

LAWFOYER INTERNATIONAL
JOURNAL OF DOCTRINAL LEGAL
RESEARCH
(ISSN: 2583-7753)

Volume 3 | Issue 1

2025

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EVOLVING PARADIGMS OF CRIMINAL LAW IN CONTEMPORARY INDIA: CHALLENGES, REFORMS, AND THE QUEST FOR JUSTICE IN A DIGITAL AGE

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I. ABSTRACT

This research paper examines the evolving paradigms of criminal law in contemporary India, focusing on legislative reforms, judicial interpretations, and the impact of technology. It critically analyses the transition from colonial frameworks under the Indian Penal Code, 1860, to the recent enactments of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA), 2023. The paper explores how these reforms address emerging crimes such as cyber offenses and terrorism, while integrating victim-centric approaches and digital evidence standards. It evaluates judicial responses to technological advancements, human rights considerations, and global comparative trends, including restorative justice and sentencing guidelines. The research underscores persistent challenges in enforcement, judicial delays, and forensic capacity, offering policy recommendations grounded in international best practices. The analysis reveals a complex interplay between tradition and modernity in India's criminal justice system, advocating for holistic reforms to ensure fairness, efficiency, and alignment with constitutional mandates in the digital age.

II. KEYWORDS

Criminal law reforms, Digital evidence, victim-centric justice, cybercrime regulation, comparative criminal law.

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III. INTRODUCTION

A. Background and Context

Criminal law in India has undergone significant transformation since colonial rule. The Indian Penal Code, 1860 (IPC), was enacted during British administration and became the backbone of criminal jurisprudence. Its framework addressed offenses against the state, person, and property, reflecting colonial interests over indigenous justice concerns. Post-independence, India retained this legal structure but layered it with constitutional protections under Part III, ensuring that criminal law aligned with fundamental rights, such as the right to life and personal liberty under Article 21 of the Constitution of India.³ This intersection of colonial legacies and constitutional mandates shaped the early trajectory of criminal law reform.

Despite reforms, India's criminal justice system remains burdened by delays, inefficiencies, and systemic biases. The National Judicial Data Grid reports over 3.7 crore pending cases in the Indian judiciary, with criminal cases forming a significant share.⁴ This backlog impedes timely justice, violating the constitutional guarantee of speedy trial enshrined in *Hussainara Khatoon v. State of Bihar*.⁵ The procedural frameworks under the Code of Criminal Procedure, 1973 (CrPC), and the Indian Evidence Act, 1872, also continue to face criticism for archaic provisions that fail to match contemporary societal and technological developments.

In 2023, India introduced comprehensive legislative reforms to modernize its criminal laws, replacing the IPC, CrPC, and Indian Evidence Act with the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) respectively. These new statutes aim to streamline procedures, emphasize victim-centric approaches, and address emerging crimes such as cyber offenses and terrorism.⁶

³ INDIA CONST. art. 21.

⁴ National Judicial Data Grid, <https://njdg.ecourts.gov.in/njdgnew/> (last visited Apr. 25, 2025).

⁵ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

⁶ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).

The introduction of these laws reflects India's aspiration to shed colonial vestiges and adapt to a dynamic socio-legal environment.

Digitalization further complicates the landscape. Cybercrime incidents in India surged to over 65,000 reported cases in 2022, as per the National Crime Records Bureau (NCRB).⁷ Traditional legal frameworks struggled to address crimes like phishing, data breaches, and ransomware attacks. Courts, including the Supreme Court in *Shreya Singhal v. Union of India*, have grappled with balancing free speech and digital regulation, striking down Section 66A of the Information Technology Act, 2000, for being unconstitutional.⁸ This ruling underscored the tension between civil liberties and the need for digital governance.

Technological advancements also posed evidentiary challenges. The authentication and admissibility of digital evidence are central concerns under the Indian Evidence Act. The landmark case of *Anvar P.V. v. P.K. Basheer*, established that electronic records must comply with Section 65B of the Indian Evidence Act, mandating certification for admissibility.⁹ However, forensic gaps, lack of trained personnel, and procedural delays weaken digital evidence's role in criminal prosecutions.

Human rights discourse intertwines with criminal law evolution. Issues of custodial torture, police brutality, and extrajudicial killings persist despite constitutional safeguards under Article 21 and directives in *D.K. Basu v. State of West Bengal*, which laid down guidelines for arrest and detention.¹⁰ Yet, non-compliance remains widespread, revealing systemic disregard for human dignity. Similarly, undertrial prisoners constitute 76% of India's prison population, highlighting inequities in pre-trial detention processes as reported by the NCRB.¹¹ The Supreme Court's directives in *Inhuman*

⁷ National Crime Records Bureau, Crime in India Report 2022, <https://ncrb.gov.in> (last visited Apr. 25, 2025).

⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁹ *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473.

¹⁰ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

¹¹ National Crime Records Bureau, Prison Statistics India 2022, <https://ncrb.gov.in> (last visited Apr. 25, 2025).

Conditions in 1382 Prisons, (2016) 3 SCC 700, sought to address overcrowding and inhumane conditions but implementation remains inconsistent.¹²

Gender-based violence presents another area demanding legal sensitivity. The Criminal Law (Amendment) Act, 2013, introduced post-Nirbhaya case reforms to strengthen laws on sexual assault and harassment. However, conviction rates for sexual offenses remain low, with NCRB data reflecting a 27% conviction rate in rape cases in 2022. This underscores gaps in investigation, evidence collection, and victim protection mechanisms. Courts, including the Delhi High Court in *State v. Ram Singh*, have emphasized the need for speedy trials and sensitive handling of such cases.

Restorative justice models, though nascent in India, offer alternative paradigms. The Juvenile Justice (Care and Protection of Children) Act, 2015, incorporates elements of rehabilitation and reintegration over retribution for juvenile offenders. However, broader application of restorative principles in adult criminal cases remains limited. Comparative studies of models from New Zealand and South Africa suggest that restorative mechanisms can reduce recidivism and promote victim-offender reconciliation.

International commitments also shape India's criminal law evolution. India is a signatory to the International Covenant on Civil and Political Rights (ICCPR), which mandates fair trial rights, prohibition of torture, and humane treatment of detainees. Domestic jurisprudence often references these obligations, as seen in *Vishaka v. State of Rajasthan*, where international instruments informed guidelines on sexual harassment at the workplace.

B. Research Objectives

1. To critically analyze the legislative evolution of criminal law in India, focusing on the transition from colonial statutes to the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya

¹² Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700.

Sakshya Adhiniyam (BSA), 2023, in addressing contemporary criminal challenges.

2. To evaluate the role of judicial interpretations and technological advancements in shaping criminal jurisprudence, particularly in areas such as digital evidence, cybercrime, surveillance, and victim-centric approaches.
3. To conduct a comparative assessment of global criminal justice reforms, identifying best practices in sentencing, restorative justice, and data protection, and recommend their potential integration into India's criminal justice system.

C. Research Questions

1. How do the recent legislative reforms under BNS, BNSS, and BSA, 2023, address the contemporary challenges of criminal law in India, particularly in the context of digital crimes and procedural efficiency?
2. What role have Indian courts played in interpreting constitutional safeguards, human rights, and technological issues such as digital evidence admissibility and surveillance within criminal jurisprudence?
3. How can global trends in criminal justice reform, such as restorative justice models, sentencing guidelines, and data privacy regulations, inform and enhance India's approach to criminal law in the digital age?

D. Research Methodology

This research adopts a doctrinal legal research methodology, relying on primary and secondary sources to analyze the evolution and contemporary challenges of criminal law in India. Primary sources include statutory instruments such as the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), Bharatiya Sakshya Adhiniyam (BSA), constitutional provisions, and landmark judicial decisions from the Supreme Court and High Courts of India. Secondary sources encompass Law

Commission reports, committee recommendations, scholarly articles, and international legal instruments such as the General Data Protection Regulation (GDPR) and Nelson Mandela Rules. The research also employs a comparative approach, examining global criminal law reforms in jurisdictions like the United Kingdom, United States, Germany, and New Zealand to identify best practices. The study utilizes qualitative analysis to evaluate the effectiveness of legislative changes, judicial interpretations, and policy initiatives, focusing on themes such as digital evidence, cybercrime, victim rights, and restorative justice. This methodology ensures a holistic understanding of the subject, integrating statutory analysis, case law review, and comparative legal insights.

IV. HISTORICAL EVOLUTION OF CRIMINAL LAW IN INDIA

Criminal law in India originates from ancient normative systems. Texts like Manusmriti and Arthashastra governed early punitive measures. Retributive justice prevailed. Punishments were aligned with religious and moral codes. No formal codification existed. The Mughal era introduced Islamic jurisprudence. The Fatawa-e-Alamgiri influenced criminal adjudication. Yet, customary tribal laws continued in parallel. This dual legal system persisted till colonial interventions.

British colonial rule introduced codification. Thomas Babington Macaulay led this reform. The Indian Penal Code, 1860 (IPC), emerged as a unified substantive criminal law. It reflected utilitarian principles. The IPC focused on deterrence, reformation, and proportionality. This code governed Indian criminal law for over 160 years. The procedural framework came via the Code of Criminal Procedure, 1898 (CrPC). It complemented the IPC. The Indian Evidence Act, 1872, set standards for evidence admissibility. Together, they became the backbone of criminal law. These colonial laws remained in force post-independence.

Post-1947, the Indian Constitution transformed the criminal justice paradigm. Fundamental rights under Part III redefined procedural fairness. Article 21 ensured that no person is deprived of life or personal liberty except by due process. The CrPC was

overhauled in 1973. The revised code introduced human rights safeguards. Bail norms, legal aid, and fair trial mechanisms evolved.

Amendments to the IPC addressed emerging societal crimes. New sections on dowry death, custodial violence, sexual harassment reflected changing priorities. Special legislations like the Dowry Prohibition Act, 1961 and SC/ST (Prevention of Atrocities) Act, 1989 supplemented penal laws. The onset of the digital era necessitated cybercrime laws. The Information Technology Act, 2000 criminalized hacking, identity theft, and data breaches. However, IPC remained the central penal code.

In 2023, historic reforms replaced colonial codes. The Bharatiya Nyaya Sanhita, 2023 (BNS), repealed the IPC.¹³ Core offenses like murder, theft, and assault were retained but restructured. Provisions addressing terrorism, organized crime, and cyber offenses were integrated. The BNS emphasizes a victim-centric model. It introduces community service for minor offenses. Restitution and reparative justice are key focuses.

Procedural law also transformed. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), replaced the CrPC. It streamlined criminal procedures. Section 530 of BNSS mandates trials through electronic modes.¹⁴ Section 193 fixes timelines for investigation reports, aiming to curb undue delays.¹⁵ Victim compensation rights under Section 396 are strengthened.¹⁶ Witness protection under Section 397 is institutionalized.¹⁷

V. CONTEMPORARY CHALLENGES IN INDIAN CRIMINAL LAW

A. Delays in Criminal Justice Delivery

Case backlogs overwhelm Indian courts. Sessions courts remain saturated. Magistrate courts face similar congestion. Procedural reforms exist but pendency rises. Judicial

¹³ The Bharatiya Nyaya Sanhita, No. 45 of 2023, ch. XX, § 1.

¹⁴ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 530.

¹⁵ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 193.

¹⁶ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 396.

¹⁷ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 397.

workload is disproportionate. Sanctioned judge strength lags behind. Infrastructure does not meet demand.

Investigation delays stagnate the process. Under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), Section 193 requires completion of investigation without undue delay.¹⁸ Specific timelines apply to certain offenses. For instance, investigations under Sections 64 to 71 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and POCSO-related cases must conclude within two months from the date of information. Compliance falters. Deadlines are breached. Victims wait.

Section 187 of BNSS governs pre-trial detention periods.¹⁹ Accused persons remain confined during extended investigations. Detention cannot exceed 90 days for offenses punishable with death, life imprisonment, or ten years or more. For lesser offenses, the limit is 60 days. These caps are often ineffective. Undertrials languish. Court adjournments fuel further delay. Section 346 of BNSS mandates day-to-day trial until witness examination concludes.²⁰ However, adjournments remain frequent. Law permits only two adjournments in exceptional circumstances. Courts still grant many. Defense counsels cite scheduling issues. Witnesses often fail to appear. Adjournment culture persists.

Technological gaps obstruct progress. Section 530 of BNSS mandates digital trials and proceedings.²¹ Implementation is erratic. Many courts lack requisite infrastructure. Video conferencing remains sporadic. E-filing is rare. Paper dominates. Efficiency suffers. Appeals prolong resolution. Appeals under Chapter XXXI stretch finality. Even after conviction, appeals linger for years. Section 434 permits suspension of sentence pending appeal.²² This allows convicts to defer accountability. Justice is delayed.

¹⁸ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 193.

¹⁹ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 187.

²⁰ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 346.

²¹ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 530.

²² The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 434.

Witness protection frameworks exist under Section 397 but are weakly enforced.²³ Witnesses retract due to threats. Retrials follow. Trial continuum breaks. Victim compensation rights under Section 396 remain under-implemented.²⁴ Victims are left uncompensated for long periods. Investigative processes lack technological synergy. Forensic laboratories delay evidence processing. Digital forensics remain underutilized. Evidence collection is manual. Coordination is inefficient. Charge-sheets are delayed. These gaps violate Article 21's promise of speedy trial.

Limitation statutes are diluted. Section 516 of BNSS bars cognizance beyond a specific period ranging from six months to three years based on offense gravity.²⁵ These limits are breached due to procedural inefficiencies.

Judicial precedents emphasize speedy trials. The Supreme Court in *Hussainara Khatoon v. State of Bihar* declared this a fundamental right. Nonetheless, systemic lapses continue. Case management practices require reinforcement. Procedural stages – framing charges, evidence recording, arguments, and judgments – must adhere to strict timelines. Adjournment limits must hold firm.

B. Overcrowding of Prisons and Human Rights Concerns

Prisons in India overflow beyond sanctioned capacities. Undertrial population dominates, comprising nearly 70% of inmates. Prolonged detentions without conviction aggravate this crisis. Judicial delays worsen the problem. Legal safeguards exist but enforcement remains weak.

Article 21 of the Constitution guarantees dignity and personal liberty. Overcrowded prisons breach these rights. Living conditions degrade. Health care access remains restricted. Sanitation facilities fall short. Spread of infectious diseases accelerates. Mental health support is absent.

²³ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 397.

²⁴ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 396.

²⁵ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 516.

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), provides certain rights to prisoners. Section 302 permits courts to summon prisoners for legal proceedings.²⁶ Section 303 empowers the State to restrict prisoner movement citing public order concerns.²⁷ These provisions, however, do not directly resolve overcrowding. Section 187 of BNSS governs pre-trial detention. It sets a cap of 90 days for serious offenses and 60 days for others.²⁸ Delays in investigations result in extended detentions. Bail provisions under Chapter XXXV seek to prevent prolonged incarcerations. Section 479 ensures release when maximum detention limits are breached. Compliance, however, remains inconsistent.

Judicial directives frequently highlight these issues. In *Re-Inhuman Conditions in 1382 Prisons*, the Supreme Court stressed humane treatment of inmates. The Court directed the release of undertrials who completed half of the maximum sentence. Implementation remains uneven. BNSS provisions on remission and commutation, under Chapter XXXIV, provide mechanisms to ease prison population.²⁹ Section 474 mandates commutation of death sentences for pregnant women.³⁰ These measures rarely impact overall overcrowding significantly.

Staffing shortages exacerbate conditions. Prison staff-to-inmate ratios remain alarmingly low. Rehabilitation programs are sparse. Education, vocational training, psychological counseling remain minimal. This contravenes the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Women prisoners endure compounded hardships. Sanitary conditions are inadequate. Pregnant and lactating women lack necessary healthcare. Section 474 of BNSS offers limited relief. Broader structural protections are absent.

²⁶ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 302.

²⁷ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 303.

²⁸ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 187.

²⁹ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, ch. XXXIV.

³⁰ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 474.

Juveniles, though governed by the Juvenile Justice (Care and Protection of Children) Act, are sometimes detained in adult facilities. This violates child rights frameworks. Elderly inmates and those with disabilities suffer disproportionately. Specialized care is unavailable. Section 302 of BNSS allows courts to exempt infirm prisoners from physical appearance. Practical care mechanisms, however, are lacking. Alternative sentencing remains underutilized. Community service, probation, and restorative justice could reduce prison numbers. The Bharatiya Nyaya Sanhita, 2023 (BNS), encourages community service for minor offenses. Section 23 empowers courts to impose such sentences. Yet, incarceration remains the default.

Electronic monitoring like ankle bracelets remains unexplored. Conditional bail, plea bargaining under Chapter XXIII, and compounding of offenses could reduce congestion. Courts rarely adopt these approaches. Parole policies are inconsistent. Discretionary factors dominate parole decisions. The absence of uniform standards results in arbitrariness. Legal aid access for inmates is insufficient. Undertrials from marginalized backgrounds lack effective representation. Section 480 of BNSS mandates legal aid at the state's expense. Implementation, however, remains deficient.

C. Gender-based Crimes and Legislative Responses

Gender-based crimes in India remain pervasive. Sexual violence, domestic abuse, acid attacks, stalking, voyeurism persist. Deep-seated patriarchal structures exacerbate these crimes. Survivors face societal stigma. Access to justice remains fraught with obstacles.

The Bharatiya Nyaya Sanhita, 2023 (BNS), codifies a broad range of gender-based offences. Section 64 criminalizes rape. It provides an expansive definition of penetration and mandates consent must be clear and voluntary.³¹ Section 65 addresses gang rape, imposing stringent punishments.³² Aggravated forms, such as custodial rape, fall under

³¹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 64.

³² The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 65.

Section 66.³³ Marital rape remains unrecognized unless the wife is under 18, reflecting a legislative gap.

Acid attacks, a grievous form of gender violence, are criminalized under Section 73 of BNS. It prescribes a minimum of ten years' imprisonment, extendable to life, along with fine for medical expenses of the victim.³⁴ Stalking is addressed in Section 77. The law criminalizes repeated following or contacting a woman against her will.³⁵ Voyeurism is punished under Section 78, criminalizing capturing images of a woman engaged in a private act.³⁶ Disrobing, assault with intent to outrage modesty, and sexual harassment are penalized under Sections 67, 68, and 69 respectively.³⁷

The procedural framework under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), offers safeguards to victims of gender-based crimes. Section 193 mandates completion of investigation in rape and POCSO cases within two months from the date of FIR registration.³⁸ Section 269 ensures that the trial for such offences is concluded within six months from the date of charge-sheet filing.³⁹ Section 198 allows in-camera trials for offences like rape, protecting victim identity and dignity.⁴⁰

Section 199 empowers courts to impose special conditions during bail in sexual offence cases, such as restraining contact with the victim. Section 397 introduces witness protection schemes, offering safeguards against retaliation, a crucial factor for gender crime survivors.

Judicial responses reinforce these legislative mandates. In *Lillu v. State of Haryana*, the Supreme Court outlawed the two-finger test, declaring it a violation of the survivor's dignity. In *Bodhisattwa Gautam v. Subhra Chakraborty*, the Court recognized the right to

³³ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 66.

³⁴ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 73.

³⁵ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 77.

³⁶ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 78.

³⁷ The Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 67, 68, 69.

³⁸ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 193.

³⁹ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 269.

⁴⁰ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 198.

compensation for rape survivors as a constitutional remedy under Article 21. The judiciary consistently affirms that gender justice is intrinsic to the right to life and dignity.

D. Cybercrimes and Digital Offenses: Emerging Threats

Cybercrimes in India escalate with technological penetration. Financial frauds, identity theft, cyberstalking, hacking dominate the digital threat landscape. The digital ecosystem grows. So do vulnerabilities. Enforcement lags behind rapid tech shifts.

The Bharatiya Nyaya Sanhita, 2023 (BNS), codifies cyber offenses. Section 111 criminalizes identity theft. It penalizes fraudulent use of electronic signatures, passwords, or identification features.⁴¹ Section 112 deals with cheating by personation using electronic means.⁴² Section 113 targets cyber frauds. It prescribes stringent punishments for digital deception.⁴³ Hacking offenses remain addressed under the Information Technology Act, 2000. Section 66 criminalizes hacking activities, causing wrongful loss, or data destruction. Section 67 penalizes publishing obscene material online. Yet, these provisions predate current digital complexities.

BNS integrates cyber offenses with general criminal law. Cyberstalking overlaps with provisions under Section 77 (stalking), where online harassment is punishable.⁴⁴ Similarly, Section 78 (voyeurism) extends to unauthorized capturing and sharing of intimate images via electronic means.⁴⁵ The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), provides procedural mechanisms. Section 105 defines “electronic communication,” aligning investigative scope with digital crimes.⁴⁶ Section 193 mandates timely investigation, including in cyber offenses.⁴⁷ Section 220 empowers police to summon witnesses in cyber investigations.⁴⁸

⁴¹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 111.

⁴² The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 112.

⁴³ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 113.

⁴⁴ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 77.

⁴⁵ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 78.

⁴⁶ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 105.

⁴⁷ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 193.

⁴⁸ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 220.

Investigating cybercrimes poses unique challenges. Jurisdictional ambiguities arise due to transnational data flows. Section 198 of BNSS permits in-camera proceedings, applicable in sensitive cybercrime trials.⁴⁹ Section 530 mandates digital trials, essential for handling electronic evidence.⁵⁰ Enforcement agencies struggle with limited digital forensic capabilities. Delay in forensic reports hampers charge-sheet filings. Section 316 of BNSS ensures admissibility of electronic evidence but practical application remains sporadic.

Cybercrime enforcement lacks coordination. Multiple agencies operate in silos. The Indian Computer Emergency Response Team (CERT-In) handles cybersecurity incidents. Coordination between CERT-In and police remains limited. Emerging threats like ransomware, deepfakes, cryptojacking lack direct statutory recognition under BNS. These offenses exploit legal grey areas. The Information Technology Act, despite amendments, remains inadequate to address these sophisticated crimes.

Judicial responses attempt to bridge gaps. In *Shreya Singhal v. Union of India*, the Supreme Court invalidated Section 66A of the IT Act, citing free speech concerns. Yet, this left a regulatory vacuum against online abuse. Courts consistently advocate balancing rights with digital accountability.

Prosecutorial challenges abound. Section 480 of BNSS mandates legal aid. However, cybercrime victims rarely receive adequate representation in complex digital cases. Digital evidence, though admissible under Bharatiya Sakshya Adhiniyam, 2023 (BSA), faces challenges in authentication. Chapter IV of BSA elaborates on electronic records' admissibility, yet enforcement remains uneven. Cross-border evidence collection delays proceedings. Letters Rogatory and MLATs remain slow. Section 108 of BNSS, addressing transnational offenses, facilitates some cooperation but lacks speed. Data localization policies complicate cross-jurisdictional investigations.

⁴⁹ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 198.

⁵⁰ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 530.

VI. JUDICIAL INTERPRETATIONS AND LANDMARK JUDGMENTS

Judicial interpretation plays a vital role in shaping criminal law in India. The Supreme Court and High Courts constantly reinterpret statutes, expanding the scope of rights and procedural safeguards. In *Maneka Gandhi v. Union of India*, the Supreme Court broadened Article 21 of the Constitution, holding that the right to life includes the right to personal liberty and dignity. It interpreted "procedure established by law" to mean fair, just, and reasonable procedure, integrating due process principles into Indian jurisprudence.⁵¹

In *Hussainara Khatoon v. State of Bihar*, the Court addressed the plight of undertrial prisoners. It declared the right to speedy trial as part of Article 21. This landmark judgment underscored that delays in criminal justice violate constitutional guarantees. The Court mandated the state to release thousands of undertrials who were incarcerated beyond statutory limits, setting a precedent for addressing systemic delays.⁵²

The Supreme Court in *D.K. Basu v. State of West Bengal*, established guidelines to prevent custodial torture. The Court recognized that torture and custodial deaths violate Article 21. It mandated procedural safeguards like arrest memos, medical examination, and informing relatives during arrests. Despite these guidelines, compliance remains inconsistent, reflecting enforcement gaps.⁵³

In *Shreya Singhal v. Union of India*, the Court struck down Section 66A of the Information Technology Act, 2000. This section criminalized sending offensive messages through communication devices. The Court held it violated the right to freedom of speech and expression under Article 19(1)(a). This case reinforced constitutional supremacy over arbitrary statutory provisions and highlighted the tension between free speech and state regulation in the digital age.⁵⁴

⁵¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁵² *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

⁵³ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁵⁴ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

The Supreme Court expanded the scope of sexual assault jurisprudence in *Vishaka v. State of Rajasthan*. It laid down guidelines against sexual harassment at workplaces, in the absence of legislation. The Court relied on international conventions like CEDAW, applying them through constitutional provisions. This judgment exemplified judicial creativity in protecting women's rights, influencing subsequent legislative reforms like the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.⁵⁵

The judiciary also interpreted privacy rights expansively in *K.S. Puttaswamy v. Union of India*, where the Court recognized privacy as a fundamental right under Article 21. This decision influenced criminal investigations involving surveillance, search, and data protection. It mandated proportionality and necessity for state actions infringing privacy, reshaping state surveillance practices.⁵⁶

In *Sunil Batra v. Delhi Administration*, the Court examined prison conditions and solitary confinement. It held that solitary confinement without judicial sanction violated Article 21. The Court emphasized humane treatment of prisoners and mandated oversight of prison conditions. This judgment reflected the judiciary's concern for prisoner rights and set standards for prison reform.⁵⁷

In *State of Punjab v. Gurmit Singh*, the Court addressed the plight of rape victims. It held that victim testimony, if credible, required no corroboration. The judgment emphasized the need for speedy trials in sexual assault cases, recognizing the trauma victims face in prolonged proceedings. This interpretation advanced victim-centric approaches in criminal trials.⁵⁸

The Supreme Court clarified digital evidence admissibility in *Anvar P.V. v. P.K. Basheer*. The Court ruled that electronic evidence required compliance with Section 65B of the

⁵⁵ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁵⁶ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

⁵⁷ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

⁵⁸ *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

Indian Evidence Act, mandating certification. This judgment set the standard for digital evidence authentication, crucial in an era of cybercrime.⁵⁹ However, it faced practical challenges, leading to further clarification in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, where the Court reaffirmed mandatory certification for electronic records, barring exceptions.⁶⁰

In *Bachan Singh v. State of Punjab*, the Court upheld the constitutionality of the death penalty but limited its application to the 'rarest of rare' cases. This judgment introduced a balancing test between aggravating and mitigating factors, shaping sentencing jurisprudence in capital punishment cases. Later, in *Machhi Singh v. State of Punjab*, the Court elaborated on this doctrine, providing guidelines for trial courts.

In *Laxmi v. Union of India*, the Court issued directives to curb acid attacks. It mandated regulation of acid sales, compensation for victims, and free medical treatment. This judgment exemplified judicial intervention in social justice, pushing for administrative accountability.

In *Selvi v. State of Karnataka*, the Court held that narco-analysis, polygraph, and brain-mapping tests without consent violated Article 20(3) and Article 21. It reinforced protections against self-incrimination and emphasized individual dignity in criminal investigations. This decision marked a significant advancement in procedural fairness.

In *Common Cause v. Union of India*, the Court directed the release of undertrials detained beyond statutory periods without trial. It reiterated the constitutional imperative of speedy trial. This case highlighted the judiciary's role in addressing systemic bottlenecks in criminal justice delivery.

In *Kartar Singh v. State of Punjab*, the Court upheld the constitutional validity of Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA), but imposed strict safeguards against misuse. The judgment reflected the balance between national security and

⁵⁹ Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473.

⁶⁰ Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.

individual rights. Later, similar concerns led to the repeal of Prevention of Terrorism Act, 2002 (POTA), showing evolving judicial scrutiny on anti-terror laws.

VII. RECENT LEGISLATIVE REFORMS AND POLICY INITIATIVES

A. The Bharatiya Nyaya Sanhita, 2023: A Critical Overview

The Bharatiya Nyaya Sanhita, 2023 (BNS), repeals the colonial Indian Penal Code, 1860. It represents a structural shift in India's criminal law framework. The code modernizes substantive criminal law. It aligns penal provisions with contemporary societal challenges.

BNS retains core criminal provisions. Murder, theft, assault, extortion remain codified. However, language is simplified. Complex terminologies are removed. Section 64 defines rape comprehensively, emphasizing consent. Marital rape, however, remains excluded unless the wife is below 18 years, reflecting legislative conservatism.⁶¹

Cybercrimes receive significant attention. Section 111 criminalizes identity theft.⁶² Section 112 penalizes electronic personation.⁶³ Section 113 deals with cyber frauds.⁶⁴ This integration marks a departure from reliance solely on the Information Technology Act. BNS introduces community service as a form of punishment. Section 4 includes community service alongside traditional sentences like imprisonment and fines.⁶⁵ This signals a shift towards reformatory justice. Community-based penalties could reduce prison overcrowding.

Organized crimes, terrorism, economic offenses receive targeted provisions. Section 154 penalizes terrorist acts.⁶⁶ Section 316 criminalizes criminal breach of trust by public servants.⁶⁷ Economic crimes receive proportional punishments.

⁶¹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 64.

⁶² The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 111.

⁶³ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 112.

⁶⁴ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 113.

⁶⁵ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 4.

⁶⁶ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 154.

⁶⁷ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 316.

The code emphasizes gender sensitivity. Acid attacks are criminalized under Section 73.⁶⁸ Stalking and voyeurism fall under Sections 77 and 78, addressing harassment in digital and physical spaces. These provisions reflect responsiveness to gender-based violence. Provisions on sedition undergo dilution. Section 150 replaces the earlier sedition provision, reframing it as acts endangering sovereignty, reflecting constitutional values. BNS includes detailed provisions for child offenses. Section 86 criminalizes sexual exploitation of minors. The code supplements the Protection of Children from Sexual Offences (POCSO) Act, creating a more cohesive legal framework. Jurisdictional flexibility is expanded. Section 3 of BNS allows prosecution of Indian citizens committing crimes outside India, including offenses targeting computer resources located in India. This is crucial for handling transnational cyber offenses. Punishment structures are revised.

Death penalty, life imprisonment, rigorous and simple imprisonment, fines, and forfeiture of property are retained under Section 4. The inclusion of community service diversifies sentencing tools. However, criticisms arise. Marital rape exemption persists. The code misses opportunities for broader criminal justice reforms. Death penalty remains despite global trends toward abolition. Critics argue the code merely rebrands the IPC.

Victim-centric measures exist but need strengthening. Compensation provisions are limited. Restorative justice models are underdeveloped. BNS criminalizes offenses but does little for post-conviction victim rehabilitation. Section 356 addresses defamation. It criminalizes speech against public officials, raising concerns over free expression.⁶⁹ Critics argue this provision may chill dissent.

⁶⁸ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 73.

⁶⁹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 356.

B. Victim-Centric Approaches in Criminal Law

Victim-centricity marks a paradigm shift in India's criminal justice framework. Traditionally, criminal law viewed the state as the primary party. Victims were sidelined. Recent reforms under Bharatiya Nyaya Sanhita (BNS), 2023, and Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, attempt to recalibrate this imbalance. Section 193 BNSS ensures that victims of serious offenses receive updates on investigation progress. This statutory mandate empowers victims to participate actively in the justice process.⁷⁰

The Criminal Law (Amendment) Act, 2013, post the Nirbhaya incident, prioritized victim rights in sexual offenses. It introduced provisions for victim compensation and victim-witness protection. Courts, such as in *State of Punjab v. Gurmit Singh*, acknowledged the need for sensitive handling of sexual offense survivors. The legislative framework now mandates in-camera trials under Section 327 CrPC, ensuring privacy and dignity.⁷¹

Victim compensation finds statutory recognition under Section 357A CrPC, directing states to create victim compensation schemes. The Delhi Victim Compensation Scheme, 2018, provides financial support to survivors of crimes, including acid attacks and sexual assaults. Courts in *Laxmi v. Union of India*, enforced compensation directives for acid attack victims, emphasizing the state's duty to rehabilitate.⁷²

The Witness Protection Scheme, 2018, endorsed by the Supreme Court in *Mahender Chawla v. Union of India*, offers a framework for shielding witnesses and victims from threats. The scheme ensures identity protection, relocation, and police escort where needed. This policy initiative addresses a critical gap in India's adversarial system where witness intimidation often derails justice.⁷³

In cybercrime cases, victim rights extend to privacy and data protection. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021,

⁷⁰ Bharatiya Nagarik Suraksha Sanhita, 2023, § 193, No. 46, Acts of Parliament, 2023 (India).

⁷¹ *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

⁷² *Laxmi v. Union of India*, (2014) 4 SCC 427.

⁷³ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615.

mandate platforms to notify users of content takedowns, ensuring transparency. These rules, though contested, enhance accountability in cases involving cyber harassment or revenge porn, safeguarding victims' digital spaces.⁷⁴

Restorative justice models remain nascent but reflect growing victim focus. Juvenile justice law, under the Juvenile Justice (Care and Protection of Children) Act, 2015, incorporates victim-offender dialogue and community service, offering reconciliation pathways. These models echo restorative mechanisms used in New Zealand and South Africa, where victims participate in sentencing or reparative decisions.⁷⁵

Section 164A CrPC mandates prompt medical examination of rape survivors, ensuring evidentiary integrity and victim care. The Supreme Court in *State of Karnataka v. Manjanna*, directed that hospitals must conduct such examinations without delay or bureaucratic hurdles, prioritizing victim welfare.⁷⁶

Technology now aids victim-centric processes. Virtual courtrooms and electronic documentation under the e-Courts Project minimize victim trauma, especially in gender-sensitive cases. The Supreme Court Annual Report 2022 highlights increased adoption of digital platforms, reducing physical court visits for vulnerable parties.⁷⁷ However, digital divide issues persist, requiring broader infrastructure reforms.

C. Role of Law Commissions and Committees in Criminal Justice Reform

Law Commissions in India act as key advisory bodies for legislative reform. Since its inception, the First Law Commission (1955) laid foundational work on codification, procedural reforms, and modernization of criminal statutes. The 42nd Law Commission Report (1971) proposed major amendments to the Indian Penal Code (IPC), Code of

⁷⁴ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Acts of Parliament, 2000 (India).

⁷⁵ South African Law Commission, Report on Restorative Justice (2000).

⁷⁶ *State of Karnataka v. Manjanna*, (2000) 3 SCC 247.

⁷⁷ Supreme Court of India, Annual Report 2022, <https://main.sci.gov.in> (last visited Apr. 26, 2025).

Criminal Procedure (CrPC), and Indian Evidence Act, emphasizing human rights, fair trial, and simplification of legal processes.⁷⁸

The Malimath Committee Report (2003) on criminal justice reforms was pivotal. It introduced recommendations focusing on victim rights, investigation efficiency, and sentencing guidelines. The Committee proposed adopting a "justice to victims" approach over the "crime versus state" model, urging inclusion of victim impact statements and compensation mechanisms. It also suggested pre-trial conferences and enhancing the role of prosecutors in ensuring swift trials.⁷⁹

The Justice Verma Committee (2013), formed after the Nirbhaya gangrape, significantly impacted gender justice within criminal law. It recommended broadening definitions of sexual offenses, introducing stringent punishments, and improving victim protection frameworks. Its suggestions led to the Criminal Law (Amendment) Act, 2013, which inserted provisions on stalking, voyeurism, and acid attacks, while also strengthening institutional responses to sexual violence.⁸⁰

The Law Commission's 262nd Report (2015) dealt with the death penalty. It recommended abolishing the death penalty for all crimes except terrorism-related offenses, arguing that capital punishment does not serve as an effective deterrent. Though not fully adopted, this report influenced debates on sentencing proportionality and human rights in capital punishment cases.⁸¹

In the digital sphere, the Law Commission's 267th Report (2017) addressed the electronic evidence framework under the Indian Evidence Act, 1872. It recommended redefining electronic evidence standards, integrating international best practices, and addressing challenges in authentication. These suggestions reflected in the drafting of Bharatiya

⁷⁸ Law Commission of India, 42nd Report on Indian Penal Code, (1971).

⁷⁹ Committee on Reforms of Criminal Justice System (Malimath Committee), Government of India, (2003).

⁸⁰ Justice Verma Committee Report, Government of India, (2013).

⁸¹ Law Commission of India, 262nd Report on the Death Penalty, (2015).

Sakshya Adhiniyam (BSA), 2023, which modernized evidentiary provisions, ensuring seamless admissibility of digital records in trials.⁸²

The Parliamentary Standing Committee on Home Affairs (2021) reviewed rising cybercrime and recommended strengthening cybersecurity frameworks, victim redressal mechanisms, and enhancing police capabilities in digital forensics. These insights fed into the reforms under Bharatiya Nyaya Sanhita (BNS), 2023, which expanded cyber offense categories and aligned punishments with global standards.⁸³

The Justice J.S. Verma Committee's emphasis on gender-neutral laws and non-discrimination influenced further reforms, including the debate on decriminalization of adultery in *Joseph Shine v. Union of India*, and criminalization of marital rape, though still pending. Law Commissions and expert bodies continue to shape the evolving criminal law landscape, responding to societal needs and global jurisprudential trends.⁸⁴

VIII. INTERSECTION OF TECHNOLOGY AND CRIMINAL LAW

Cybercrimes have reshaped the contours of criminal law in India. Traditional frameworks like the Indian Penal Code (IPC), 1860, failed to address crimes like hacking, identity theft, and online harassment. The Information Technology Act, 2000, filled these gaps, criminalizing unauthorized access, data theft, and cyberterrorism under Sections 66, 66B, 66F. These provisions brought technology-related offenses within the ambit of criminal law.⁸⁵

The exponential rise in digital crimes demands robust evidentiary mechanisms. In *Anvar P.V. v. P.K. Basheer*, the Supreme Court ruled that electronic records are admissible only with proper certification under Section 65B of the Indian Evidence Act, 1872. This judgment set the groundwork for digital evidence admissibility. Later, *Arjun Panditrao*

⁸² Law Commission of India, 267th Report on Electronic Evidence, (2017).

⁸³ Parliamentary Standing Committee on Home Affairs, Report on Cyber Security and Crime, (2021).

⁸⁴ *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

⁸⁵ Information Technology Act, 2000, §§ 66, 66B, 66F, No. 21, Acts of Parliament, 2000 (India).

Khotkar v. Kailash Kushanrao Gorantyal, reaffirmed the mandatory nature of such certification, making it crucial in cybercrime cases.⁸⁶

The Bharatiya Sakshya Adhiniyam (BSA), 2023, modernized these evidentiary standards. Section 63 BSA streamlines the process for submitting electronic records, reducing procedural bottlenecks. This reflects a legal shift towards integrating technology in criminal trials, ensuring that digital evidence plays a central role.⁸⁷

Cyberbullying and online harassment, particularly against women, became focal issues. The Criminal Law (Amendment) Act, 2013, inserted Section 354D IPC, penalizing stalking, including online stalking. In *Shreya Singhal v. Union of India*, the Supreme Court struck down Section 66A IT Act, which criminalized offensive online messages, as violative of free speech under Article 19(1)(a) of the Constitution. This ruling balanced individual rights with regulatory aims in cyberspace.⁸⁸

Surveillance technologies intersect criminal law and privacy. The Supreme Court in *K.S. Puttaswamy v. Union of India*, recognized privacy as a fundamental right under Article 21, influencing digital surveillance practices. Law enforcement's use of phone tapping, GPS tracking, and facial recognition now demands proportionality and judicial oversight.⁸⁹

Dark web activities and cryptocurrency-related crimes present new enforcement challenges. The Enforcement Directorate (ED) investigates money laundering and terror financing through digital currencies under the Prevention of Money Laundering Act, 2002 (PMLA). Courts remain cautious, as in *Reserve Bank of India v. Internet and Mobile Association of India*, where the Supreme Court lifted the ban on cryptocurrency trading, reinforcing the need for regulatory clarity.⁹⁰

⁸⁶ Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473; Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.

⁸⁷ Bharatiya Sakshya Adhiniyam, 2023, § 63, No. 47, Acts of Parliament, 2023 (India).

⁸⁸ Shreya Singhal v. Union of India, (2015) 5 SCC 1.

⁸⁹ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

⁹⁰ Reserve Bank of India v. Internet and Mobile Association of India, (2020) 10 SCC 274.

IX. COMPARATIVE INSIGHTS: GLOBAL TRENDS IN CRIMINAL LAW REFORMS

The United Kingdom modernized its criminal justice through the Criminal Justice Act, 2003. This law introduced sentencing guidelines and a structured approach to plea bargaining. Sentencing councils guide courts, ensuring uniformity. India's sentencing remains largely discretionary, often criticized for inconsistency. Adoption of sentencing frameworks like in the UK could enhance predictability and fairness.⁹¹

The United States leads in integrating forensic science and technology. The Innocence Project highlights wrongful convictions reversed through DNA testing. The U.S. Supreme Court in *Maryland v. King*, upheld DNA collection from arrestees for serious offenses. This approach emphasizes scientific evidence in criminal trials. India's forensic infrastructure lags, contributing to investigation delays. Lessons from the U.S. model underline the need for robust forensic capabilities.⁹²

Germany's criminal justice system emphasizes rehabilitation. The German Penal Code (Strafgesetzbuch) incorporates alternatives to imprisonment like probation, community service, and therapy for offenders. Sentencing courts assess social reintegration prospects. This contrasts with India's punitive approach where prison overcrowding remains rampant. Adopting rehabilitation-focused policies could ease prison congestion and reduce recidivism.⁹³

The Restorative Justice (RJ) model in New Zealand blends criminal justice with community reconciliation. RJ encourages offender-victim dialogues, mediated reparations, and community involvement. Courts often divert suitable cases to RJ programs. India's criminal justice reforms, including Bharatiya Nyaya Sanhita (BNS),

⁹¹ Criminal Justice Act, 2003, c. 44 (U.K.).

⁹² *Maryland v. King*, 569 U.S. 435 (2013).

⁹³ Strafgesetzbuch [StGB] [Penal Code], as amended, 1871 (Ger.).

2023, acknowledge victim rights but lack restorative frameworks. Incorporating RJ practices could complement formal systems, especially for juveniles and minor offenses.⁹⁴

The European Union's General Data Protection Regulation (GDPR) impacts criminal investigations. GDPR mandates lawful, fair, and transparent data processing. It restricts profiling and surveillance without consent. India's surveillance regime, criticized in *K.S. Puttaswamy v. Union of India*, remains less regulated. GDPR-like standards could safeguard privacy while balancing law enforcement needs.⁹⁵

Japan focuses on efficiency through Saiban-in (lay judge) system, blending professional and citizen judges in criminal trials. This democratizes justice delivery and enhances public trust. Indian courts remain judge-centric, overburdened, and detached from societal participation. A hybrid jury system like Japan's could reduce delays and build public confidence in criminal adjudication.⁹⁶

South Africa's Truth and Reconciliation Commission (TRC) exemplifies post-conflict criminal justice. TRC emphasized truth-telling, amnesty for disclosure, and healing over punitive measures. While India does not face similar transitional justice issues, the principles of reconciliation could inform peace-building in communal violence or insurgency-related cases, ensuring long-term stability.⁹⁷

Norway's penal philosophy emphasizes humane treatment and rehabilitation. The Norwegian Correctional Service practices open prisons, where inmates work and study with minimal restrictions. Recidivism rates remain among the world's lowest. In contrast, India's overcrowded and under-resourced prisons breed further criminality. Norway's model offers valuable insights for Indian prison reforms.⁹⁸

⁹⁴ South African Law Commission, Report on Restorative Justice (2000).

⁹⁵ European Union, General Data Protection Regulation, 2016.

⁹⁶ Saiban-in Act, 2004 (Japan).

⁹⁷ Truth and Reconciliation Commission of South Africa Report, Vol. 1 (1998).

⁹⁸ Norwegian Correctional Service, Annual Report 2020.

Canada integrates Indigenous justice practices within its legal system. The Gladue reports inform sentencing, considering cultural factors and systemic discrimination against Indigenous offenders. India's tribal populations, often marginalized, could benefit from tailored justice mechanisms that recognize socio-cultural contexts.⁹⁹

X. CONCLUSION AND RECOMMENDATIONS

Criminal law reforms in India reflect significant legislative progress. The Bharatiya Nyaya Sanhita (BNS), 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, and Bharatiya Sakshya Adhinyam (BSA), 2023, replace colonial statutes. These laws align procedural rules, evidentiary frameworks, and penal codes with contemporary realities. They address digital crimes, enhance victim rights, and promote investigative efficiency. However, gaps in enforcement, infrastructure, and awareness hinder full realization of reforms.¹⁰⁰

Procedural delays persist. Despite statutory timelines in BNSS, 2023, courts remain overburdened. India must strengthen judicial infrastructure, appoint more judges, and modernize court management systems. The Law Commission's 245th Report (2014) recommended increasing judicial strength to 50 judges per million population. Implementation remains partial. Prioritizing human resource development within the judiciary can reduce pendency and expedite trials.¹⁰¹

Forensic capacities lag behind. Cybercrime, digital frauds, and technology-enabled offenses need advanced forensic labs and trained personnel. Bureau of Police Research and Development (BPRD) data highlights a deficit of functional forensic facilities across states. Investment in digital forensics, blockchain analysis, and AI-powered crime

⁹⁹ Gladue Court Reports, Canada, <https://www.justice.gc.ca> (last visited Apr. 26, 2025).

¹⁰⁰ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India); Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India); Bharatiya Sakshya Adhinyam, 2023, No. 47, Acts of Parliament, 2023 (India).

¹⁰¹ Law Commission of India, 245th Report on Arrears and Backlog of Cases, (2014).

analytics should be prioritized. Lessons from the United States and United Kingdom underline the importance of integrating forensic science with law enforcement.¹⁰²

Victim-centricity requires deeper institutionalization. While Section 193 BNSS, 2023, provides for victim updates during investigations, broader mechanisms like victim impact statements, psychosocial support, and restorative justice models remain limited. Introducing Restorative Justice (RJ) programs, inspired by New Zealand and South Africa, could address emotional, financial, and societal harm beyond legal penalties. These models offer participatory avenues, fostering closure and reintegration for victims and offenders alike.¹⁰³

Sentencing reforms remain critical. Indian courts exercise wide discretion in sentencing, leading to inconsistencies. Adopting sentencing guidelines similar to the UK's Sentencing Council could standardize penalties based on offense severity, mitigating factors, and societal impacts. Judicial training programs should incorporate these guidelines, ensuring uniformity in sentencing practices.¹⁰⁴

Alternative Dispute Resolution (ADR) mechanisms in criminal law remain underutilized. While Section 320 CrPC allows compounding of certain offenses, formal adoption of mediation, negotiation, and RJ programs could ease trial burdens. Introducing structured ADR pathways for non-violent offenses would divert cases from courts, promoting quicker resolutions and victim satisfaction. Singapore's integration of ADR in its criminal justice illustrates the efficiency of such approaches.¹⁰⁵

Comparative models emphasize integrated approaches. Germany's focus on rehabilitation, Japan's lay judge system, and Canada's indigenous justice mechanisms offer diverse pathways to reform. India can adopt a hybrid model, blending punitive,

¹⁰² Bureau of Police Research and Development, Data on Police Organizations (2022), <https://bprd.nic.in> (last visited Apr. 26, 2025).

¹⁰³ South African Law Commission, Report on Restorative Justice (2000); New Zealand Ministry of Justice, Restorative Justice Best Practices, <https://www.justice.govt.nz> (last visited Apr. 26, 2025).

¹⁰⁴ Sentencing Council for England and Wales, Guidelines Overview, <https://www.sentencingcouncil.org.uk> (last visited Apr. 26, 2025).

¹⁰⁵ Criminal Procedure Code, 2010 (Singapore).

rehabilitative, and restorative frameworks. Cultural sensitivity, technological integration, and victim empowerment must shape future reforms.¹⁰⁶

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