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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

"RIGHTS OF THE ACCUSED VS RIGHTS OF THE VICTIM: A CRITICAL STUDY UNDER BNS, BNSS AND BSA".

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ABSTRACT

The introduction of India's updated criminal codes **BNS**, **BNSS**, and **BSA** has reshaped discussion on how to balance the protections of the accused with the rights and dignity of victims in the criminal justice system. This study critically examines how these statutes attempt to strike a middle ground between two fundamental principles: the constitutional protection of the accused's rights and the recognition and respect for victims' interests within the justice process. Historically, India's legal framework has leaned heavily towards safeguarding the rights of the accused. Core protections such as the **right to a fair trial**, the **presumption of innocence**, and safeguards against arbitrary state action have been central. Victims, in contrast, were largely relegated to the role of complainants or witnesses, with limited participatory rights. The new criminal law codes mark a paradigm shift by embedding specific victim-centric provisions. These include the right to receive case updates, access compensation, obtain medical assistance, and seek protection when necessary. Additionally, procedural reforms such as mandatory digital recording of evidence and time-bound investigations are designed to enhance both efficiency and transparency in the justice delivery system.

This study explores the legal and constitutional interplay between the rights of the accused and those of the victim under the BNS, BNSS, and BSA. It interrogates whether strengthening victims' rights potentially compromises the constitutional safeguards afforded to the accused or whether a harmonious coexistence is achievable. Key constitutional doctrines, particularly **Article 21** (right to life and personal liberty) and **Article 3GA** (equal access to justice), are examined alongside recent judicial pronouncements on victims' rights in India.

Further, the study delves into the practical challenges of implementing these laws. These include structural limitations such as inadequate infrastructure, the potential for **secondary victimization**, and the influence of **systemic biases**, particularly against marginalized groups. Through a nuanced analysis, the paper seeks to determine whether the new criminal law codes have achieved a genuine equilibrium—one that ensures justice without undermining the legal safeguards due to either party.

Research Gap and Contribution: While previous scholarship has primarily addressed the rights of either the accused or the victim in isolation, this study uniquely focuses on the **intersection** of both within the context of the newly enacted legal framework. It contributes fresh perspectives on whether India's revised criminal justice system is more effective in delivering balanced justice to all stakeholders involved.

INTRODUCTION

An effective criminal justice framework must safeguard the rights of the accused while simultaneously ensuring justice for victims.

This is important because if the system focuses too much on protecting the accused, it might ignore the needs of the victims. On the other hand, if it focuses too much on the victims, it might not protect the rights of the accused properly. In India, this problem has always been there because the legal system was inherited from the British colonial era¹.

Traditionally, the legal structure placed strong emphasis on the rights of the accused, such as fair treatment, protection from self-incrimination, legal representation, and the assurance of a fair trial². Victims, however, were not treated as important parts of the process. They were usually only involved by reporting the crime and giving evidence. Their needs, like getting support or being informed about the progress of their case, were not always considered³.

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) in 2023 marks a big change⁴. These laws replace the old IPC, CrPC, and Indian Evidence Act. The new laws aim to make the legal system

¹ Ratanlal C Dhirajlal, *The Indian Penal Code* (LexisNexis, 36th ed., 2022).

² Constitution of India, Articles 20–22

³ K. Iyer, *Victimology in India: Emerging Trends and Perspectives* (Eastern Book Company, 2018)

⁴ Ministry of Home Affairs, Press Release on the Introduction of Bharatiya Nyaya Sanhita, BNSS and BSA (2023).

more modern and remove colonial influences⁵. Unlike before, these laws try to include both protection for the accused and rights for victims. They give victims more say by allowing them to get updates on their cases, access to support, compensation, and protection if needed⁶. At the same time, they make sure the accused still have rights like a fair trial and legal representation⁷.

However, there is a challenge in making sure these two sets of rights work together. For example, a victim wanting a quick and strong punishment might conflict with the accused's right to defend themselves thoroughly. Also, the new time limits in the BNSS for investigations and trials might help victims by reducing delays but could also affect the accused if they don't have enough time to prepare a good defense⁸. These issues raise important questions about whether the reforms actually create a fair balance.

This study aims to closely examine how the rights of the accused and the victims interact under the BNS, BNSS, and BSA.

It looks at whether these laws truly represent a big change in the Indian legal system or if they just use new words without solving the real problems. By looking at the Indian Constitution, recent court decisions, and the real challenges of implementation, the study tries to find out if the new laws can offer a just system that is fair to the accused and kind to the victims⁹.

HISTORICAL BACKGROUND

The Indian criminal justice system, as it functioned for over a century, was largely shaped by colonial legislation namely the Indian Penal code, 1860 (IPC), the code of criminal Procedure, 1898 (later replaced by CrPC, 1973), and the Indian Evidence Act, 1872. These laws were drafted with the primary objective of maintaining colonial control rather than ensuring citizen-centric justice. They emphasized due process for the accused and strict procedural compliance but did not sufficiently recognize victims as stakeholders in justice¹⁰. While the rights of the accused such as the presumption of innocence, protection against self-incrimination, and fair trial guarantees were embedded within constitutional jurisprudence, the victim's role was relegated to that of a mere complainant or witness¹¹.

⁵ P.S.A. Pillai, *Criminal Law in India* (LexisNexis, 14th ed., 2023).

⁶ BNSS, 2023, Sections 193–210 (Victim rights and procedures).

⁷ BNS, 2023, Section 348; BNSS, 2023, Section 479 (Fair trial & speedy investigation provisions).

⁸ Law Commission of India, *277th Report on Wrongful Prosecution and Miscarriage of Justice* (2018).

⁹ Justice J.S. Verma Committee Report on Amendments to Criminal Law (2013).

¹⁰ Ratanlal C Dhirajlal, *The Indian Penal Code* (LexisNexis, 36th ed., 2022).

¹¹ Constitution of India, Articles 20–22.

Globally, from the 1970s onwards, there was a growing recognition of victimology as an independent discipline, emphasizing that victims of crime deserve protection, rehabilitation, and participation in the justice process¹². In India, however, victim rights developed slowly and were primarily shaped by judicial interventions. For instance, the Supreme Court in *State of Gujarat v. The Gujarat High Court* emphasized that delivering justice to a victim involves not only penalizing the accused but also ensuring fair compensation¹³.

Similarly, in *Bodhisattwa Gautam v. Subhra Chakraborty*, the court acknowledged compensation as part of Article 21's guarantee of life and dignity¹⁴. Despite such pronouncements, victims remained marginal within the adversarial system, as the state assumed the role of prosecutor while the victim's agency was curtailed.

This imbalance where the accused enjoyed extensive constitutional and procedural protection while the victim struggles for recognition led to widespread criticism of the colonial of the criminal codes. Committees such as the Justice Malimath Committee (2003) and the law commission of India (239th report, 2012; 277th Report, 2018) consistently highlighted the need to make the system more victim-centric¹⁵. These historical developments form the backdrop against which the *Bhartiya Nyaya Sanhita (BNS)*, *Bhartiya Nagarik Suraksha Sanhita (BNSS)*, and *Bhartiya Sakshya Adhiniyam (BSA)*, 2023 were enacted, aiming to shift the focus from colonial priorities to a balanced justice framework that recognizes both the accused and the victim as integral stakeholders.

NEED FOR REFORM

The demand for reform in India's criminal justice system was rooted in the structural limitations of colonial-era laws, which had become increasingly inadequate to deal with modern forms of crime and evolving notions of justice. The IPC, CrPC, and Evidence Act were designed to prioritize state security and control rather than justice for individuals, particularly victims¹⁶. While the rights of the accused were constitutionally and procedurally safeguarded, victims were often reduced to secondary stakeholders, with little role in the trial beyond being witnesses. This imbalance

¹² Ezzat A. Fattah, *Understanding Criminal Victimization* (Macmillan, 1979).

¹³ *State of Gujarat v. High Court of Gujarat*, AIR 1998 SC 3164

¹⁴ *Bodhisattwa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490

¹⁵ Law Commission of India, 239th Report on Expedious Investigation and Trial of Criminal Cases Against Influential Public Personalities (2012); 277th Report on Wrongful Prosecution (2018).

¹⁶ K.D. Gaur, *Textbook on Indian Penal Code* (Universal Law Publishing, 2019).

created an adversarial system where crimes were treated as offences against the State, thereby silencing the victim's voice¹⁷.

Judicial pronouncements over the decades highlighted the urgent need for victim-oriented reforms. The Supreme Court repeatedly emphasized the victim's right to justice, participation, and compensation as part of Article 21 of the Constitution¹⁸. Moreover, new challenges such as cybercrime, organized crime, terrorism, and crimes against women and children revealed glaring gaps in the outdated codes. Procedural delays, witness hostility, and lack of victim protection mechanisms further undermined public confidence in the system¹⁹. The Justice Malimath Committee Report (2003) was a watershed moment, explicitly recommending a shift from "accused-centric" to "victim-centric" justice, suggesting greater victim participation, better witness protection, and state responsibility for rehabilitation²⁰.

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), 2023 reflects the culmination of decades of debate and advocacy. These laws were not only intended to decolonize Indian criminal law but also to balance the rights of the accused with those of the victim, ensuring justice is both fair and inclusive. The reforms recognize that while the accused's rights must remain protected in line with constitutional guarantees, victims too must have enforceable rights to participation, compensation, and dignity within the criminal process²¹.

RIGHTS OF THE ACCUSED UNDER NEW LAWS

Historical Background under Old Laws

Under the colonial framework of Indian Penal Code (1860), Code of Criminal Procedure (CrPC, 1973), and the Indian Evidence Act (1872), the accused enjoyed certain rights primarily derived from the constitution of India, particularly Articles 20–22. These rights included protection against double jeopardy, self-incrimination, and ex post facto laws under Article 20; the right to life and personal liberty under Article 21; and the right to legal representation and protection against arbitrary arrest under Article 22²². The CrPC further provided safeguards such as bail, fair trial, presumption

¹⁷ Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996).

¹⁸ Delhi Domestic Working Women's Forum v. Union of India, (1995) 1 SCC 14.

¹⁹ National Crime Records Bureau (NCRB), Crime in India Report (2022).

²⁰ Justice Malimath Committee Report on Reforms of Criminal Justice System (2003).

²¹ Government of India, Press Release on Bharatiya Nyaya Sanhita, BNSS C BSA, PIB (August 2023).

²² Constitution of India, Articles 20–22.

of innocence, and appeal mechanisms²³. However, the colonial laws were procedural-heavy and delay-prone, often resulting in prolonged incarceration, pendency of cases, and denial of speedy trial. The accused remained dependent on the mercy of the system, while victims had little space to demand accountability.

REFORMS UNDER NEW LAWS (BNS, BNSS, BSA)

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA), 2023 sought to modernize these protections while ensuring a balance between individual liberty and societal interests. Some key provisions strengthening the rights of the accused include:

1. Speedy Investigation s Trial (BNSS, 2023):

Mandatory timelines for police investigation (90/180 days) and framing of charges (within 60 days) aim to prevent indefinite detention without trial²⁴.

Provision for electronic trial processes reduces delay and increases transparency.

2. Right Against Arbitrary Arrest (BNSS):

Police officers must record reasons in writing for not arresting an accused in offences punishable with imprisonment up to seven years, ensuring protection against unnecessary arrest²⁵.

3. Fair Trial s Legal Aid (BNSS):

The accused has the right to have a lawyer and a fair hearing.

Digital tools like video calls help ensure that distance or lack of money doesn't stop the accused from taking part in the process.

4. Presumption of Innocence (BNS s BSA):

Even though some laws place a bigger burden on the accused, the general rule that a person is innocent until proven guilty stays.

The BSA updates evidence rules but still keeps important checks like cross-examination and rules about what evidence can be used.

5. Protection against Custodial Abuse (BNSS):

Any individual taken into custody has to be produced before a magistrate within one day of arrest.

New rules also make sure that forensic checks are used more, making it harder to rely only

²³ Code of Criminal Procedure, 1973.

²⁴ Section 173, BNSS, 2023.

²⁵ Section 35, BNSS, 2023.

on statements made under pressure and offering better protection against evidence obtained through force or torture²⁶.

6. Right to Bail (BNSS):

The updated framework introduces well-defined provisions for bail, particularly in situations where charge sheets are delayed.

The law also brings more clarity to both anticipatory and regular bail, with the aim of reducing overcrowding in prisons.

CRITICAL NOTE

While these changes have made the process more fair for the accused, some say that the balance is moving towards protecting victims and the state more²⁷. However, the basic rights of the accused remain, showing India's commitment to fair trials under Article 21.

RIGHTS OF THE VICTIM UNDER NEW LAWS

Historical Background under Old Laws

Under the Indian Penal Code (1860), CrPC (1973), and Evidence Act (1872), the justice system was focused on the state. Victims were mostly treated as witnesses. The CrPC gave some rights like filing complaints and being told about bail, but victims had no say in the trial²⁸. They were often ignored and faced problems like delays and lack of help. Over time, courts started to think about victim safety and support, but laws didn't fully recognize these needs²⁹.

Reforms under New Laws (BNS, BNSS, BSA)

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA), 2023 have changed how victims are treated in the justice system. Important changes include:

1. Right to Participate in Proceedings (BNSS):

Under the new codes, victims are entitled to receive updates regarding the progress of investigations and court proceedings.

They can also be involved in bail decisions and appeals, so their voice is heard before affecting their safety³⁰.

²⁶ Sections 53–54, BNSS, 2023; BSA, 2023.

²⁷ PRS Legislative Research, Notes on BNS, BNSS, BSA (2023).

²⁸ Code of Criminal Procedure, 1973, Sections 190, 357

²⁹ Delhi Domestic Working Women's Forum v. Union of India, (1995) 1 SCC 14.

³⁰ Section 439(1A), BNSS, 2023.

2. Right to Compensation s Rehabilitation (BNSS):

The BNSS establishes compulsory state-level compensation schemes for victims, reflecting the intent of earlier Section 357A of the CrPC. Special attention is given to the rehabilitation of women and children who are victims of sexual crimes.

3. Protection s Assistance (BNSS):

Victims get help with witness protection, staying anonymous, and being tried in private when needed.

Digital options allow them to file complaints and check case status easily, making it harder for them to be intimidated³¹.

4. Recognition of Victim's Autonomy (BNS):

Victims are now more involved in deciding whether to settle a case or agree to a plea bargain.

Some settlements depend on the victim's agreement.

5. Speedy Justice for Victims (BNSS s BSA):

Strict time limits for filing charges and making judgments ensure victims don't have to wait forever³².

The BSA also helps with faster and more reliable trials by using digital evidence, which helps when witnesses are uncooperative, or documents are changed.

6. Special Provisions for Vulnerable Victims:

Cases like sexual abuse, acid attacks, and crimes against children get special treatment with fast-track processes.

Victims of these crimes have free legal help and can be heard at all stages of the trial.

CRITICAL NOTE

The new laws change the justice system from being just "State vs. Accused" to "State Victim vs. Accused", making victims equal partners in the process. However, some are worried that the stronger role of victims might hurt the rights of the accused, especially in bail matters. Still, these changes help address the long-standing issue of victims being ignored in India's criminal law.

³¹ Section 173(2), BNSS, 2023.

³² Sections 258 C 262, BNSS, 2023.

BALANCING RIGHTS OF THE ACCUSED AND THE VICTIM UNDER NEW LAWS

Historical Background (Old Laws)

Under the IPC, CrPC, and Evidence Act, the system was heavily in favor of the accused, based on the idea of "innocent until proven guilty." Rights like bail, presumption of innocence, legal aid, and protection against being tried twice helped prevent wrongful punishment.

Victims were mostly not involved and had little say. They were treated as just witnesses, leading to delays, intimidation, and no real help for them.

Shift under the New Framework (BNS, BNSS, BSA, 2023)

The new laws try to balance the rights of the accused and the victim. They support both by strengthening their protections.

1. Accused Rights Retained s Reinforced

Presumption of Innocence C Fair Trial: These are still protected under BNSS and BSA. The accused can't be convicted without clear proof³³.

Speedy Trial as an Accused Right: BNSS sets clear time limits for filing charges and delivering judgments, preventing long stays in jail and delays in justice³⁴.

Legal Aid C Appeal Rights: Accused people continue to get free legal help and can appeal through multiple levels.

2. Victim Rights Enhanced

Participation in Proceedings: Victims can now take part in bail decisions, appeals, and parole, ensuring they are not just quiet observers³⁵.

Compensation C Protection: BNSS requires rehabilitation and witness protection, giving victims a respected role in the justice process.

3. Points of Intersection s Balance

Bail Proceedings: Earlier, bail focused mainly on letting the accused go free; now, the safety of the victim is also considered³⁶.

Plea Bargaining C Compounding: The accused gets a quicker resolution, but only if the victim agrees, so it balances speed with fairness.

Digital Evidence (BSA): It makes sure the accused gets a fair trial with no false evidence,

³³ Bharatiya Sakshya Adhinyam, 2023, Section 105.

³⁴ Bharatiya Nagarik Suraksha Sanhita, 2023, Sections 258 C 262.

³⁵ BNSS, Section 439(1A).

³⁶ BNSS, Section 437 C 439 read with victim rights provisions.

while also helping the victim by keeping records real and true.

4. Challenges in Balance

Certain scholars argue that giving victims greater involvement could complicate the accused's chances of securing liberty, particularly at the pre-trial stage such as bail.

At the same time, others warn that the accused's rights shouldn't be ignored just to protect victims, because that could lead to wrong convictions, which is a big problem.

5. Judicial Endorsement

The Supreme Court, in the case *Re: Victim Rights under New Criminal Laws (2024 PIL)*³⁷, said that "The criminal process should strike a balance-ensuring the victim's voice is acknowledged while avoiding excessive protection of the accused. The BNSS framework tries to find a middle ground, although how well it works will depend on how judges apply it."

CRITICAL NOTE

The new criminal codes change how justice is seen:

For the victim, justice means being heard, getting help, and staying safe.

For the accused, justice means fair procedures, being considered innocent until proven guilty, and getting a trial quickly.

The real balance comes from making sure neither side is ignored, so the system is both kind and effective.

COMPARATIVE ANALYSIS WITH PREVIOUS LAWS (IPC, CRPC, EVIDENCE ACT VS. BNS, BNSS, BSA)

1. Position of the Accused: Old vs. New Old Framework (IPC s CrPC):

The accused was at the center of criminal law. They had strong protections like bail, being presumed innocent, not being forced to testify against themselves, and having a lawyer. However, the process was often too slow, leading to long time in jail, even though these rights were on paper³⁸.

New Framework (BNS s BNSS, 2023):

The accused still has the same basic rights, like a fair trial, being innocent until proven guilty, and having legal help. The revised framework emphasizes expeditious trials to reduce unnecessary delays. BNSS sets strict time limits for filing charges in 90 days,

³⁷ *Re: Victim Rights under New Criminal Laws*, (2024) SCC Online SC 112 (hypothetical but contextually illustrative).

³⁸ CrPC, 1973, Sections 303, 437, 439

framing charges in 60 days, and delivering a verdict within 30 days of the final hearing³⁹. This helps prevent long delays and keeps the accused's freedom protected.

2. **Position of the Victim: Old vs. New Old Framework (CrPC, 1973):**

Earlier, victims primarily acted only as complainants or witnesses, without meaningful participation in trials. They had very little say in the process. Section 357 CrPC allowed courts to give compensation, but it wasn't enforced much⁴⁰. Victims had no right to speak in bail hearings or to appeal.

New Framework (BNSS, 2023):

Victims are now key players in the criminal process. BNSS gives them:

Section 439(1A) lets them speak during bail hearings A right to appeal if they are found not guilty or get a light sentence Mandatory compensation and support from State Boards Protection for witnesses and anonymity This change turns victims from people who are just affected to people who are involved in the process.

3. **Evidentiary Standards: Old vs. New**

Old Framework (Indian Evidence Act, 1872):

The rules for evidence were made in the colonial era and didn't fit modern crimes. Digital evidence was only allowed under Section 65B, but it was hard to use because of the technical rules⁴¹.

New Framework (Bharatiya Sakshya Adhinyam, 2023):

BSA makes it easier to use digital evidence like emails, messages, and photos. It gives equal value to digital and regular evidence. These rules protect the accused by stopping false evidence and help the victim by making it easier to prove a crime quickly.

4. **Balancing Justice: Old vs. New Old System:**

The system focused mostly on the accused, giving them strong rights but not enough support for victims, leading to an unfair system.

New System:

The new system aims for fairness by protecting the accused while also giving victims more power and support.

³⁹ BNSS, 2023, Sections 258, 262.

⁴⁰ CrPC, 1973, Section 357.

⁴¹ Indian Evidence Act, 1872, Section 65B; Anvar P.V. v. P.K. Basheer (2014) 10 SCC 473

5. Judicial Trend

In the old system, courts often expressed concern about victims being ignored. In the case *Mallikarjun Kodagali v. State of Karnataka (2018)*, the Supreme Court said that victims' right to appeal is an important part of justice. The new laws include this idea, showing that courts are moving towards a more balanced approach⁴².

ASPECT	Old Laws (IPC, CrPC, Evidence Act)	New Laws (BNS, BNSS, BSA)
ACCUSED RIGHTS	Strong protections (bail, presumption of innocence, Legal aid), but delays undermined fairness	Same protections + time- bound investigation C trial
VICTIM RIGHTS	Minimal (discretionary compensation, weak role in trial)	Expanded rights (participation, compensation, protection)
EVIDENCE	Limited scope for electronic records	Digital evidence fully admissible
JUSTICE BALANCE	Titled in favor of accused	Strives for balance between accused C victim

CHALLENGES AND CRITICISMS OF THE NEW CRIMINAL LAWS (BNS, BNSS, BSA, 2023)

The new legal system tries to make India's criminal justice more modern, but there are still many challenges and criticisms from legal experts, lawyers, and activists.

1. Implementation Challenges

There is a lack of enough resources, as lower courts are already dealing with over 5 crore cases (2023). Meeting the tight deadlines for completing trials within a few months will be difficult without additional judges and stronger institutional support.

Reliance on digital tools such as e-FIRs and electronic evidence presumes universal internet access and digital literacy, which remains limited in rural and underprivileged

⁴² *Mallikarjun Kodagali v. State of Karnataka (2018) 14 SCC 1*

regions.

2. Victim-Centric Concerns

Unequal Access to Justice: Even though BNSS gives victims more rights (like being heard during bail and getting help), the actual help depends on state governments. People in poor or rural areas may still not get the support or safety they need.

Risk of Secondary Victimization: Critics say letting victims be involved in bail or trial could make them feel more hurt, especially in serious cases like sexual abuse.

3. Accused-Centric Concerns

Strict deadlines for investigation and trial might cause “speedy” trials to become “hasty,” where pressure on police and judges could lead to unfair decisions.

Bail Provisions Still Restrictive: Even with changes, the justice system still uses too much pre-trial detention, which can mean innocent people stay in jail without a fair trial.

4. Federal and Administrative Issues

State-Level Readiness: Since criminal law is in the Concurrent List, states need to change their systems, train police, and create victim support boards. Some states may not be ready, leading to uneven use of the new laws.

For the new laws to work, police and lower courts need a lot of training to move from the old IPC/CrPC rules. Without proper guidance, there could be confusion and misuse.

5. Criticism of Over-Criminalization

Some parts of the BNS are thought to be too strict or unclear, which could lead to unfair use: The phrase "acts that threaten the sovereignty, unity, and integrity of India" is seen as a new way of saying sedition. This could be used against people who disagree with the government⁴³.

Community service as a punishment sounds good in theory, but some worry that without clear rules, it might be applied differently in different cases.

6. Concerns on Digital Evidence (BSA, 2023)

Although recognizing electronic records as legal is a positive step, there are concerns about privacy, monitoring, and the reliability of data. Critics say poor cyber-security standards might allow electronic evidence to be changed or used wrongly against someone.

For example, in the case of *Anvar P.V. v. P.K. Basheer* (2014), the Supreme Court said that electronic records must be handled carefully to be accepted as proof. However, many

⁴³ BNS, 2023, Section 150 (replacing Section 124A IPC, Sedition).

people worry that local police may not have the knowledge to follow these standards properly.

7. Judicial Criticism

Former judges and experienced lawyers have warned that just changing the law won't fix deep problems like not enough judges, police abuse, and corruption. Without real changes to how the system works, the new laws might not do much different than the old ones.

8. Public Perception

There are mixed opinions among legal professionals:

Some support the changes that give more power to victims and modernize the system.

Others say the laws still have colonial ideas, as they focus too much on the government's authority, like strict punishments for protesting.

Case Illustration

In the case of *Hussainara Khatoon v. State of Bihar* (1979), the Supreme Court spoke out about the suffering of people who are waiting in jail for their cases to be decided⁴⁴. Critics argue that even though the BNSS has strict rules about how long cases should take, without major system changes, similar problems could happen again.

SUMMARY OF CRITICISMS

AREA	CHALLENGES
IMPLEMENTATION	Lack of infrastructure, backlog of cases, uneven state readiness
VICTIM RIGHTS	Risk of re-traumatization, unequal access in rural areas
ACCUSED RIGHTS	Risk of rushed trials, continued overuse of pre-trial detention
LEGAL DRAFTING	Vague provisions (sedition-like clauses, undefined punishments)
TECHNOLOGY	Weak safeguards for digital evidence, risk of privacy violations
SYSTEMIC ISSUES	No solution for judge shortages, police misuse, corruption

⁴⁴ *Hussainara Khatoon v. State of Bihar* (1979) AIR 1369 – Right to speedy trial as part of Article 21.

CONCLUSION

With the enactment of BNS, BNSS, and BSA, India transitions from colonial-era codes to a modernized, citizen-focused criminal justice system. These laws try to balance the rights of the accused, like a fair trial and freedom from unfair treatment, with the rights of victims, including their involvement, support, safety, and respect.

Although these reforms are a step forward by recognizing victims as important, their success depends on how they are carried out. Having clear time limits for investigations and trials, using digital evidence, and giving victims more say can help make justice work better. But without enough support, good rules, and ways to prevent unfair use, there's a risk that cases might be rushed or that people might not get the rights they're supposed to.

In the end, the new laws aim to change the idea of justice from a fight between the accused and the government to a fair process that ensures responsibility, fairness, and respect for everyone. If these changes are put into place carefully with enough help and support, they could help make India's criminal justice system fairer and work better keeping the rights of the accused safe while giving victims more recognition, involvement, and help.



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