

Towards Victim-Centric Justice: An Evaluation of the Bharatiya Nyaya Sanhita, 2023

Juhi Chandel

Abstract—The Bharatiya Nyaya Sanhita, 2023 represents a major reform in India’s criminal justice system, intended to modernise and rationalise criminal law in accordance with present-day social and technological developments. This legislation replaces the Indian Penal Code, 1860 and is complemented by the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhinyam, 2023, which have substituted the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 respectively. Collectively, these enactments aim to overcome the limitations of colonial-era laws that had become outdated, complex, ambiguous, and largely offender-centric.

The IPC, though foundational for over a century, failed to adequately address contemporary socio-economic realities, technological advancements, and procedural inefficiencies. In response, the BNS restructures substantive criminal law by reducing the number of provisions from 511 to 358 sections. It introduces 21 new offences, enhances punishments in 41 offences, increases fines in 82 offences, prescribes mandatory minimum sentences for 25 offences, incorporates community service as a form of punishment for certain offences, and removes 19 obsolete provisions. These reforms seek to streamline criminal law and promote efficiency while strengthening victim-centric justice.

Despite its progressive intent, the BNS has notable shortcomings. Marital rape continues to remain outside the scope of criminalisation, and offences such as rape, sexual harassment, and stalking retain gender-specific definitions. Criminal defamation has been retained, and the omission of Section 377 has led to concerns regarding the decriminalisation of bestiality and non-consensual same-sex acts. Further, the offence of sedition has been replaced with provisions penalising acts endangering the sovereignty, unity, and integrity of India, raising questions regarding continuity and interpretation. The legislation also fails to adequately address emerging issues such as the use of facial recognition technology and suffers from implementation challenges due to insufficient training of police and judicial personnel.

An important conceptual shift reflected in recent reforms is the growing emphasis on restorative justice.

Unlike the traditional retributive model, restorative justice focuses on repairing harm, fostering reconciliation, and ensuring offender accountability. Victims are actively involved in the process, enabling them to express the impact of the offence and engage directly with offenders. Offenders, in turn, are required to accept responsibility, express remorse, and participate in restoring the harm caused.

Restorative justice mechanisms, including restorative meetings and mediated dialogues, promote open communication and collaborative problem-solving among victims, offenders, and community stakeholders. Although not suitable for all offences, this approach has proven effective in promoting victim healing, facilitating offender rehabilitation, and reducing recidivism. Consequently, restorative justice presents a more humane and socially responsive alternative to purely punishment-oriented criminal justice systems.

Index Terms—Bharatiya Nyaya Sanhita, 2023, Criminal Law Reform in India, Colonial Legacy and Legal Transition, Victims’ Rights, Restorative Justice Framework

I. KEY FINDINGS

The Bharatiya Nyaya Sanhita, 2023 represents a significant step towards the modernisation of India’s criminal justice system. A major finding of this study is the shift from an offender-centric framework under the Indian Penal Code, 1860 towards a more victim-oriented approach, with greater emphasis on the protection of victims’ rights and interests. The legislation also strengthens procedural fairness by introducing improved safeguards within the criminal process. Further, the BNS reflects contemporary societal values by revising criminal definitions and penalties to align with present-day social realities. Structurally, the reforms streamline legal provisions and replace outdated norms contained in colonial-era

legislation, thereby laying the foundation for a reformed legal landscape. These changes are expected to have far-reaching implications for the administration of criminal justice in India, while simultaneously highlighting the need for continuous legislative refinement.

An important finding concerning the three new criminal codes—the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhinyam, 2023—is that they collectively replace more than 160-year-old laws governing crimes, procedure, and evidence. The BNS rationalises substantive criminal law by reducing the number of provisions from 511 to 358, introducing new offences, and enhancing punishments. However, the reforms suffer from critical deficiencies. Marital rape continues to remain outside the scope of criminalisation; sexual offences are still defined in gender-specific terms; criminal defamation is retained; and the omission of Section 377 has raised concerns regarding the decriminalisation of bestiality. Additionally, the recharacterisation of sedition through broadly worded provisions threatens legal certainty. The absence of regulatory safeguards for emerging technologies such as facial recognition and inadequate training of law enforcement agencies further undermine effective implementation.

Another key finding of this study relates to the growing relevance of restorative justice as an alternative model of criminal justice. Unlike the traditional punitive framework, restorative justice prioritises harm repair, reconciliation, and accountability. Victims are afforded an active role, enabling them to articulate the impact of the offence and engage meaningfully with offenders. Perpetrators are required to accept responsibility, express remorse, and participate in repairing the harm caused. Restorative mechanisms, such as facilitated dialogues and restorative meetings, encourage open communication and collaborative resolution. While not suitable for all offences, restorative justice has been found effective in promoting victim healing, facilitating offender rehabilitation, and reducing recidivism, thereby offering a more humane and socially responsive approach to criminal justice.

II. RESEARCH GAP

Despite the progressive intent of the Bharatiya Nyaya Sanhita, 2023, several critical research gaps remain that warrant further scholarly examination. One major gap is the absence of empirical data evaluating the practical implementation of the new criminal codes. As the legislation is recent, there is limited real-world evidence on how its provisions operate within the justice delivery system. This restricts a comprehensive assessment of their effectiveness and impact.

Another significant gap lies in the lack of comparative international analysis. The reforms under the BNS, BNSS, and BSA have not been sufficiently examined in light of criminal justice models adopted in other jurisdictions, which could provide valuable insights into best practices and potential areas for improvement. Further, although the BNS claims to adopt a victim-centric approach, there is inadequate research evaluating whether such provisions lead to improved outcomes for victims in practice, including access to justice, satisfaction with legal processes, and restorative outcomes.

The literature also lacks comprehensive stakeholder-based studies analysing the impact of these reforms on key actors within the criminal justice system, including judges, prosecutors, defence counsel, law enforcement agencies, and accused persons. Similarly, while enhanced procedural safeguards have been introduced, there is insufficient evaluation of their practical efficacy in ensuring fairness, due process, and timely justice. Longitudinal studies examining the long-term socio-legal consequences of these reforms, including institutional adaptation and public perception, are notably absent.

From a substantive law perspective, unresolved legal ambiguities constitute a major research gap. Issues such as the continued non-criminalisation of marital rape, the retention of gender-specific definitions of sexual offences, and the classification of defamation as a criminal offence remain under-examined. The complete omission of provisions addressing non-consensual same-sex intercourse and bestiality has also generated concerns regarding rights protection and legal clarity. Additionally, the replacement of the offence of sedition with broadly framed provisions

concerning acts endangering the sovereignty, unity, and integrity of India raises interpretative and constitutional questions that require further doctrinal analysis.

Technological developments present another important gap. The BNS does not adequately address the regulation of emerging technologies such as facial recognition systems, despite their increasing use in criminal investigations. Moreover, there is limited research on implementation challenges arising from insufficient training of law enforcement and judicial personnel to effectively apply the new legal framework.

Finally, in relation to restorative justice, several gaps remain unaddressed. There is a lack of clarity regarding the categories of offences suitable for restorative justice mechanisms as opposed to traditional punitive responses. Empirical evidence assessing the effectiveness of restorative justice in terms of victim healing, offender rehabilitation, and reduction in recidivism across different crime types is limited. Further, there is insufficient guidance on the procedural conduct of restorative meetings and mechanisms to ensure genuine accountability. Long-term studies evaluating sustained offender reintegration and lasting victim recovery, as well as comparative analyses between restorative and retributive justice models, remain largely unexplored.

III. METHODOLOGY SUMMARY

This paper adopts a doctrinal and analytical research methodology to examine the Bharatiya Nyaya Sanhita, 2023 and the broader reforms introduced through India's new criminal law framework. A comparative legal analysis is employed to assess the provisions of the BNS, 2023 alongside its predecessor, the Indian Penal Code, 1860, as well as the procedural changes introduced by the Bharatiya Nagarik Suraksha Sanhita, 2023 in comparison with the Code of Criminal Procedure, 1973, and the Bharatiya Sakshya Adhinyam, 2023 in relation to the Indian Evidence Act, 1872.

The study undertakes a detailed examination of statutory modifications, focusing on changes in legal definitions, sentencing structures, and procedural safeguards. Quantitative indicators, such as the

reduction in the number of statutory provisions, the introduction of new offences, and the enhancement of penalties and fines, are used to illustrate the extent of legislative restructuring. Through thematic analysis, the paper identifies both progressive developments—such as the shift towards victim-centric justice and enhanced procedural fairness—and persistent gaps, including issues relating to marital rape, gender-specific sexual offences, criminal defamation, the omission of Section 377, the reformulation of sedition, and the lack of regulation of emerging investigative technologies.

In addition to legislative comparison, the methodology incorporates critical legal evaluation to assess potential challenges in implementation and enforcement. This includes an analysis of institutional preparedness, particularly the adequacy of training for law enforcement agencies and judicial personnel in adapting to the new legal framework. The conclusions are drawn through a synthesis of statutory interpretation and critical commentary, enabling the formulation of recommendations for further reform within India's criminal justice system.

With respect to restorative justice, the paper employs a conceptual and descriptive approach to analyse its role within contemporary criminal justice discourse. The methodology examines restorative practices such as restorative meetings, which facilitate direct interaction between victims, offenders, and other stakeholders. Emphasis is placed on active victim participation, offender accountability through admission of guilt and expression of remorse, and collaborative problem-solving aimed at repairing harm. The effectiveness of this approach is assessed on the basis of victim healing, offender rehabilitation, and reduction in recidivism, recognising that restorative justice is applicable primarily to specific categories of offences.

IV. LIMITATIONS

The paper does not expressly articulate its limitations; however, certain constraints can be inferred from its scope and methodology. A primary limitation is the absence of empirical data assessing the real-world implementation and effectiveness of the Bharatiya Nyaya Sanhita, 2023 and the allied criminal law

reforms. The study relies predominantly on doctrinal and comparative analysis, without incorporating field-based research or statistical evidence. Additionally, the paper does not include stakeholder perspectives, such as those of judges, prosecutors, defence counsel, victims, or accused persons, which limits insight into the practical challenges of applying the new legal framework. Given the recent enactment of the legislation, long-term socio-legal impacts and institutional adaptations cannot yet be evaluated. Further, the paper does not fully engage with potential implementation challenges, resistance within institutions, or operational gaps that may arise during enforcement.

The legislative reforms introduced through the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhinyam, 2023 also exhibit substantive limitations. Marital rape continues to remain outside the scope of criminalisation, and offences such as rape, sexual harassment, and stalking retain gender-specific definitions. Criminal defamation has been retained, raising concerns regarding freedom of expression. The omission of Section 377 has resulted in the decriminalisation of bestiality and non-consensual same-sex acts, creating significant legal and ethical concerns. Moreover, the replacement of sedition with broadly worded provisions relating to acts endangering the sovereignty, unity, and integrity of India lacks sufficient clarity and may invite interpretative ambiguity. The absence of regulatory safeguards governing emerging technologies, particularly facial recognition systems, and inadequate training of law enforcement and judicial personnel further undermine effective implementation.

Finally, with respect to restorative justice, a key limitation is its restricted applicability. Restorative justice mechanisms are not suitable for all categories of offences and are effective primarily in specific types of crimes. Consequently, their integration into the broader criminal justice system remains limited, necessitating careful selection of cases and complementary reliance on traditional punitive mechanisms.

V. FUTURE WORK

Although the paper does not expressly delineate directions for future research, several areas for further work emerge from the issues and gaps identified in the analysis. A key priority for future study is the systematic monitoring of the implementation of the Bharatiya Nyaya Sanhita, 2023 and the allied criminal law reforms across courts, investigative agencies, and prosecutorial bodies. Empirical assessment of how these provisions function in practice is essential to evaluate their effectiveness and consistency.

Future reforms should focus on addressing unresolved substantive legal concerns, including the criminalisation of marital rape, the reform of gender-specific definitions of sexual offences, the reconsideration of criminal defamation, and the clarification of legal consequences arising from the omission of Section 377. Additionally, further work is required to develop a clear regulatory framework governing the use of emerging technologies, particularly facial recognition systems, within the criminal justice process.

Another important area for future work involves evaluating the actual impact of the victim-centric orientation and enhanced procedural safeguards introduced under the new codes. This includes assessing whether such measures improve access to justice, procedural fairness, and victim satisfaction. Institutional capacity-building must also be prioritised through comprehensive training programmes for law enforcement officials and judicial personnel to ensure effective and uniform application of the new legal framework.

Finally, with respect to restorative justice, future research should explore its broader applicability, develop structured implementation guidelines, and assess its long-term impact on victim recovery, offender rehabilitation, and recidivism rates. Integrating restorative justice principles alongside conventional criminal justice mechanisms may contribute to a more balanced, humane, and effective justice system.

VI. KEY CONTRIBUTIONS OF THE PAPER

This paper makes several important contributions to the study of India's reformed criminal justice system. Firstly, it undertakes a comprehensive comparative legal analysis of the Bharatiya Nyaya Sanhita, 2023 in relation to its predecessor statutes, namely the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973. Through this comparison, the paper demonstrates how the new legislative framework seeks to modernise and rationalise substantive and procedural criminal law.

Secondly, the paper identifies the structural and substantive reforms introduced under the new criminal codes, particularly the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhinyam, 2023. It highlights key legislative changes, including the reduction of statutory provisions from 511 to 358, the introduction of new offences, enhancement of punishments and fines, and the incorporation of alternative penalties such as community service. These reforms are analysed as part of a broader effort to streamline India's criminal justice system and align it with contemporary needs.

Another significant contribution of the paper is its emphasis on the gradual shift towards a victim-centric model of justice. The study highlights how the new framework seeks to enhance procedural fairness and recognise victims as central stakeholders in the criminal process. At the same time, the paper critically examines the limitations of these reforms by identifying unresolved legal and policy gaps, such as the continued non-criminalisation of marital rape, the retention of gender-specific sexual offence definitions, the classification of defamation as a criminal offence, the omission of Section 377, ambiguities surrounding the replacement of sedition provisions, the absence of regulation of facial recognition technologies, and deficiencies in institutional training.

Additionally, the paper contributes to contemporary criminal justice discourse by presenting restorative justice as a viable alternative to traditional punishment-oriented systems. It outlines the core principles of restorative justice, including harm repair, reconciliation, offender accountability, and social

reintegration. By emphasising victim participation and offender rehabilitation through mechanisms such as restorative meetings, the paper demonstrates the potential of restorative justice to promote victim healing, reduce recidivism, and address certain categories of crime more humanely and effectively.

Finally, the paper offers policy-oriented insights and recommendations for future reforms. By critically evaluating both the strengths and shortcomings of the new criminal law framework, it contributes to ongoing debates on the direction of criminal justice reform in India and provides a foundation for further legislative, judicial, and institutional development.

VII. PRACTICAL IMPLICATIONS

The Bharatiya Nyaya Sanhita, 2023 has significant practical implications for the functioning of India's criminal justice system. One of its primary effects is the reinforcement of a victim-centric model of justice, with greater emphasis on protecting victims' rights and ensuring their meaningful participation throughout criminal proceedings. The legislation also strengthens procedural fairness by introducing updated safeguards aimed at promoting equality and due process in criminal trials. Further, the integration of contemporary social values into substantive criminal law reflects an effort to align legal standards with present-day societal expectations. Procedurally, the reforms seek to simplify and streamline criminal processes in order to reduce delays and improve the efficiency of justice delivery. Updated definitions of offences and revised penalties are intended to better correspond with current legal and social realities. Collectively, these changes necessitate substantial adjustments in legal practice, including the training of law enforcement personnel and judicial officers to ensure effective implementation.

At the same time, the practical application of the new criminal codes—the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhinyam, 2023—raises several concerns. Persistent substantive gaps, such as the non-criminalisation of marital rape, the continued use of gender-specific definitions for sexual offences, and the retention of criminal defamation, limit the transformative potential of the reforms. The omission

of Section 377 has resulted in legal ambiguity regarding bestiality and non-consensual same-sex acts. Moreover, the replacement of sedition with broadly framed provisions relating to acts endangering the sovereignty and integrity of India may pose interpretative challenges. The absence of regulatory frameworks for emerging technologies, particularly facial recognition systems, and insufficient institutional training further threaten the effective and uniform application of the new laws.

With respect to restorative justice, its practical implications are largely positive but context-specific. Restorative justice mechanisms facilitate victim healing by enabling active participation and direct engagement with offenders. They also contribute to reducing recidivism by promoting offender accountability, rehabilitation, and social reintegration. Additionally, restorative justice humanises the criminal justice process by prioritising reconciliation over retribution. However, its applicability remains limited to certain categories of offences, requiring careful selection of cases and complementary reliance on traditional punitive mechanisms.

BY - JUHI CHANDEL