modern world. The BNSS also brings to the fore some major procedural reforms that help in the optimisation of the policing, criminal trials and forensic investigations, thus making the justice system more transparent and efficient. The BSA, nonetheless, includes forensic science and digital evidence mechanisms into the legal system, considering the increased role of technology in crime identification and prosecution.³ Despite all these good intentions of legislative amendments, the reality that India is basically not able to bring these new criminal laws into action is very real. Change of the former system of the law by the new one involves massive institutional reforms, creation of capacities and clear judicial directives to avoid procedural perplexities. Also, urban-rural disbalances, the unawareness of the law enforcement, the possible misuse of procedures and so on make the execution of the reforms even more complicated. The imbalances between urban and rural environments contribute to the increased complexity of enforcement: the metropolitan authorities have difficulties handling cybercrimes in the framework of the new set of regulations on digital evidence, whereas rural stations do not have access to basic connectivity to support Zero FIRs required by the BNSS. This is further complicated by uneven awareness of law enforcement, as is indicated in a 2024 NCRB report that indicated that more than 4.4 crore cases were pending, and that misuse of harsh measures, such as extension of police custody, could be used. It imagines the adoption of multi-stakeholder designs (e.g., public-private partnerships of AI-driven case triage) or policy interventions (e.g., mandatory capacity-building modules) or technology interfaces (e.g., blockchain-based evidence chains) to ensure the gap between ambitions in legislation and ground realities. Through the use of empirical evidence and pilot initiatives (e.g., the Police and Criminal Evidence Act reforms in the UK), this paper maps the ways of realising the legal reforms in India and creating a legal system of criminal justice that is effective, transparent, and equitable. This study discusses the limitations of adopting the new criminal codes in India through institutional inefficiencies, juridical ambiguities, technological constraints and socio-legal barriers. The new multi-stakeholder designs, policy interventions, and technology interface solutions on how to bridge the gap between legislative intent and enforcement are also envisaged in this research. These

³Ministry of Home Affairs, New Criminal Laws, available at: <https://www.mha.gov.in/en/commoncontent/new-criminal-laws> (last visited on Dec. 20, 2025).

limitations are important to realise the full potential of the legal reforms in India to have an adequate, open and fair criminal justice system.

Problem Profile

Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA) are meant to change the criminal justice system in India, yet there is a gap between the theory and practice of law because of the challenges of implementation. The lack of training, legal complications, and technological constraints prevent enforcement, and urban-rural differences and extended police authority create an issue about whether the process is fair. The absence of a forensic laboratory and cybersecurity adds to digital integration troubles. Addressing the problems requires reforms in institutions, capacity building, and coordinated policy interventions aimed at facilitating effective, transparent, and equitable law enforcement.

Research Questions

The questions taken up by the researcher are:

- How do institutional, legal, technical, and socio-legal barriers, collectively, deter the implementation of India's new criminal laws?
- In what ways does the inadequacy in the training of police and judicial officers contribute to strengthening the barriers in translating "laws on paper" into "laws in action"?
- How to efficiently integrate new forensic technologies and computerised justice systems to minimise the gap between legislative reforms and efficient implementation?
- How are urban-rural disparities of enforcement and uncertainty in provisions of the law likely to influence public confidence and the functioning of India's new criminal justice system?
- How should procedural precision be enabled through a multi-stakeholder platform, misuse of broadened police powers be prevented, and adequate data protection be ensured?

Research Objectives

- To critically analyse institutional, legal, technical, and socio-legal barriers in the enforcement of India's new criminal laws and assess their implications on judicial effectiveness.
- To evaluate existing training procedures and infrastructural facilities, forensic and digital forensic investigation systems and recommend targeted amendments for legalised methods and enforcement.
- To develop and propose a multi-stakeholder model that allows for improved coordination between police, judicial authorities, and policymakers and integrates sophisticated technologies and safeguards against misuse.

Research Methodology

The research is based on secondary data, such as statistics, case studies, reports, rankings, observations, and literature analysis of research papers and books. The research is doctrinal.

[2] Legislative Intent vs. Actual Implementation

[2.1] Reasons behind the New Criminal Laws

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bhartiya Sakshya Adhiniyam (BSA) are aimed at changing the criminal justice system in India and eradicating inefficiencies in the adjudication and law enforcement procedures. Some of the areas of concern include modernisation of forensic and computer-based probes, evidence-based policing, and trial practices that are not dependent on witness accounts and confessions, which are basically proved to be fabricated. An example is the BNSS where a forensic investigation is demanded in instances of offences whose sentence goes beyond seven years to improve the evidence process.⁴ Procedural efficiency and judicial rationalisation are other goals so that the cases would not be stacked up; the trial procedures could get quicker and easier, simplifying the criminal justice system. The reforms are also intended to support national security, respect the rule of law and access to justice, especially in organised crimes, cybercrime, and terrorism.⁵ The overall reforms are meant to substitute the old

⁴PRS India, *The Bharatiya Nagarik Suraksha Sanhita, 2023*, available at: <https://prsindia.org/billtrack/the-bharatiya-nagarik-suraksha-sanhita-2023> (last visited on Dec. 21, 2025).

⁵Ministry of Home Affairs, *New Criminal Laws*, available at: <https://www.mha.gov.in/en/commoncontent/new-criminal-laws> (last visited on Dec. 21, 2025).

colonial era laws with a newer legal system that is more fitting to the current times and is more technological in nature.⁶

[2.2] Constitutional Framework Governing the New Codes

Any assessment of the new criminal laws must be anchored in India's constitutional order. Three constitutional doctrines are particularly relevant.

[2.2.1] Due Process and Article 21

Maneka Gandhi v. Union of India (1978)⁷ established that 'procedure established by law' must satisfy the test of being right, just, and fair. It must not be arbitrary, fanciful, or oppressive. This doctrine has profound implications for the BNSS. Section 187 of the BNSS, which permits police custody of up to 15 days within the first 40 or 60 days of investigation, depending on the sentence, has already produced judicial uncertainty. The Karnataka High Court, interpreting Section 187 BNSS in the context of offences under Section 108 BNS (abetment to suicide punishable up to ten years), has had to adjudicate whether the total custody period runs from day one to day 40 or day one to day 60, revealing the textual ambiguity that *Maneka Gandhi* would condemn. More recently, in *Prem Prakash v. Union of India* (2024),⁸ the Supreme Court reaffirmed that deprivation of liberty must be an exception, emphasising that bail is the rule and jail the exception. This liberty-first position, grounded in Article 21, must inform how courts interpret the BNSS's expanded police custody provisions.

Mihir Rajesh Shah v. State of Maharashtra (2025),⁹ The Supreme Court took the most significant post-BNS/BNSS step yet, constitutionalising the obligation under Section 47 BNSS that a person arrested must be informed of the grounds of arrest in writing and in a language they understand. The Court held that the 'constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes, including offences under IPC 1860 (now BNS 2023).' Crucially, the judgment applied the spirit of *Maneka Gandhi*, holding that liberty cannot exist without the ability to

⁶ "Overview of Criminal Investigations and Trials Under BNSS, BNS, and BSA – Part II", Bar & Bench, available at: <https://www.barandbench.com/law-firms/view-point/overview-criminal-investigations-and-trials-bnss-bns-bsa-part-ii> (last visited on Dec. 21, 2025).

⁷ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

⁸ *Prem Prakash v. Union of India*, 2024 SCC OnLine SC 2488 (Supreme Court, 2024).

⁹ *Mihir Rajesh Shah v. State of Maharashtra*, 2025 SCC OnLine SC (November 6, 2025). The Supreme Court constitutionalised the obligation under Section 47 BNSS, holding that every arrested person must receive written grounds of arrest in a language they understand, failing which the arrest violates Article 21. The Court held: 'the constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023).'

understand the basis of its restriction. For a multilingual democracy where millions encounter the law through translation, this ruling transforms linguistic comprehension into a constitutional requirement.

[2.2.2] Proportionality Doctrine

K.S. Puttaswamy v. Union of India (2017)¹⁰ requires that any state action encroaching upon fundamental rights must satisfy three requirements: (i) legality: it must have a legal basis; (ii) necessity: it must serve a legitimate state objective; and (iii) proportionality: the means must have a rational connection to the objective and must not be more restrictive than necessary. This test has direct application to several provisions of the new criminal codes. The Supreme Court in Om Kumar v. Union of India (2001)¹¹ had also established the proportionality standard for Article 19 restrictions.

Historically, Kedar Nath Singh v. State of Bihar (1962)¹² required a direct causal link between speech and incitement to violence, while Balwant Singh v. State of Punjab (1995)¹³ emphasised the need for actual consequences rather than mere expression. Tejender Pal Singh v. State of Rajasthan (2024)¹⁴ raised specific concerns about Section 152 BNS potentially suppressing legitimate dissent, directing that the provision be applied cautiously. Under the Puttaswamy proportionality test, Section 152 must be applied only where the speech constitutes more than mere disaffection, it must threaten actual disorder or violence. Vague enforcement risks failing the proportionality inquiry.

The BNSS also empowers police to compel an accused to produce digital devices for investigation. This raises acute concerns under the Puttaswamy proportionality framework: extraction of the entirety of a person's digital data must be no more intrusive than strictly necessary for the investigation. As one court has already held, any movement-tracking condition imposed under Section 482(3) BNSS must pass the Puttaswamy three-pronged test: legality, legitimate state aim, and proportionality. The

¹¹Om Kumar v. Union of India, (2001) 2 SCC 386. The Supreme Court articulated the doctrine of proportionality for Article 19 restrictions, requiring that state action must be no more restrictive than necessary. This test is now applicable to both criminal procedure provisions and substantive offences under BNS.

¹²Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955; S.G. Vombatkere v. Union of India, Writ Petition (Civil) No. 682 of 2021; Balwant Singh v. State of Punjab, (1995) 3 SCC 214.

¹³ Balwant Singh v. State of Punjab, (1995) 3 S.C.C. 214 (India).

¹⁴Tejender Pal Singh v. State of Rajasthan, 2024 (Rajasthan High Court). The Court raised serious concern that Section 152 BNS could be misused to suppress legitimate dissent, and emphasised that the provision must be applied cautiously to safeguard freedom of speech and expression under Article 19(1)(a).

Digital Personal Data Protection Act, 2023, provides additional regulatory guidance on proportionate data extraction.

[2.2.3] Fundamental Rights: Articles 14, 19, and 21

Mannargudi Bar Association v. Union of India and *Azad Singh Kataria v. Union of India*,¹⁵ The Supreme Court has scheduled comprehensive hearings on constitutional challenges to Sections 43(3) (handcuffing), 107 (attachment and forfeiture of property), 111 and 113 (organised crime and terrorism offences), 152 (sovereignty offences), 187 (extended police custody), 223 (hearing for accused before cognisance), and 356 (trial in the absence of the accused). These challenges test the new codes against the core fundamental rights guarantees.

Lalita Kumari v. Government of Uttar Pradesh (2014),¹⁶ which made FIR registration mandatory upon receipt of information disclosing a cognizable offence. The resolution of this tension by the Supreme Court will be a defining moment for the implementation of the new codes.

[2.3] Achievements in Bringing Legislative Intent into Action

Despite their passionate adherence, there are grave problems in the application of these legal reforms, which lead to an unwanted gap between legislative intent and practical enforcement. Institutional resistance to change is perhaps one of the largest of these issues. The Indian criminal justice system has been operating under the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC) for many years. A transition to new provisions would necessitate a significant retraining of law enforcement officers, prosecutors, and judicial officers. Yet, most officials are not aware of redefined crimes, procedural reforms, and new sentencing frameworks, resulting in backlogs in adaptation and implementation.¹⁷

The second crucial problem is the uncertainty of the procedure because of the redefinition of the offences and the addition of more clauses to the legislation. Interpretational uncertainty was caused by the renumbering of the sections and changes in offences, such as cybercrime, having forensic

¹⁵*Mannargudi Bar Association v. Union of India*, W.P. (C) No. 625/2024; *Azad Singh Kataria v. Union of India*, W.P. (Crl.) No. 461/2024. The Supreme Court has scheduled hearing on constitutional challenges to Sections 43(3), 107, 111, 113, 152, 187, 223, and 356 of the BNSS/BNS, with the outcome expected to clarify constitutional boundaries of the new criminal codes.

¹⁶*Lalita Kumari v. Government of Uttar Pradesh*, (2014) 2 SCC 1 (five-judge Constitution bench). The Court held that registration of an FIR is mandatory if information discloses a cognizable offence. The preliminary inquiry requirement under Section 173 BNSS for offences punishable between 3–7 years is alleged to deviate from this binding precedent.

¹⁷Ayush Chandra, “All Major and Minor Changes in India’s New Criminal Laws: BNS, BNSS, and BSA Explained” *LegalOnus Law Journal* (ISSN: 3048-8338) (2025).

mandates and national security offences. The issue of jurisdiction overlaps and counter-vailing conditions has been brought up by lawyers and judges, and these have led to variation in application and judicial inaccuracy.¹⁸ In addition, there is no existing seminal case law or judicial precedents on the new rules, depriving the lower courts of a reference to draw upon and leaving the possibility of conflicting interpretations and unequal application of the law.¹⁹ These legislative changes might not have the intended impacts without clear judicial guidelines, harmonized implementation plans, and any national legal sensitisation on the significance of criminal justice reforms as a result of which result in a patchwork quilt regulation, legal uncertainty, and popular dissatisfaction towards the criminal justice system.²⁰

[3] Crucial Challenges to the Implementation of India's New Criminal Laws

[3.1] Institutional and Administrative Challenges

The biggest obstacle to executing the Bharatiya Nyaya Sanhita (BNS), (BNSS) and (BSA) is the lack of training and adjustment of the law enforcement officers and the judicial officers. The transition into these new codes requires large-scale training programs to accustom the police, judges, and legal professionals to new crimes, new procedures and new sentencing systems. However, balancing the daily routine of law enforcement with the obligation to undertake upskilling is a serious problem, as not all members of the staff can afford to go off active duty to undertake lengthy training. It is the responsibility of the Bureau of Police Research and Development (BPR&D) and other judicial training academies to carry out the capacity-building programs. Nevertheless, according to the reports, the lack of appropriate funding and resources is an obstacle to an extensive training program.

The case backlog in the Indian judiciary is also critical, and the judge-to-population ratio is also poor, which further contributes to the weak implementation of new laws. By 2023, over five crore cases were pending across Indian courts, and the average court disposal of subordinate courts is over five years.²¹ Even as new criminal laws have attempted to improve procedural efficiency, systemic slowness remains a challenge, as judicial delays in interpreting the laws hinder their practical

¹⁸“The Gruelling Course of Litigation in India”, The Hindu, available at: <https://www.thehindu.com/opinion/lead/the-gruelling-course-of-litigation-in-india/article68741949.ece> (last visited on Dec. 22, 2025).

¹⁹Justice Brijesh Kumar, “Of Precedents” Institute Journal (Apr.–June 1995).

²⁰Department of Justice, Legal Literacy and Legal Awareness Programme (LLLP), available at: <https://doj.gov.in/legal-literacy-and-legal-awareness-programme-lllp/> (last visited on Dec. 22, 2025).

²¹“Over 5 Crore Court Cases Pending, Government Tells Lok Sabha”, The Times of India, available at: <https://timesofindia.indiatimes.com/india/over-5-crore-court-cases-pending-government-tells-lok-sabha/articleshow/106032857.cms> (last visited on Dec. 22, 2025).

implementation. The establishment of case law precedents under the new regime is crucial to ensuring consistency in enforcement; however, procedural delays and a shortage of judges hinder the process.²² Other significant impediments include the lack of inter-agency coordination, especially the fragmented communication between the police, judiciary, forensic professionals, and policymakers. It requires all the stakeholders in criminal law enforcement to coordinate and accord harmony in the process of implementation; however, a lack of understanding of the processes and a lack of proper coordination frequently guarantee wrongful prosecution, the retardation of justice and a lack of uniformity in the treatment of cases.²³ In the lack of congruent operational practices and enhanced inter-agency coordination mechanisms, there are higher chances of judicial abuse.

[3.2] Legal and Procedural Challenges

Criminal laws bring many innovations into the section numbers, types of crimes and definitions as it is prescribed by the law, which creates discrepancies in legal provisions. This has baffled legal experts, judicial officers and law enforcement officers, especially in situations where there is an overlap between the emerging crimes and the existing acts such as terrorism, sedition and cybercrime.²⁴ As an example, the redefinition of illegal acts and crimes that could be classified as sedition-like has created doubt on how there might be contradictions between constitutional freedoms and freedom of speech.²⁵ Furthermore, it is due to the lack of judicial precedents on new terms that lower courts end up giving conflicting interpretations, thus resulting in legal ambiguity. The possibility of unequal law enforcement amongst states will always linger without clear judgments of benchmarking that have to be made by the Supreme Court and High Courts. Moreover, the absence of case law establishing offences that may arise may result in lengthy detentions during the pre-trial stage and miscarriages of justice, especially in very sensitive offences like cybercrimes and national security.²⁶

[3.3] Technological and Infrastructure Challenges

BNSS advocates for the collection of forensic evidence in serious crimes. Still, India's forensic facilities are in a deplorable condition, with hardly any forensic labs equipped to handle digital and

²²E-Justice & Fundamental Rights Int'l GesbR, "On Making: Issues Affecting the Consistency of Judicial Decisions and Best Practices in Securing Consistency in Judicial Decision Making" (2023).

²³United Nations Office on Drugs and Crime, Handbook on Effective Prosecution Responses to Violence Against Women and Girls, U.N. Criminal Justice Handbook Series (Vienna, 2023).

²⁴*The Indian Police Journal*, Vol. 71, Nos. 1 & 2 (Jan.–June 2024) (ISSN 0537-2429).

²⁵"Balancing Free Speech and National Security: A Critical Analysis of Section 152 of the Bharatiya Nyaya Sanhita and Section 124A of the IPC", LiveLaw, available at: <https://www.livelaw.in/lawschool/articles/balancing-free-speech-national-security-critical-analysis-section-152-bhartiya-nyaya-sanhita-section-124-a-ipc-259465> (last visited on Dec. 24, 2025).

²⁶Judicial Academy Jharkhand, Cyber Crimes: Investigation and Trial Under the Current Law, Reading Material.

DNA-based evidence (Ministry of Home Affairs, 2023). Lack of expert forensic personnel and underdevelopment of forensic science wings further weaken the criminal justice system's capability for rapid and effective investigation.

In addition, despite having initiated e-Sankalan and e-Sakshya to computerise case records and streamline the judicial process, broad-based digital adoption is hindered by logistical and security issues. Most police stations and courts in rural and semi-urban areas lack the infrastructure to enable a uniform digital case management system.²⁷ Further, the problem of cybersecurity and data protection remains unsolved, as evidence of the integrity and chain of custody of electronic evidence is crucial in preventing tampering and wrongful convictions. The admissibility of digital evidence is one of the areas of jurisprudence that are still rather ambiguous, especially when the evidence is retrieved via social media, encrypted networks, or artificial intelligence-generated sources.

[3.4] Socio-Legal and Public Awareness Challenges

Misinformation caused by low legal literacy and awareness of the new criminal laws results in reluctance to abide by these new laws. The vast majority of the citizens, particularly living in semi-urban and rural regions, do not know about the procedural law changes, the new forms of crimes, and the meaning of digital evidence.²⁸ This gives way to more violations of the law driven by ignorance as opposed to an intentional ignorance toward the law. To fill this gap, legal literacy campaign across the country is required so that the people and even the legal practitioners have reasonable knowledge of their rights and duties under the new system of law.

Another thing is the issue of police discretion and abuse of power with the expanded power in the case of BNSS. The Act puts more power in the police forces on several aspects of its operations such as electronic monitoring and preemptive arrest, which may be detrimental to civil rights. Without proper oversight systems, law enforcement will be tempted to abuse these provisions and criminalize and overcriminalize vulnerable groups of the population. There should be a balance between police effectiveness and respect to human rights as the power should not be misused and ensure procedural justice.

Finally, the differences between metropolitan and the countryside areas are huge as far as police activity is concerned. The rural setting has more difficulties in accessing courts of justice, legal assistance, and forensic technology of the best quality, causing unequal treatment and possible

²⁷Status of Policing in India Report 2023: Surveillance and the Question of Privacy (2023).

²⁸Government of India, Ministry of Home Affairs, "Report of the Committee on Reforms of Criminal Justice System", Vol. I (Mar. 2003).

miscarriages of justice. The legal aid programs are under funded and people in the rural areas do not have legal representation or knowledge of new legal provisions.²⁹ Loopholes in implementation are also present, as there is no procedural convergence due to the fact that some states will implement quickly, while others encounter institutional barriers and infrastructural constraints.

The eradication of institutional inefficiencies, legal uncertainty, technological inequality, and socio-legal inequities is the key to the successful implementation of BNS, BNSS, and BSA. There is a threat of inconsistent enforcement and delays in the procedures because no strict training programs, judicial clarification, strong forensic infrastructure, and insufficient public awareness avenues exist. To close the gap between lawmakers and reality, to allow such reforms to produce a legitimate, open, and equitable criminal justice system, a multi-stakeholder solution, which includes law enforcement agencies, judicial institutions, forensic scientists, and policymakers, is needed.

[4] Case Studies and Comparative Analysis

[4.1] Lessons from India's Past Legal Reforms

The history of law in India indicates that even substantial law reforms in criminal law are likely to face resistance before they are holistically integrated in the justice system. The replacement CrPC of 1973 (replacing the colonial CrPC of 1898) attempted to modernise the investigation procedures, strengthen the due process rights, and the fair trial rights. Nevertheless the manner in which it was first introduced was highly opposed by law enforcement agencies, judicial stalling to keep up with it, and procedural anomalies as is the case with BNS, BNSS and BSA in current days. Similarly, the 2005 Criminal Law (Amendment) Act, which enforced more severe penalties entailing sexual offenses, did not work at the beginning since it was not enforced, due to a lack of training to police representatives and legal lags to interpret it. These recent experiences reveal that without ordered programs of training, phased implementation, and judicial precision, even properly motivated legal change is challenging to sustain.

[4.2] International Models of Transitions in Criminal Law

[4.2.1] United Kingdom: Criminal Justice Act Reforms

The United Kingdom's Criminal Justice Act reforms introduced procedural changes aimed at enhancing trial efficiency, strengthening victim protection measures, and increasing judicial

²⁹ “The Importance of Legal Aid in Ensuring Access to Justice”, Lawful Legal, available at: <https://lawfullegal.in/the-importance-of-legal-aid-in-ensuring-access-to-justice/> (last visited on Dec. 25, 2025).

discretion. Yet, initial enforcement was strongly opposed by the legal profession, particularly due to concerns about the right to a fair trial and procedural uncertainty. In the long term, the UK government revised its procedural mechanisms, such as expert judicial and police education, and advanced digital evidence laws, and increased the effectiveness of enforcement outcomes.³⁰

[4.2.2] United States: Cybercrime Enforcement Strategies

Unbalanced enforcement between the state and federal jurisdictions was the initial characteristic of cybercrime law enforcement in the United States under the Computer Fraud and Abuse Act (CFAA). The lack of clear legal definitions of cybercrimes led to the different levels of prosecution, the problems being due process abuses, and overcriminalization. In a counter measure, the US government created professional cybercrime task force, forensic digital training programs and standardized procedural policies that greatly assisted in cyber law enforcement.³¹ These findings show how effective enforcement of the new law of digital and forensic evidence in India by the BSA works by virtue of professional training and uniform procedural guidelines being in place.

[4.2.3] Singapore: Integration of Technology in Legal Procedures

Singapore has managed to incorporate technology within its legal and judicial system and this has reduced the number of cases pending and also increased the efficiency of the processes. AI controlled case handling systems, courtrooms, and forensic authentication measures have improved the judicial procedure and made case trials and evidence management more efficient. Singapore has invested a lot in cybersecurity, science laboratory of forensics, and legal-technology solutions than India, which has not, resulting in a higher success in adjudicating cases. This scenario underscores the fact that India requires a focus on digital infrastructures and forensic possibilities to attain a successful outcome of BNSS and BSA.

[4.3] Empirical Analysis of Initial Implementation Challenges in India

Initial reports on adopting BNS, BNSS, and BSA have recorded high levels of police, court preparation, and forensic laboratory shortages in training. It has been observed by legal experts that trial courts and policemen find it difficult to interpret and apply new provisions in the law especially

³⁰UK Parliamentary Office of Science and Technology, Research Briefing: POST-PN-0520, available at: <https://researchbriefings.files.parliament.uk/documents/POST-PN-0520/POST-PN-0520.pdf> (last visited on Dec. 28, 2025).

³¹Bureau of Justice Assistance, Cyber Training: A Call to Action, available at: https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cyber_training_call_to_action_3-2016.pdf (last visited on Dec. 29, 2025).

in those cases, which involve digital evidence, forensic standards and process reforms.³² Also, variations in law enforcement processes across states and disparities in access to forensic labs in rural jurisdictions have led to investigation delays and confusion in jurisdiction. Lower courts tend to have no precedents to guide new crimes that are incorporated at lower courts resulting in uneven judgment in courts. These preliminary hadiths highlight the need to pursue continuous legal education, to focus on enforcement, and to be responsive in the policies to have the new legal framework performed successfully in different localities.

The reforms in the historical legal systems of India and the experience of different countries in the world with criminal law reforms are a reminder of the importance of systematic training, digitalisation, and clear procedural guidelines in the success of the new criminal laws. The problems that the first BNS, BNSS, and BSA implementation brought to light will point to the necessity to continue the development of the policy, control it by the courts, and invest in the law enforcement organization to close the gap between the intentions of the legislators and the real enforcement.

[5] Bridging the Gap: Strategies and Policy Interventions

A long-term, multi-stakeholder solution is required to bring about the efficient application of BNS, BNSS, and BSA. The institutional, legal, technological, and socio-legal challenges require capacity-building, infrastructure upgrade, legislative refinements, community involvement, and inter-agency coordination. The following section offers detailed, context-sensitive recommendations supported by existing pilot projects and phased implementation strategies.

[5.1] Phase I (Immediate, 0–12 Months): Emergency Capacity-Building and Judicial Clarification

However, training must now move beyond awareness to practical competence. Specifically:

- The ToT (Toll, Operate and Transfer) model should be supplemented by district-level forensic workshops using simulation-based forensic training, as recommended by leading criminology researchers.³³

³²Naeem Allah Rakha, *Cybercrime and the Law: Addressing the Challenges of Digital Forensics in Criminal Investigations* (Feb. 2024).

³³Holly Vanessa Wilkins et al., *Application of Augmented Reality for Crime Scene Investigation Training and Education* (Western Sydney University, Feb. 2024).

- For digital evidence, each state forensic laboratory should designate dedicated cyber cells with personnel trained in SHA-256/MD5 hash verification, as required under Section 63(4) BSA, before courts begin receiving large volumes of digital evidence challenges.
- The Supreme Court should issue Practice Directions under Article 142 clarifying: (a) the custody-duration framework under Section 187 BNSS for offences at the 7/10-year sentencing threshold; (b) when preliminary inquiry under Section 173 BNSS is mandatory versus when it violates Lalita Kumari; and (c) the standard of Section 63 BSA certificate compliance for AI-generated evidence. Until such directions issue, High Courts should follow the liberty-first approach.
- The written grounds of arrest obligation should be operationalised through a standardised arrest memo form in regional languages, distributed to every police station, with non-compliance treated as an automatic bail ground.

[5.2] Phase II (Short-Term, 12–36 Months): Forensic Infrastructure and Digital Architecture

Concrete delivery of this commitment requires a phased, decentralised approach:

- District-Level Mobile Forensic Units (DMFU): The Mizoram model, which deployed four Mobile Forensic Vans at district headquarters and proposed five District Mobile Forensic Units, provides a replicable pilot.³⁴
- Blockchain-Based Evidence Chain: The Centre of Excellence in Blockchain Technology's proposal for blockchain-based electronic evidence storage.
- E-Sakshya/e-Sankalan Expansion: The existing e-Sankalan and e-Sakshya platforms must be extended to rural and semi-urban police stations through phased infrastructure funding under the Modernisation of Police Forces scheme, prioritising states with the highest case pendency.

³⁴Mizoram provides a notable pilot example: the state deployed four Mobile Forensic Vans at district headquarters in Aizawl, Lunglei, Champhai, and Kolasib, with plans for ten additional vans and five District Mobile Forensic Units. See: Department of Information and Public Relations, Mizoram, 'Implementation of the Three New Criminal Laws from 1st July 2024' (June 19, 2024).

[5.3] Phase III (Medium-Term, 36–60 Months): Legislative Refinements and Judicial Architecture

This body should undertake:

- Quarterly impact assessments of BNS, BNSS, and BSA provisions against NCRB data on case registration, FIR quality, custody duration, conviction rates, and bail outcomes, disaggregated by state and district.
- A proportionality review of Section 152 BNS in light of the Supreme Court's pending judgment in Vombatkere's challenge, and recommendations for a statutory 'public order' threshold that reflects the Kedar Nath–Balwant Singh standard.³⁵
- Amendment of Section 187 BNSS to provide a statutory table cross-referencing each BNS offence to the applicable custody duration, eliminating the interpretive uncertainty that courts are currently navigating on a case-by-case basis.
- Statutory guidelines on proportionate extraction of digital device contents in investigations, modelled on the UK Code of Practice (2022), to operationalise the Puttaswamy framework.

[5.4] Public Involvement and Sensitisation Mechanisms

The national legal literacy program through the MyGov platform, UGC, and AICTE has made initial progress; webinars in June 2024 reached approximately 90 lakh grass-root level functionaries.³⁶

Recommendations for deepening this impact include:

- Localised, multilingual outreach through Gram Panchayats and state legal services authorities (under the Legal Services Authorities Act, 1987) to bridge the information gap in rural areas where Zero FIR and electronic FIR procedures remain unknown.³⁷
- Law school clinics and District Legal Services Authorities should run dedicated workshops on BNSS bail reforms and digital evidence rights in tribal and Scheduled Caste/Scheduled Tribe dominated districts.

³⁵ Shraddha Mall & Shantanu Singh, Old Sword in New Sheath: An Analysis of Section 152 of Bharatiya Nyaya Sanhita, 1 LHSS J. (2026), <https://lhsscollective.in/wp-content/uploads/2026/01/LHSS-Journal-1.1-article-2.pdf>.

³⁶ 'New Criminal Laws: Landmark Training and Administrative Burden a Challenge, Say Legal Experts', Economic Times Legal

³⁷ 'Exploring India's New Criminal Laws: A Paradigm Shift in Legal Framework', MyGov Blog.

- Pilot a dedicated citizen-facing BNSS Awareness App (building on the existing NCRB SANKALAN app) that allows citizens to understand their rights on arrest, bail, and evidence in plain language across 22 scheduled languages.

[5.5] Multi-Stakeholder Coordination Models

There must be a control room model, providing real-time handholding to States and UTs in implementation, which should be institutionalised as a permanent National Criminal Law Implementation Authority (NCLIA). The NCLIA should:

- Coordinate quarterly inter-agency reviews attended by Director General of Police representatives from each State, nodal High Court judges, the National Forensic Sciences University (NFSU), and the NCRB.
- Facilitate public-private partnerships for AI-powered case triage tools (to reduce backlog) and blockchain evidence management systems, with mandatory rights-compliance audits to address Puttaswamy and Article 14 concerns.
- Monitor state-by-state implementation scores across training completion, forensic capacity, digital infrastructure, and case disposal rates, publishing quarterly scorecards to generate accountability.

[6] Conclusion and Future Directions

[6.1] Key Takeaways from the Research

Adopting Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA) is a milestone in the history of Indian criminal jurisprudence since it sets out to modernise the legal code and make its processes more efficient, and incorporates forensic and digital technologies into the system. Through this study, however, it has been pointed out that the implementation of these laws is faced by significant institutional, legal, technological, and socio-legal challenges. Gaps in training among the judiciary and law enforcement, lack of infrastructure, ambiguity of legal provisions, and disparity in enforcement between cities and towns retard the process of narrowing the gap between written and enforced laws.

One of the major conclusions of this research is that institutional resistance and a lack of capacity-building machinery remain central issues in the rollout of such reforms. Policemen, prosecutors, and judges, who have been serving for decades under the Indian Penal Code (IPC) and the Code of

Criminal Procedure (CrPC), require wholesale training and acclimatisation programs to familiarise themselves with the new offences, procedural changes, and evidentiary reforms. However, efforts by institutions such as the Bureau of Police Research and Development (BPR&D) and state judicial academies have addressed deficiencies in organised training and the scarcity of resources, which remain obstacles to effective enforcement.³⁸ Judicial congestion and backlog also delay the development of legal precedents needed for the uniform interpretation of the new provisions. Judge scarcity and lapsed time cases need systematic interventions to ensure quicker case adjudication and efficient court operations.

The research takes into consideration in regard to technology that the forensic and digital infrastructures are still underdeveloped, which restricts the practical implementation of digital evidence guidelines of BNSSs and BSAs. It is especially troubling in India, where under-resourced and understaffed forensic labs interfere with closing cases and the validity of the forensic evidence. Also, as much as an initiative like e-Sankalan and e-Sakshya have concentrated on the automation of case handling there are no procedural guidelines or cybersecurity measures on the admissibility of digital evidence, which poses a challenge to the integrity and legal admissibility of the electronic records.

Procedurally and legally, the issue of complexity in numbers of sections, redundancy of the provisions in the current legislation, and absence of explicit judicial interpretation instill doubt among the legal professionals. In other words, new cyber crimes, sedition crimes and prophylactic detention clauses have been stained with controversies of how they may be abused to undermine constitutional protection and chances of police misuse. Because of the absence of judicial interpretation and enforcement techniques, courts and states are likely to interpret and enforce such provisions unevenly, thus undermining the consistency of the legal system.³⁹

Ultimately, the paper outlines that civic awareness and involvement are the key determinants of the success of such a legal change.⁴⁰ Lack of awareness of the law and misinformation about emerging

³⁸“Paper on Implementation of Three Criminal Laws”, available at: <https://cdnbbsr.s3waas.gov.in/s3978d76676f5e7918f81d28e7d092ca0d/uploads/2024/09/202409122002279314.pdf> (last visited on Dec. 31, 2025).

³⁹“New Criminal Laws: Landmark Training and Administrative Burden a Challenge, Say Legal Experts”, Economic Times Legal, available at: <https://legal.economictimes.indiatimes.com/news/law-policy/new-criminal-laws-landmark-training-and-administrative-burden-a-challenge-says-legal-experts/111424784> (last visited on Jan. 2, 2026).

⁴⁰ “Overworked, Understaffed System Will Struggle to Implement New Criminal Laws”, The Indian Express, Feb. 27, 2025, available at: <https://indianexpress.com/article/opinion/columns/new-criminal-law-nda-9415938/> (last visited on Jan. 3, 2026).

criminal codes tends to cause lack of compliance, defiance, and distrust on the part of law enforcing agencies. There is also the procedural proximity and inaccessibility of services of legal aid, especially in rural locations that contribute even more to the defocusing of the citizens and the court. Also, the abuse of additional authorities under BNSS, police discretion and fear calls into further focus the necessity of strong oversight procedures and strong human rights assurances.

[6.2] The Future of India's Criminal Justice System in a Digitally Evolving World

Criminal justice reforms in India should be steered towards the best practices in the global forensics, digital case management and AI driven legal research into a technologically advanced legal system as India becomes a technologically advanced legal system. Evidence tracking with blockchain, AI-enhanced legal databases, and cloud-based systems to manage judicial records can greatly improve the level of transparency, efficiency, and expediency in case adjudication. Nevertheless, sound data protection laws, effective cybersecurity, and electronic tamper protection should accompany the technological advancement to facilitate the unquestionability of the utilization of digital evidence and make it court admissible.

The other paramount concern in India will be to bridge the digital divide in both metropolitan and rural India in terms of police and forensic capacity. Urban centres can afford cybercrime cells, forensic labs, and professional staff, whereas small towns and villages have to use outdated methods of investigations and do not have digital infrastructure. The state needs to spend on a decentralised forensic infrastructure system in which each state has its digital investigation departments and forensic laboratories providing equal distributed forensic technology. Hinged on India's success in boosting its reservoir of forensic experts and arming law enforcers with sophisticated crime-detecting technology, it is bringing BNSS's forensic needs into reality. Furthermore, India's criminal justice system must adopt progressive juridical procedures that evolve in response to emerging types of crime patterns, such as cyber fraud, cyber terrorism, money laundering facilitated by AI, and breaches of confidentiality.

Other countries, such as Singapore and the United States of America, have already introduced AI-driven legal analytics in their judicial systems to enhance case law analysis, monitor legal precedents, and assess verdict risk in sentencing. India can also use AI-driven legal reforms to introduce more judicial efficiency, ease the process of cases, and make judgments based on data-based information.

[6.3] A Call for Sustained, Research-Driven Policy Refinements

In order to ensure that the criminal justice reforms in India achieve their maximum potential, a multi-stakeholder process must be involved which will include the policymakers, police, forensic experts, courts, judicial bodies and civil society organizations. Bodies like the Law Commission of India and the Criminal Law Review Commission should carry out continuous impact analyses of BNS, BNSS, and BSA to spot weaknesses, recommend ways of improving it and enable dynamic policymaking. Such assessments must focus on the following:

- The effectiveness of the procedural alterations in case backlog management and trial efficiency increase.
- The facts of the working limitations of the police, the prosecutors, and the specialists working in the forensic and electronic technology through the execution of the new legislation.
- The use of forensic and digital technology to collect evidence, investigate and make a judgment on cases.
- The judicial oversight in avert abuse of expanded police authority.
- The need to legislatively reform to incorporate new emerging legal complexities.
- ability building activities should be supplemented by training modules at the country level to ensure that the judges, law enforcers and forensic scientists get informed on changes in legal provisions and investigative techniques. All levels of legal literacy should be improved by incorporating simulation based specialised training modules, forensic workshops and web based courses in case management within the police training schools, law schools and judicial institutions.
- Indeed, public involvement is also the driver to successful execution of legal reforms. Through the media, the advocacy groups, and the schools, the government must engage in legal literacy programs, awareness initiatives and the multilingual outreach programs to empower people in a manner that they are aware of their rights and responsibilities under the new law adequate.

[6.4] Final Thoughts

Bharatiya Nyaya Sanhita, Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam are the most significant criminal law reforms in the Indian history. Nevertheless, they have managed to avoid institutional obstacles, technical constraints, and socio-legal impediments.

It can be argued based on the experience of the last reform in the law and the best practices worldwide that the improvement of the policy, the collaboration of the stakeholders, and technological progress will become the major driving forces of the future of the criminal justice system in India. India can

change its once-creeking and outdated criminal justice system to a technologically-driven, modernised, and rights-based legal system that can bring justice to every citizen in a swift, fair, and transparent way possible.