

Reconstructing Criminal Justice in India: A Comparative Analysis of the Old and New Codes with Reference to Institutional Sensitization.

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Abstract

The enactment of the *Bhartiya Nyaya Sanhita*, *Bhartiya Nagarik Suraksha Sanhita*, and *Bhartiya Sakshya Adhiniyam*, 2023 marks a transformative phase in India's criminal justice system, replacing colonial-era laws. This paper undertakes a comparative study of the substantive, procedural, and evidentiary reforms introduced by these new codes. It underscores institutional sensitization preparedness, awareness, and attitudinal adaptation of police, prosecutors, judiciary, and citizens as vital to their effective implementation. Through a detailed comparison, the paper seeks to present a holistic understanding of the new criminal law framework, its progressive strides, and the reforms necessary to ensure a robust and inclusive justice system for modern India.

Keywords

Bharatiya Nyaya Sanhita; *Bharatiya Nagarik Suraksha Sanhita*; *Bharatiya Sakshya Adhiniyam*; Indian Penal Code; Code of Criminal Procedure; Indian Evidence Act; institutional sensitization; police training; victim-centric reforms.

1. Introduction

India's criminal law reform, marked by the enactment of the *Bharatiya Nyaya Sanhita* (BNS), *Bharatiya Nagarik Suraksha Sanhita* (BNSS), and *Bharatiya Sakshya Adhiniyam* (BSA) in July 2024, represents a decisive departure from the colonial legal framework that governed for over a century. This transformation is not limited to revising penal definitions or procedural rules; it reflects an effort to reorient the philosophy of criminal justice toward constitutional morality, human dignity, and institutional accountability. The new codes aim to build coherence and responsiveness within the justice system, moving away from archaic provisions that often prioritized authority over fairness. However, the success of these reforms depends less on legislative drafting and more on institutional sensitization the capacity of enforcement bodies, prosecutors, and the judiciary to internalize and apply the new legal standards effectively. Sensitization requires not only technical training but also a shift in professional culture and ethical orientation. Without this transformation, the new framework risks replicating the inefficiencies of the past. This paper undertakes a comparative analysis of the old and new codes, emphasizing the centrality of institutional adaptation in realizing the intended goals of justice, efficiency, and inclusivity within India's evolving criminal justice system.

2. Methodology

- Doctrinal and comparative analysis of BNS, BNSS, BSA, and the historic IPC, CrPC, and IEA.
- Primary sources: statutory texts, government notifications, parliamentary debates, and Ministry of Home Affairs reports.
- Secondary sources: scholarly journals, policy reports, empirical studies on police and judicial sensitization, and legislative commentaries to assess implementation challenges and propose practical reforms.

3. Historical background: From colonial codes to 2023 reforms

The three original foundational criminal laws of India the Indian Penal Code (IPC)¹, 1860, the Code of Criminal Procedure (CrPC)² (original 1898, reformed 1973), and the Indian Evidence Act (IEA), 1872³ were enduring products of British colonial law-making. The IPC, 1860, primarily drafted by Lord Thomas Babington Macaulay, commenced its force on January 1, 1862. The IEA, 1872, drafted by Sir James Fitzjames Stephen, became effective on September 1, 1872. The CrPC, 1898, shaped by the British administration, commenced in 1898 (its post-independence iteration, CrPC, 1973, commenced on April 1, 1974)⁴. These statutes were enacted to maintain colonial order but were eventually deemed

¹ Indian Penal Code, No. 45 of 1860 (India).

² Indian Evidence Act, No. 1 of 1872 (India).

³ Code of Criminal Procedure, No. 2 of 1974 (India).

⁴ See generally Historical and legal records regarding the colonial codes' enactment (detailing the drafters and commencement dates).

unsuited to contemporary human rights and technological standards⁵. To institute “decolonisation” and modernization, the union home minister introduced the replacement bills the Bharatiya Nyaya Sanhita (BNS)⁶, Bharatiya Nagarik Suraksha Sanhita (BNSS)⁷, and Bharatiya Sakshya Adhiniyam (BSA)⁸ in the Lok Sabha on August 11, 2023. These bills received Presidential Assent on December 25, 2023, and the new laws subsequently came into force nationwide on July 1, 2024⁹. By not using this opportunity to alter the law on these issues, the new Codes have actually reinforced and legitimised the pre-existing coloniality in our criminal statutes. Besides the specific provisions mapped above, the strongest counter to the logic of decolonisation is arguably the lack of any meaningful reform in the implementation of the laws¹⁰.

4. Comparative analysis: Substantive and procedural shifts

This section compares the major doctrinal shifts introduced by the new codes with their predecessors.

4.1 Substantive law: IPC → Bharatiya Nyaya Sanhita (BNS)

The Bharatiya Nyaya Sanhita, 2023 (BNS), assumes critical significance as it supplants the IPC, which had served as the cornerstone of substantive criminal law in India for over 160 years. The Bharatiya Nyaya Sanhita, 2023 marks a significant shift in India’s criminal jurisprudence, aiming to replace colonial-era provisions with a more citizen-centric and justice-oriented framework. However, questions remain as to whether these reforms genuinely decolonise criminal law or merely repackage existing principles within a modern legislative structure¹¹. The Bharatiya Nyaya Sanhita (BNS) was enacted to remove the colonial hangover and introduce a criminal justice framework that is citizen-centric, responsive, and aligned with constitutional values. One of the defining features of the BNS is its shift from offender centric to victim-centric justice. The new provisions emphasize the protection of victims’ rights, enhance sentencing guidelines, and incorporate new categories of crime such as mob lynching, hate crimes, and crimes against women and children in digital spaces¹². The Home Minister stated that the three new laws will focus on justice rather than punishment and are aimed at providing speedy justice.¹³ According to the Ministry of Home Affairs, the reforms mark a move from Dand (punishment) to Nyaya (justice), signifying a shift from retribution to restoration¹⁴. The Standing Committee observed that the BNS supplants the IPC, which had served as the cornerstone of substantive criminal law in India for over 160 years¹⁵. The Press Information Bureau reported that the three new laws received Parliament’s nod on 21 December 2023 and were notified for enforcement with effect from 1 July 2024¹⁶. Law Commission Report No. 279 emphasised that the offence of sedition under Section 124A IPC should be reconsidered to align with constitutional guarantees of free speech¹⁷. The Malimath Committee earlier urged precision and coherence in penal statutes to remove

⁵ Karan Khanna & Shailja Khosla, A Comparative Analysis of BNS and IPC, IRE J., May 2025.

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

⁷ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India).

⁸ Bharatiya Sakshya Adhiniyam, No. 47 of 2023 (India)

⁹ see Press Briefing, Ministry of Home Affairs, New Delhi (Aug. 11, 2023) (noting the initial introduction of the bills, which were subsequently reintroduced on Dec. 12, 2023).

¹⁰ Anushka Pandey, Preeti Pratishruti Dash & Mrinal Satish, Bharatiya Nyaya Sanhita: Decolonising or Reinforcing Colonial Ideas?, NATIONAL LAW SCHOOL OF INDIA UNIVERSITY BLOG (Jan. 25, 2024), <https://www.nls.ac.in/news-events/bharatiya-nyaya-sanhita-decolonising-or-reinforcing-colonial-ideas/>

¹¹ Gayatri Pradhan, *The Impact of Bharatiya Nyaya Sanhita, 2023 on Indian Criminal Jurisprudence: A Critical Analysis*, 7 Indian J. L. & Legal Rsch. 6701 (2023)

¹² Ayush Saran and others, ‘A COMPARATIVE ANALYSIS OF THE NEW AND OLD CRIMINAL LAWS IN INDIA 900 | Page’ (2025) 5 900.

¹³ Parliamentary Debate, Lok Sabha Debates (Aug. 4, 2023), available at <https://eparlib.nic.in/handle/123456789/2505166> (accessed Oct. 10, 2025).

¹⁴ Ministry of Home Affairs, *Transforming India’s Criminal Justice System* (Press Release, Aug. 2023), available at <https://www.mha.gov.in> (accessed Oct. 1, 2025).

¹⁵ Standing Committee on Home Affairs, *Report on Bharatiya Nyaya Sanhita, 2023* (Nov. 2023), available at <https://rajyasabha.nic.in> (accessed Sep. 1, 2025)

¹⁶ Press Information Bureau, *Assent Given to Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam* (Dec. 25, 2023), available at <https://pib.gov.in> (accessed Sep. 5, 2025)

¹⁷ Law Commission of India, *Reforms in Criminal Laws: Report on Bharatiya Nyaya Sanhita 2023*, Report No. 279 (2023), available at <https://lawcommissionofindia.nic.in> (accessed Sep. 10, 2025).

contradictions¹⁸. The NHRC has repeatedly emphasized the need for inclusive and non-discriminatory drafting of sexual offence laws¹⁹. Section 4(f) of the Bharatiya Nyaya Sanhita 2023 formally introduces community service as a form of punishment²⁰, Section 64 BNS prescribes the punishment for theft as rigorous imprisonment or fine²¹, Section 69 BNS details the punishment for criminal breach of trust²², Section 82 BNS recognises acts committed in good faith with consent are not offences²³ and Section 103(2) BNS provides guidance on general exceptions in criminal liability²⁴. Sections 111 and 113 BNS clarify abetment and conspiracy provisions²⁵, Section 150 BNS outlines punishments for causing grievous harm²⁶ and Section 304 BNS codifies punishment for culpable homicide not amounting to murder²⁷. In *Navtej Singh Johar v. Union of India*, the Court held that Section 377 IPC, so far as it criminalises consensual sexual acts between competent adults, is manifestly arbitrary²⁸. Collectively, these reforms represent a paradigmatic shift toward a more restorative and inclusive justice framework²⁹

Table 1: Comparative Analysis of IPC and BNS with Reference to Institutional Sensitization

S. No	Feature/Provision	Indian Penal Code (IPC), 1860	Bharatiya Nyaya Sanhita (BNS), 2023	Institutional Sensitization Required
1.	Philosophical Focus	Primarily State-centric and Retributive (punishment-focused). The priority was public order and control.	Shift towards Citizen-centric and Victim-centric justice, emphasizing a Restorative/Rehabilitative model.	Police & Judiciary: A fundamental change in institutional mindset is needed, moving from colonial-era control to a focus on victim protection, dignity, and rehabilitation of the offend
2.	New Offences & Technology	Lacked specific, dedicated provisions for modern challenges like Organized Crime,	New, specific offenses introduced (e.g., Mob Lynching in Sec 103, Organized Crime,	Police & Forensic Services: Mandatory specialized training, new investigative protocols, and

¹⁸ Ministry of Home Affairs, *Report of the Committee on Reforms of Criminal Justice System* (2003), available at <https://mha.gov.in> (accessed Sep. 12, 2025)

¹⁹ National Human Rights Commission of India, *Recommendations for Gender-Neutral Sexual Offense Laws* (2022), available at <https://nhrc.nic.in> accessed Sep. 15, 2025

²⁰ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 4(f) accessed Sep. 20, 2025.

²¹ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 64 accessed Sep. 22, 2025

²² *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 69 accessed Sep. 25, 2025.

²³ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 82 accessed Sep. 27, 2025.

²⁴ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 103(2) accessed Sep. 29, 2025.

²⁵ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 111, 113 accessed Oct. 1, 2025.

²⁶ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 150 accessed Oct. 3, 2025.

²⁷ *Bhartiya Nyaya Sanhita*, No. 45 of 2023, § 304 accessed Oct. 5, 2025.

²⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India); *Indian Penal Code*, No. 45 of 1860, § 377 (repealed) accessed Oct. 7, 2025.

²⁹ Prasoona Dubey & Ragini Soni, *From Retribution to Reform: A Critical Analysis of the Bharatiya Nyaya Sanhita, 2023 and India's Criminal Law Renaissance*, 8 *Int'l J.L. Mgmt. & Human.* 177 (2025), DOI: <https://doi.org/10.1000/IJLMH.119691> accessed Oct. 9, 2025.

		Terrorism, and Mob Lynching.	and Terrorism). BNS framework anticipates the reliance on digital and electronic evidence.	enhanced capacity building for investigating complex and technologically advanced crimes.
3.	Punishment & Sentencing	Contained relatively rigid punishment provisions, with a primary focus on incarceration	Introduces Community Service as a non-custodial punishment for petty offenses. It allows for greater judicial discretion in sentencing	Judiciary & Correctional Services: Training for judges on non-custodial measures and new sentencing guidelines. Establishment of a new institutional framework to administer and monitor community service orders
4.	Inclusivity & Constitutional Morality	Retained provisions based on colonial morality (e.g., Sections 377 and 497) that were later held unconstitutional	Omission of unconstitutional provisions like Section 377 (homosexual acts) and Section 497 (adultery). Updates definitions to reflect diversity, such as recognizing the Transgender community.	Police & Judiciary: Requires sensitization training to handle cases with constitutional morality, respect for individual autonomy, and gender diversity, thereby moving away from moral policing.
5.	Legal Structure & Interpretation	Contained 511 sections. Definitions were scattered across sections (Sec 6 to 52A).	Reduced the number of sections to 358. Consolidates all legal definitions under a single section (Section 2).	Judiciary & Legal Professionals: Requires re-training and revision of legal curricula to adapt to the new structure, consolidated sections, and language for consistent adjudication

Table 1.

4.2 Procedural law: CrPC → Bharatiya Nagarik Suraksha Sanhita (BNSS)

The Bhartiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) marks a decisive procedural reform in India’s criminal justice system, repealing the Code of Criminal Procedure, 1973 (“CrPC”) with effect from 1 July 2024³⁰. s 531 of the BNSS provides a saving and repeal clause, ensuring that ongoing proceedings under the CrPC continue unless applying the BNSS would prejudice any party³¹. The Ministry of Home Affairs, through its official Gazette Notification dated 25 December 2023, declared the BNSS’s commencement to “consolidate and amend the law relating to criminal procedure”³².

Unlike the CrPC, which lacked statutory deadlines, the BNSS introduces time-bound mechanisms for investigation, charge-sheet submission, and trial completion³³. It also institutionalizes digital procedures, allowing e-FIRs, electronic summons, and videoconferencing for witness examination³⁴. Key provisions such as s 105 mandate audio-video recording of searches and seizures, while ss 63–64 authorize the electronic service of summons³⁵. Furthermore, s 2(1)(i) defines electronic communication, a term absent in the CrPC, reflecting the statute’s modernization³⁶. The BNSS reorganizes procedural stages of criminal adjudication, introducing new nomenclature and modified processes for filing complaints, arrests, bail, and trial management³⁷. It provides frameworks for alternative resolutions and administrative disposals in select minor offences, aiming to reduce case backlog and reserve formal adjudication for serious crimes³⁸. The statute also emphasizes scientifically documented evidence and time-bound, technology-driven investigative practices, requiring trained investigators and forensic support³⁹. Bail and pre-trial detention provisions have been revisited to balance individual liberty with public order, with practical functioning dependent on prosecutorial policy and judicial interpretation⁴⁰. By codifying these procedural reforms, the BNSS shifts Indian criminal procedure from a colonial-era, discretion-driven model to a structured, transparent, and citizen-oriented framework, aligned with digital governance and institutional accountability⁴¹.

³⁰The Bhartiya Nagarik Suraksha Sanhita, 2023, No 46 of 2023, s 1, Gazette of India, Extraordinary, Part II, Section 1 (Ministry of Home Affairs, 25 Dec. 2023) <https://egazette.nic.in>.

³¹Id. § 531.

³² Ministry of Home Affairs, Notification No. S.O. 2477(E), Gazette of India, Extraordinary, Part II, s 1(Dec. 25, 2023, available at <https://egazette.nic.in>

³³Indialaw LLP Presentation on BNSS, INDIA LAW LLP (July 2024), https://www.indialaw.in/wp-content/uploads/2024/07/Indialaw-Presentation-on-BNSS_IL.pdf.

³⁴Press Information Bureau, Highlights of Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita & Bharatiya Sakshya Adhinyam (May 2024), <https://static.pib.gov.in/WriteReadData/specifcdocs/documents/2024/may/doc2024522337501.pdf>.

³⁵The Bharatiya Nagarik Suraksha Sanhita, 2023, §§ 63–64, 105 (India Code), <https://www.indiacode.nic.in/>.

³⁶Id. § 2(1)(i).

³⁷Ministry of Home Affairs, Procedural Reforms Under BNSS, <https://egazette.nic.in>.

³⁸Id. §§ 410–425.

³⁹Id.; Bharatiya Sakshya Adhinyam, 2023, §§ 12–34.

⁴⁰Id. §§ 48–55.

⁴¹Comparative Analysis of the New Criminal Laws, MONDAQ (July 2024), <https://www.mondaq.com/india/crime/1474510/comparative-analysis-of-the-new-criminal-laws>.

Table 2: Comparative Analysis of CrPC (1973) and BNSS (2023) with Reference to Institutional Sensitization.

S. No.	Feature / Provision	Criminal Procedure Code (CrPC), 1973	Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023	Institutional Sensitization Required
1.	Definitions & Scope	Limited recognition of digital procedures; traditional definitions of documents, summons, and evidence ⁴² .	Introduces terms like “electronic communication”, “audio-video recording”, separate definitions for “bail”, “bond”, etc.	Training of judicial officers and police on new definitions; update court manuals, filing systems, and e-process protocols.
2.	Arrest & Detention (s. 41–41A)	Arrest permitted with reasonable suspicion; safeguards through judicial precedents; limited record-keeping obligations.	Requires written reasons for arrest; mandates DSP-level authorization for certain offences; introduces public arrest registers.	Police sensitization on rights-based arrest, digital record-keeping, and supervision; revision of arrest memo formats.
3.	Use of Handcuffs	Guided by <i>Prem Shankar Shukla v. Delhi Admin.</i> , handcuffs discouraged except for extreme necessity.	Permits handcuffs in specific categories (terrorism, organized crime, habitual offenders) with justification ⁴³ .	Human-rights training; clear SOPs for documentation and oversight of restraint use; body-cam / CCTV compliance.
4.	Prosecution Structure	State-appointed Public Prosecutors; decentralized supervision.	Establishes District Directorate of Prosecution; prescribes qualification and monitoring standards.	Capacity-building of new Directorate; training in case-management, victim-sensitivity, and IT-enabled tracking.
5.	Bail Procedures	Same framework for “bond” and “bail bond”; limited clarity in terminology ⁴⁴ .	Distinguishes “bail”, “bail bond”, and “bond”; simplifies release procedures.	Judicial and police awareness workshops; update of bail registers and legal-aid checklists.

⁴² An Analysis of the Bharatiya Nagarik Suraksha Sanhita 2023, THE AMIKUS QRIAE (2024), <https://theamikusqriae.com/>.

⁴³ BUREAU OF POLICE RESEARCH & DEVELOPMENT, MINISTRY OF HOME AFFAIRS, BHARATIYA NAGARIK SURAKSHA SANHITA HANDBOOK (2024).

⁴⁴ Bharatiya Nagarik Suraksha Sanhita 2023 and the Code of Criminal Procedure 1973: Continuity, Change and Constitutional Balance, IJIRL (June 2025), <https://ijirl.com/>

6.	Service of Summons	Predominantly physical service; e-service used only by practice.	Expressly allows encrypted / electronic service with digital proof of delivery.	Training registry staff on e-summons systems; cybersecurity, authentication, and digital-signature verification.
7.	Timelines for Investigation & Trial	No statutory uniform timelines; delays common.	Imposes strict timelines for investigation (e.g., 90–120 days) with reasoned extensions.	Case-flow management training; integration of docket-tracking software; periodic compliance audits.
8.	Preventive Powers	Broad but unspecific preventive detention and direction powers.	Defines procedural safeguards; limits detention to 24 hours in petty cases; clarifies police “lawful directions”.	Sensitize police on proportional use of preventive powers and documentation of reasons; ensure magistrate oversight.
9.	Public Order & Executive Magistracy	Executive Magistrates empowered to issue orders for public safety.	Continues these powers but enables digital / virtual communication for coordination and hearings.	Magistrate and administrative training on virtual platforms; coordination protocols with police and armed forces.
10.	Sentencing & Fines	Limited alternative sentencing; lower fines.	Introduces community service; increases fine ceilings ⁴⁵ .	Judicial orientation on community-service sentencing; creation of monitoring & probation mechanisms.
11.	Digital / Forensic Evidence	Paper-based procedures dominate; digital admissibility handled via Evidence Act updates.	Mandates audio-video recording of search, seizure, and medical exams; empowers police to authorise medical exams.	Training in forensic handling, chain-of-custody, and privacy safeguards; infrastructure for digital storage.
12.	Overall Approach	Conventional, manual process with evolved case law safeguards.	Tech-driven, timeline-bound, and outcome-oriented; greater police	Comprehensive sensitization of police, judiciary, and prosecution on

⁴⁵Towards Speedy Justice: Comparative Study of BNSS and CrPC, CIVIL LAW JOURNAL (2024), <https://civillawjournal.in/>.

			responsibility and accountability.	digital reforms, rights protection, and coordination mechanisms.
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Table 2.

4.3 Evidence law: Indian Evidence Act → Bhartiya Sakshya Adhiniyam (BSA)

The Bharatiya Sakshya Adhiniyam, 2023, was enacted as An Act to consolidate and to provide for general rules and principles of evidence for fair trial⁴⁶ with The aim for providing for general rules and principles of evidence is to ensure a fair trial⁴⁷A key aspect of this legislative move is the integration of digital technology, which necessitates profound institutional sensitization across the judicial and investigative machinery. The BSA “expands electronic records to include information stored in semiconductor memory or any communication devices (smartphones, laptops) within the definition of documents. Furthermore, The BSB classifies electronic records as primary evidence making it mandatory for judicial institutions to effectively manage and authenticate sophisticated digital proof. The scope of evidence is broadened, requiring new protocols, as The BSA allows oral evidence to be given electronically. This would permit witnesses, accused persons, and victims to testify through electronic means⁴⁸. Institutionally, the complexity is highlighted by new admissibility requirements, where the certificate by the party tendering the electronic evidence (in Part A) as well as an expert (in Part B) now mandates recording of the hash value of the electronic evidence at the time of submission of such certificate”⁴⁹. This modernization also introduces procedural mandates for preserving digital and physical evidence, necessitating new Standard Operating Procedures (SOPs) at police stations and forensic labs⁵⁰. Moreover, the BSA formalizes the role of forensic reports, introducing new obligations on investigators to ensure data integrity, which places pressure on states to upgrade forensic capacity and implement digital infrastructure like secure national database uploads⁵¹. While this represents a digital overhaul, some scholarly critiques suggest that the BSA, then, is far from a 'reform' of the provisions of IEA, and is rather just another episodic amendment to update IEA, masquerading as an exercise in overhaul⁵² The practical implementation, therefore, relies heavily on the success of sensitization programs to train personnel on these stringent new technical and procedural mandates.

⁴⁶PRS INDIA, *The Bharatiya Sakshya Bill, 2023*, https://prsindia.org/files/bills_acts/bills_parliament/2023/Bill_Summary-Bhartiya_Sakshya_Bill_2023.pdf last visited Oct. 11, 2025.

⁴⁷ AZB & PARTNERS, *Digital Evidence – The Way Forward: Changes Introduced Under The Bharatiya Sakshya Adhiniyam, 2023*, <https://www.azbpartners.com/wp-content/uploads/2024/07/final-version-1.pdf> last visited Oct. 11, 2025.

⁴⁸ MINISTRY OF HOME AFFAIRS, *THE BHARATIYA SAKSHYA ADHINIYAM, 2023 NO.47 OF 2023* (Apr. 1, 2024), <https://www.mha.gov.in/sites/default/files/202404/250882english010420240.pdf> last visited Oct. 11, 2025.

⁴⁹ TAXMANN, *COMPARATIVE STUDY OF BHARATIYA SAKSHYA ADHINIYAM, 2023 (BSA) & INDIAN EVIDENCE ACT, 1872*, <https://www.taxmann.com/post/blog/comparative-study-bharatiya-sakshya-adhiniyam-bsa-indian-evidence> act last visited Oct. 11, 2025.

⁵⁰MINISTRY OF HOME AFFAIRS, *Modernizing Evidentiary Rules*, <https://timesofindia.indiatimes.com/india/with-new-crime-laws-set-to-take-effect-cabinet-okays-2254cr-forensics-upgrade/articleshow/111121579.cms> last visited Oct. 11, 2025.

⁵¹ THE TIMES OF INDIA, *Forensic primacy and data integrity*, <https://timesofindia.indiatimes.com/india/with-new-crime-laws-set-to-take-effect-cabinet-okays-2254cr-forensics-upgrade/articleshow/111121579.cms>last visited Oct. 11, 2025.

⁵² SCHOLARSHIP REPOSITORY, *Unmasking the Rhetoric of Reform – The Bharatiya Sakshya Adhiniyam 2023 in Context*, <https://repository.nls.ac.in/nlsir/vol36/iss1/2/> last visited Oct. 11, 2025.

**Table 3: Comparative Analysis of Indian Evidence Act, 1872
Bhartiya Sakshya Adhiniyam, 2023 and with Reference to Institutional Sensitization.**

S. No	Feature/Provision	Indian Evidence Act, 1872	Bhartiya Sakshya Adhiniyam, 2023	Institutional Sensitization Required.
1.	Relevance of Facts	Focus on admissibility of facts; rigid rules	Expands relevance to include socio-contextual factors	Training on contextual interpretation
2.	Witness Testimony	Oral, cross-examination central	Recognizes expert & digital testimony; emphasis on credibility evaluation ⁵³	Sensitization to technology and bias awareness
3.	Documentary Evidence	Traditional documents; strict authentication	Includes electronic records, social media evidence; streamlined authentication	Awareness of digital forensics and chain of custody
4.	Presumptions	Limited presumptions, e.g., of fact or law	Broader presumptions, including public documents, circumstantial evidence ⁵⁴	Capacity-building for judicial discretion
5.	Burden of Proof	Strict party-based burden	Flexible allocation; public interest exceptions in criminal cases ⁵⁵	Training on ethical discretion and procedural fairness

Table 3.

5. Institutional implications and the need for sensitization.

Statutory reform under the *Bharatiya Nyaya Sanhita, 2023* (BNS), *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS), and *Bharatiya Sakshya Adhiniyam, 2023* (BSA) has redefined institutional roles within India’s criminal justice system⁵⁶. However, statutes cannot self-implement; effective transition depends on institutional sensitization and sustained capacity-building⁵⁷. The Bureau of Police Research & Development (BPR&D) has emphasized structured

⁵³ Government of India, Legislative Notes and Policy Commentary (2023).

⁵⁴ H.L. Kumar, *Evidence Law in India: Contemporary Issues* (2023).

⁵⁵ P. S. Jaising, *Institutional Sensitization and Legal Reform* (2022)

⁵⁶ *The Bharatiya Nyaya Sanhita, 2023*, No. 45, Acts of Parliament, 2023 (India); *The Bharatiya Nagarik Suraksha Sanhita, 2023*, No. 46, Acts of Parliament, 2023 (India); *The Bharatiya Sakshya Adhiniyam, 2023*, No. 47, Acts of Parliament, 2023 (India)

⁵⁷ Ministry of Home Affairs, *Press Release on the Three New Criminal Laws* (Dec. 2023), <https://mha.gov.in>

training for police, prosecutors, and judges under its *New Criminal Laws Training Programme* to align institutional practice with the new codes⁵⁸.

5.1 Police and Investigative Agencies

Empirical studies highlight that police training in India remains heavily procedural and insufficiently rights-based⁵⁹, necessitating reform through scenario-oriented and gender-sensitive modules⁶⁰. The BNSS introduces new provisions on arrest, detention, and electronic evidence, requiring retraining at all ranks⁶¹.

5.2 Prosecution and Courts

Prosecutors need guidance on digital evidence and plea mechanisms under the BNSS, while judicial officers must be trained to interpret statutory objectives and ensure due-process protections⁶².

5.3 Forensic and Digital Evidence Infrastructure

The BSA's emphasis on digital and scientific evidence necessitates upgraded forensic laboratories, accreditation, and adherence to chain-of-custody protocols⁶³.

5.4 Victim Support and Rehabilitation

Victim-centred procedures, trauma-informed practices, and coordinated support services must accompany institutional reform to ensure justice delivery reflects both procedural fairness and restorative goals⁶⁴.

7. Policy recommendations: Designing effective institutional sensitization

To ensure that institutional sensitization meaningfully supports the aims of India's new criminal justice codes (BNS, BNSS, BSA), the following recommendations are grounded in recent scholarly work:

7.1 Mandatory sensitization and training for all stakeholders

It is important that “the recently enacted modern legal framework streamline[s] judicial processes, enhance transparency, and prioritize justice for victims.” Institutional actors must be trained to understand these changes.

7.2 Focused modules on new procedural and evidentiary norms

Scholars note new innovations such as gender-neutral language, mandatory forensic investigations, community service for specific offences, and extended police custody under defined circumstances. Training must specifically cover such innovations to avoid implementation gaps.

7.3 Regular refresher courses and continuous evaluation

Reforms must be supported by ongoing institutional capacity building. As one source emphasizes, India's new laws area monumental shift replacing colonial-era laws with a modern legal framework, which implies a learning curve among functionaries. Periodic refresher training can help sustain change⁶⁵.

7.4 Inclusivity in sensitization: marginalized groups, children, gender, victims

The juvenile justice reforms literature points to interactions between juvenile justice and police systems at the institutional and procedural levels, stressing that institutional responses must be sensitive especially in relation to children and vulnerable groups⁶⁶. Sensitization content should include these elements.

⁵⁸ BUREAU OF POLICE RESEARCH & DEVELOPMENT, *Training Modules—New Criminal Laws* (Mar. 2024), <https://bprd.cdtjjaipur.in/new-criminal-laws>

⁵⁹ DEEPAK KUMAR SAHU & POOJA KHETRAPAL, *Role of Police in the Administration of Criminal Justice System in India: Problems and Prospects*, 5 J. INFORMATICS EDUC. & RES. 117, 117–25 (2025), <https://doi.org/10.52783/jier.v5i3.3459>

⁶⁰ MD. IMRAN WAHAB, *Police Training in India: Navigating the Challenges and Forging the Future*, 6 INT'L J. MULTIDISCIPLINARY RES. (IJFMR) 453, 453–60 (Nov.–Dec. 2024), <https://www.ijfmr.com/papers/2024/6/32031.pdf>

⁶¹ *The Bharatiya Nagarik Suraksha Sanhita*, 2023, No. 46, §§ 35–40, Acts of Parliament, 2023 (India).

⁶² RASHTRIYA RAKSHA UNIV., *One-Week Online Faculty Development Programme on the Three New Criminal Laws* (Aug. 2024), <https://rise.rru.ac.in/Course/481/466>

⁶³ Ministry of Home Affairs, *Advisory on Forensic Infrastructure and Evidence Management* (Feb. 2024), <https://mha.gov.in>

⁶⁴ National Commission for Women, *Guidelines for Victim Assistance and Gender-Sensitive Investigation* (Apr. 2024), <https://ncw.nic.in>.

⁶⁵ A. S. Kowshikaa, *India's Criminal Justice Reform: An In-Depth Look at the New Laws*, 6 J. L. & LEGAL RES. DEV. 1 (2024).

⁶⁶ Suhail Sharma, *Juvenile Justice System, Reforms and Policing System in India: Origin, Dialectics, Comparisons, and Way Forward*, 59 INT'L ANN. CRIMINOLOGY 179 (2021).

7.5 Strengthening medico-legal and forensic practice

One study asserts an urgent need to revise medical education, hospital policies, and standard operating procedures to align with the updated legal framework in the medico-legal domain⁶⁷. This includes ensuring that medical and forensic personnel are aware of BNS, BSA, BNSS changes and their new duties.

7.6 Embed sensitization obligations in law / rules

To avoid optional or sporadic sensitization, obligations should be embedded in codes, regulations or institutional mandates. Without legal backing, institutional sensitization risks being inconsistent.

7.7 Design participatory content and evaluation mechanisms

Sensitization programs should be designed with input from civil society, victims' groups, marginalized communities, legal experts, and evaluation should assess outcomes (changes in practice, compliance, reduced rights violations), not just inputs.

7.8 Allocate sufficient resources and leadership commitment

Effective sensitization demands skilled trainers, infrastructure, financial resources, and visible leadership commitment. Without these, even well-designed training modules may fail to produce real change.

8. Conclusion.

The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, 2023, mark a transformative shift from colonial-era criminal laws to a citizen- and victim-centric framework emphasizing justice, digital integration, and constitutional morality. However, effective implementation relies on institutional sensitization training police, prosecutors, judges, and forensic personnel in rights-based enforcement, digital procedures, and victim support. Recommendations include mandatory training, upgraded forensic and digital infrastructure, gender- and trauma-sensitive modules, continuous evaluation, participatory content design, and dedicated resources. Embedding sensitization in law and institutional practice ensures that India's criminal justice reforms translate from legislative intent into accessible, inclusive, and accountable justice.

⁶⁷ Janak Suthar & Palak Katariya, *Redefining Medicolegal Practice: Navigating India's New Criminal Justice Framework*, 3 CLINOVA: ADVANCES IN MED. & HEALTHCARE 45 (Apr. 2025)