

REFORMATIVE OUTLOOK ON CRIMINAL JUSTICE AND MAJOR LEGAL CODES: AN ANALYSIS OF INDIA'S TRANSFORMATIVE CRIMINAL LAW REFORMS

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Abstract

The criminal justice system in India has undergone a historic transformation with the enactment of three landmark legislations in 2023: the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA). These Acts, which came into force on 1st July 2024, replace the colonial-era Indian Penal Code 1860, Code of Criminal Procedure 1973, and Indian Evidence Act 1872 respectively. This comprehensive reform marks a paradigm shift from a punishment-oriented retributive model to a reformatory, rehabilitative, and victim-centric approach to criminal justice. The new framework introduces progressive measures including community service as punishment, mandatory forensic investigation, digital evidence integration, and stricter penalties for organized crime and terrorism. This paper critically examines the reformatory philosophy underlying these changes, analyzes key provisions, evaluates their alignment with international best practices, and assesses the challenges in implementation. Drawing comparisons with successful rehabilitative models such as Norway's prison system, this research explores whether India's reformed criminal justice system can effectively balance deterrence with rehabilitation while ensuring constitutional protections and human rights.

Keywords: Criminal Justice Reform¹, Bharatiya Nyaya Sanhita², Reformatory Justice³, Rehabilitation⁴

1. Introduction

Criminal justice systems worldwide have evolved from purely retributive models focused on punishment to more holistic approaches emphasizing rehabilitation, restoration, and reintegration. India's criminal justice framework, rooted in colonial legislation dating back to 1860, has long been criticized for its outdated provisions, harsh punitive measures, and lack of alignment with contemporary societal values and technological advancements.¹ The Indian Penal Code (IPC) of 1860, drafted by Lord Macaulay, was designed primarily to maintain colonial control rather than deliver justice in an independent, democratic India.² After 163 years, the Indian Parliament took the historic step of replacing these colonial codes with indigenous legislation. On 25th December 2023, the President of India granted assent to three transformative criminal law bills: the Bharatiya Nyaya Sanhita (BNS) 2023, the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, and the Bharatiya Sakshya

¹ Report No. 248, 'The Bharatiya Nyaya Sanhita, 2023', Standing Committee on Home Affairs, Rajya Sabha, November 10, 2023.

² The Indian Penal Code, 1860, Act No. 45 of 1860, drafted by Thomas Babington Macaulay as Chairman of the First Law Commission of India.

Adhiniyam (BSA) 2023.³ These Acts came into force on 1st July 2024, marking a watershed moment in Indian legal history. The BNS replaces the IPC and comprises 358 sections across 20 chapters, compared to the IPC's 511 sections in 23 chapters.⁴ The BNSS replaces the Code of Criminal Procedure (CrPC) and contains 531 sections across 39 chapters, while the BSA replaces the Indian Evidence Act and consists of 170 sections.⁵ These reforms represent more than mere renaming or restructuring; they embody a fundamental philosophical shift towards a reformative outlook on criminal justice.

The reforms introduce several progressive concepts: community service as an alternative punishment for minor offenses, mandatory forensic investigation for serious crimes, comprehensive digital evidence provisions, victim-centric procedures, and time-bound investigations and trials.⁶ The legislation also addresses contemporary challenges such as organized crime, terrorism, cybercrime, and mob lynching with specific provisions and enhanced penalties.⁷ This transformation aligns with global trends in criminal justice, particularly the rehabilitative and restorative justice models successfully implemented in Scandinavian countries, notably Norway, which boasts the world's lowest recidivism rate of approximately 20%.⁸ Norway's prison system, reformed in the 1990s, shifted from punishment-focused incarceration to rehabilitation-centered corrections, resulting in dramatic reductions in reoffending and significant improvements in post-release employment rates.⁹ However, the implementation of reformative justice in India faces unique challenges. The nation grapples with high prison occupancy rates, limited infrastructure for rehabilitation programs, overburdened courts with massive case backlogs, and deep-rooted public sentiment favoring retribution over rehabilitation.¹⁰ The success of these reforms depends not merely on legislative amendments but on comprehensive systemic changes including judicial training, infrastructural development, and cultural shifts in how society views crime and punishment. This paper critically examines India's reformed criminal justice system through the lens of reformative justice theory, analyzing the key provisions of the new criminal codes, evaluating their potential effectiveness, identifying implementation challenges, and drawing lessons from international best practices. The analysis seeks to determine whether these reforms can successfully transform India's criminal justice system from a colonial relic into a modern, humane, and effective mechanism for justice delivery.

2. Objectives of the Study

1. To critically analyze the reformative approach adopted in India's new criminal codes (BNS, BNSS, and BSA) and evaluate their potential to transform the criminal justice system from a retributive to a rehabilitative model while ensuring victim protection and public safety.
2. To examine the implementation challenges, infrastructural requirements, and institutional capacity gaps that may hinder the effective realization of reformative justice principles, and to draw lessons from

³ The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023; The Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023; The Bharatiya Sakshya Adhiniyam, 2023, Act No. 47 of 2023, all receiving Presidential assent on December 25, 2023.

⁴ The Bharatiya Nyaya Sanhita, 2023, Official Gazette Notification S.O. 850(E), dated July 1, 2024.

⁵ The Bharatiya Nagarik Suraksha Sanhita, 2023; The Bharatiya Sakshya Adhiniyam, 2023, Ministry of Home Affairs, Government of India.

⁶ Section 4, The Bharatiya Nyaya Sanhita, 2023 (community service); Section 176, The Bharatiya Nagarik Suraksha Sanhita, 2023 (forensic investigation).

⁷ Sections 111-113, The Bharatiya Nyaya Sanhita, 2023 (organized crime and terrorism); Section 103(2), BNS (mob lynching).

⁸ "Incarceration in Norway," Statistics Norway, 2018 data showing reconviction rate of 18% within two years and recidivism rate of 25% after five years.

⁹ Norwegian Ministry of Justice and Public Security, "Punishment that works - less crime - a safer society," White Paper, 2008.

¹⁰ National Judicial Data Grid, Government of India, data as of 2024 showing approximately 50 million pending cases across Indian courts.

international models, particularly Norway's rehabilitative prison system, for successful adaptation in the Indian context.

3. Reformatory Justice: Theoretical Framework and Global Perspectives

The Evolution from Retribution to Rehabilitation

Criminal justice philosophy has evolved through distinct phases: retributive, deterrent, preventive, and reformatory.¹¹ The retributive theory, which dominated colonial penal systems, views punishment as an end in itself; offenders must suffer proportionate consequences for their wrongdoing.¹² The deterrent theory aims to discourage future crimes through harsh punishment, making examples of offenders.¹³ However, modern criminological research increasingly supports the reformatory theory, which views punishment as a means to reform and rehabilitate offenders for successful reintegration into society.¹⁴ The reformatory approach rests on the principle that "every saint has a past and every sinner has a future."¹⁵ It recognizes that most offenders will eventually return to society, and therefore, the criminal justice system should focus on transforming them into law-abiding, productive citizens. This philosophy acknowledges that crime often stems from socio-economic factors, lack of education, substance abuse, mental health issues, or environmental influences that can be addressed through targeted interventions.¹⁶ The Supreme Court of India has consistently emphasized reformatory justice in landmark judgments. In *Sunil Batra v. Delhi Administration* (1978), the Court held that the objective of sentencing should be reformation and rehabilitation, not merely retribution.¹⁷ Similarly, in *State of M.P. v. Narottam* (1996), the Court recognized that the aim of criminal law is to prevent crime through reformation of criminals.¹⁸

Norway's Rehabilitative Model: A Global Benchmark

Norway's criminal justice system exemplifies successful reformatory justice implementation. Following comprehensive reforms in the 1990s and 2000s, Norway transformed its punitive system into a rehabilitation-focused model based on three core principles: normality, responsibility, and openness.¹⁹ The principle of normality mandates that prison conditions should mirror life outside as closely as possible, except for the loss of liberty.²⁰ Norwegian prisons lack traditional bars and chains; instead, they resemble small communities with educational facilities, vocational training centers, and recreational areas. Prisoners participate in daily activities including cooking, work, education, and social interaction, preparing them for societal reintegration.²¹ Norway's recidivism rate stands at approximately 20% within two years of release, the world's lowest compared to over 60-70% in the United States.²² This success stems from comprehensive rehabilitation programs including

¹¹ Committee on Reforms of Criminal Justice System, Report Volume I, Ministry of Home Affairs, 2003 (Malimath Committee Report).

¹² Kant, I., "The Metaphysics of Morals" (1797), foundational text on retributive justice theory.

¹³ Beccaria, C., "On Crimes and Punishments" (1764), seminal work on deterrence theory in criminal justice.

¹⁴ Andrews, D.A. & Bonta, J., "Rehabilitating criminal justice policy and practice," *Psychology, Public Policy, and Law*, 16(1), 2010, pp. 39-55.

¹⁵ The Bharatiya Nyaya Sanhita, 2023, Statement of Objects and Reasons, emphasizing reformatory approach.

¹⁶ Travis, J., Western, B., & Redburn, S., "The Growth of Incarceration in the United States: Exploring Causes and Consequences," National Academies Press, 2014.

¹⁷ *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1675, landmark judgment on prison reforms and reformatory justice.

¹⁸ *State of Madhya Pradesh v. Narottam*, AIR 1996 SC 2102.

¹⁹ Directorate of Norwegian Correctional Service, "Operational Strategy for the Norwegian Correctional Service," Lillestrøm, 2021.

²⁰ Norwegian Ministry of Justice, principle of normality in correctional services, official policy documents, 2007

²¹ "Norway's Prison System: Investigating Recidivism and Reintegration," Research study, Coastal Carolina University Digital Commons, 2019.

²² "Incarceration in Norway," Wikipedia, citing Statistics Norway official data, reconviction rates 2018.

cognitive-behavioral therapy, educational opportunities, vocational training, and restorative justice practices.²³ Prisoners who were unemployed before incarceration experience a 40% increase in employment rates post-release.²⁴ The Norwegian model invests significantly in corrections, spending approximately \$127,671 per inmate annually compared to \$25,000 in the United States.²⁵ This investment yields substantial returns through reduced recidivism, lower crime rates, decreased prison populations, and increased economic productivity as reformed offenders contribute to society.²⁶ Maximum sentences in Norway typically do not exceed 21 years (recently extended to 30 years for specific crimes like genocide), with over 60% of sentences lasting less than three months and nearly 90% less than one year.²⁷ This contrasts sharply with the lengthy, often life-destroying sentences common in retributive systems.

4. Key Reformatory Provisions in India's New Criminal Codes

Bharatiya Nyaya Sanhita (BNS) 2023: Substantive Criminal Law Reforms

Community Service as Punishment: The most significant reformatory innovation in the BNS is the introduction of community service as a form of punishment under Section 4.²⁸ This provision allows courts to order convicts to perform unpaid work benefiting the community instead of imprisonment for minor offenses, particularly for first-time offenders.²⁹ This aligns with global trends toward restorative justice, where offenders make amends to society while avoiding the criminogenic effects of imprisonment.³⁰ Community service offers multiple benefits: it reduces prison overcrowding, minimizes the stigma of criminal records, maintains offenders' family and employment ties, reduces recidivism by avoiding prison socialization, and provides tangible benefits to communities.³¹ However, the BNS does not specify what constitutes community service, potentially leading to inconsistent implementation across jurisdictions.³²

Victim-Centric Provisions: The BNS demonstrates a shift toward victim-centric justice. Section 69 criminalizes sexual intercourse obtained through deceitful means, protecting victims of fraudulent relationships.³³ Enhanced protection for women includes stricter penalties for crimes against modesty, voyeurism, and stalking.³⁴ The legislation also provides for victim participation in case withdrawals when punishment exceeds seven years, ensuring victims' voices are heard in the justice process.³⁵

Removal of Archaic and Colonial Terms: The BNS systematically removes colonial references and archaic language. Terms like "lunatic," "insane," and "idiot" are replaced with "person of unsound mind."³⁶ References

²³ Anderson, Y.A. & Gröning, L., "Rehabilitation in Principle and Practice: Perspectives of Inmates and Officers," *Bergen Journal of Criminal Law & Criminal Justice*, 4(2), 2017, pp. 220-246.

²⁴ "Rehabilitation Lessons from Norway's Prison System," First Step Alliance Report, May 2024.

²⁵ "What Can We Learn From the Norwegian Prison System," *Berkeley Political Review*, October 25, 2022, citing official Norwegian government expenditure data.

²⁶ Bhuller, M., Dahl, G.B., Løken, K.V., & Mogstad, M., "Incarceration, Recidivism and Employment," NBER Working Paper 22648, September 2016.

²⁷ Norwegian Penal Code, maximum sentencing provisions, as amended in 2015 for specific crimes.

²⁸ Section 4, The Bharatiya Nyaya Sanhita, 2023.

²⁹ Bharatiya Nyaya Sanhita, 2023 - Key Highlights & Legal Insights," LexisNexis India, August 21, 2025.

³⁰ Braithwaite, J., "Restorative Justice and Responsive Regulation," Oxford University Press, 2002.

³¹ Impact of Bharatiya Nyaya Sanhita (2023) on Criminal Justice Reform," *Jus Corpus Law Journal*, August 18, 2025.

³² "Drawbacks of Bharatiya Nyaya Sanhita, 2023," *Drishti Judiciary*, analysis of definitional gaps.

³³ Section 69, The Bharatiya Nyaya Sanhita, 2023.

³⁴ Sections 74, 76, 77, The Bharatiya Nyaya Sanhita, 2023.

³⁵ Sections 473-477, The Bharatiya Nagarik Suraksha Sanhita, 2023.

³⁶ Sections 27, 28, 46, 107, The Bharatiya Nyaya Sanhita, 2023; corresponding to Sections 89, 90, 108, 305 of the Indian Penal Code, 1860.

to "Queen," "British India," and "Justice of the Peace" are eliminated, reflecting India's sovereign identity.³⁷ Sedition (Section 124A of IPC) is abolished and replaced with Section 152, which penalizes acts endangering sovereignty, unity, and integrity of India a narrower, more precisely defined offense.³⁸

New Offenses Addressing Contemporary Challenges: The BNS introduces several new offenses reflecting modern societal challenges:

- **Organized Crime (Sections 111-112):** The BNS codifies organized crime, previously addressed only through state-specific legislation like the Maharashtra Control of Organised Crime Act (MCOCA).³⁹ Section 111 defines organized crime as kidnapping, robbery, extortion, or cybercrime committed on behalf of a crime syndicate, with punishment extending to life imprisonment.⁴⁰ Section 112 addresses petty organized crime including vehicle theft and examination paper leaks.⁴¹
- **Terrorism (Section 113):** Terrorism is defined comprehensively as acts intended to threaten unity, integrity, security, or economic security of India, or to strike terror in people.⁴² The punishment includes death or life imprisonment for acts resulting in death. However, this duplication with the Unlawful Activities (Prevention) Act (UAPA) raises concerns about overlapping jurisdiction and potential misuse.⁴³
- **Mob Lynching (Section 103(2)):** Section 103(2) specifically addresses murder by groups of five or more persons on grounds of race, caste, community, sex, language, or personal belief, prescribing punishment of seven years to life imprisonment or death.⁴⁴ This provision responds to the disturbing rise in mob violence and vigilante justice in recent years.

Enhanced Punishments and Mandatory Minimums: The BNS significantly increases penalties for various offenses. For instance, theft punishments have been enhanced from three to five years for repeat offenders.⁴⁵ Fines have been substantially increased to reflect current monetary values a long-overdue adjustment given the IPC's 163-year history.⁴⁶ The legislation also introduces mandatory minimum punishments for serious offenses, ensuring consistency in sentencing.⁴⁷

Hit-and-Run Provisions: Section 106 addresses hit-and-run cases, prescribing up to ten years imprisonment for causing death through rash or negligent driving and fleeing the scene without reporting to police.⁴⁸ This provision aims to ensure accountability and timely medical assistance to victims.

Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023: Procedural Reforms

³⁷ Section 356, The Bharatiya Nyaya Sanhita, 2023 (Defamation provisions); corresponding to Section 499, Indian Penal Code, 1860.

³⁸ Section 152, The Bharatiya Nyaya Sanhita, 2023, replacing Section 124A (Sedition) of the Indian Penal Code, 1860.

³⁹ Maharashtra Control of Organised Crime Act, 1999 (MCOCA); similar laws in Karnataka, Gujarat, Uttar Pradesh, Haryana, and Rajasthan.

⁴⁰ Section 111, The Bharatiya Nyaya Sanhita, 2023.

⁴¹ Section 112, The Bharatiya Nyaya Sanhita, 2023.

⁴² Section 113, The Bharatiya Nyaya Sanhita, 2023.

⁴³ "The Bharatiya Nyaya (Second) Sanhita, 2023," PRS Legislative Research, analysis of overlap with UAPA, 1967.

⁴⁴ Section 103(2), The Bharatiya Nyaya Sanhita, 2023.

⁴⁵ Section 303(2), The Bharatiya Nyaya Sanhita, 2023, enhancing punishment for repeat theft offenses.

⁴⁶ "Reference Material on New Criminal Laws, 2023," Bureau of Police Research and Development, Government of India, May 2024.

⁴⁷ "Details of Mandatory minimum punishment in BNS," Ministry of Home Affairs compilation, 2024.

⁴⁸ Section 106, The Bharatiya Nyaya Sanhita, 2023.

- **Technology Integration and Digitalization:** The BNSS mandates comprehensive digitalization of criminal procedures from FIR registration to judgment delivery.⁴⁹ Electronic FIRs can be registered, and all trials, inquiries, and proceedings may be conducted electronically.⁵⁰ This technological integration promises increased efficiency, transparency, and accessibility of justice.
- **Mandatory Forensic Investigation:** Section 176 mandates forensic investigation for offenses punishable with seven years or more imprisonment.⁵¹ Forensic experts must visit crime scenes, collect evidence using scientific methods, and record the process electronically. If a state lacks forensic facilities, it must utilize facilities in other states. This provision elevates investigation quality and ensures evidence-based prosecutions.
- **Time-Bound Justice Delivery:** The BNSS prescribes specific timelines for various procedures, addressing the chronic problem of trial delays.⁵² Medical practitioners examining rape victims must submit reports within seven days.⁵³ Investigations for sexual offenses must be completed within two months.⁵⁴ Summary trials are made mandatory for specified offenses, expediting case disposal.⁵⁵
- **Expanded Powers for Evidence Collection:** Section 219 expands magistrates' powers to order collection of specimen signatures, handwriting, finger impressions, and voice samples, even from persons not arrested.⁵⁶ This enables more comprehensive investigations while potentially raising privacy concerns requiring careful balancing.
- **Victim and Witness Protection:** The BNSS strengthens victim and witness protection mechanisms. Special provisions protect disabled persons, women, and rape victims during inquests and investigations.⁵⁷ For inquest proceedings, vulnerable groups need not attend police stations unless willing.⁵⁸ These provisions recognize the secondary victimization often experienced during criminal proceedings.
- **Trial in Absentia for Proclaimed Offenders:** Section 356 permits trial and judgment in absentia for proclaimed offenders who have absconded to evade trial with no immediate prospect of arrest.⁵⁹ This provision prevents indefinite case delays when accused persons evade justice, though it raises concerns about fair trial rights.

Bharatiya Sakshya Adhiniyam (BSA) 2023: Evidence Law Modernization

- **Electronic and Digital Evidence Recognition:** The BSA's most significant reform is the comprehensive recognition of electronic and digital evidence as primary evidence.⁶⁰ Section 2(d) expands the definition of "document" to explicitly include electronic and digital records stored in semiconductor memory or communication devices.⁶¹ Section 2(e) defines "evidence" to encompass electronically given statements and digital records.⁶² Under the Indian Evidence Act 1872, electronic

⁴⁹ "Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023," PMFIAS Analysis, December 14, 2024.

⁵⁰ Section 173(1)(ii), The Bharatiya Nagarik Suraksha Sanhita, 2023 (E-FIR provisions).

⁵¹ Section 176, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵² "Bharatiya Nagarik Suraksha Sanhita: Paradigm Shift," LexisNexis India Blog, August 21, 2025.

⁵³ Section 52, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵⁴ Section 193, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵⁵ Sections 283-288, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵⁶ Section 219, The Bharatiya Nagarik Suraksha Sanhita, 2023, expanding Section 311A of the Code of Criminal Procedure, 1973.

⁵⁷ Section 195, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵⁸ Section 356, The Bharatiya Nagarik Suraksha Sanhita, 2023.

⁵⁹ "Bharatiya Sakshya Adhiniyam 2023: Key Reforms & Comparison," LexisNexis India, August 21, 2025.

⁶⁰ Section 2(d), The Bharatiya Sakshya Adhiniyam, 2023.

⁶¹ Section 2(e), The Bharatiya Sakshya Adhiniyam, 2023.

⁶² Anvar P.V. v. P.K. Basheer, Civil Appeal No. 4226 of 2012, Supreme Court of India, September 18, 2014.

records were treated as secondary evidence, requiring additional authentication.⁶³ The BSA elevates electronic records to primary evidence status, recognizing the digital nature of modern communication and commerce.⁶⁴ This change is crucial for prosecuting cybercrimes, online fraud, and digital financial crimes.

- **Expanded Scope of Secondary Evidence:** Section 58 significantly broadens secondary evidence to include oral and written admissions, and testimony from persons skilled in examining documents.⁶⁵ This expansion provides courts with greater flexibility in evidence admissibility, particularly for complex financial and technical documents.
- **Authentication and Chain of Custody:** The BSA introduces rigorous standards for validating digital evidence, requiring cryptographic techniques like hash values to ensure data integrity.⁶⁶ The Standing Committee on Home Affairs recommended mandatory secure handling and processing of electronic evidence through proper chain of custody procedures.⁶⁷ These safeguards are essential given the ease of digital evidence manipulation.
- **Expert Certification Requirements:** The BSA emphasizes expert certification for electronic evidence authentication, ensuring reliability and admissibility.⁶⁸ While this enhances evidentiary standards, it may increase workload for cyber forensic laboratories, necessitating infrastructure expansion and capacity building.⁶⁹

5. Implementation Challenges and Systemic Gaps

Infrastructure and Resource Constraints

India's criminal justice system faces severe infrastructural deficits that threaten effective reform implementation. Prison overcrowding remains acute, with occupancy rates exceeding 120% in many states. Most prisons lack adequate facilities for educational programs, vocational training, mental health services, or recreational activities essential for rehabilitation.⁷⁰ The mandatory forensic investigation requirement strains already limited forensic capacity. India has only 38 Central Forensic Science Laboratories and 18 State Forensic Science Laboratories serving a population of 1.4 billion.⁷¹ Establishing forensic facilities in every state and district requires massive investment in equipment, personnel, and training. Community service implementation requires developing robust monitoring systems, trained probation officers, and partnership frameworks with civil society organizations.⁷² Currently, India's probation services are severely understaffed and lack resources for effective supervision and support of community service programs.

Judicial Pendency and Case Backlog

⁶³ "Bharatiya Sakshya Adhiniyam 2023: A Comprehensive Guide," Vera Causa Legal, September 12, 2024.

⁶⁴ Section 58, The Bharatiya Sakshya Adhiniyam, 2023.

⁶⁵ "Implementing Bharatiya Sakshya Adhiniyam," Drishti IAS Editorial, discussing cryptographic validation requirements.

⁶⁶ Report No. 248, Standing Committee on Home Affairs on The Bharatiya Sakshya Bill, 2023, Rajya Sabha, November 10, 2023.

⁶⁷ "Evidence in the Bharatiya Sakshya Adhiniyam 2023," International Journal of Legal Learning and Research, October 2025.

⁶⁸ Mr. Virendra Khanna v. State of Karnataka, Writ Petition No. 11759 of 2020, Karnataka High Court, March 12, 2021 (guidelines for electronic evidence handling).

⁶⁹ National Crime Records Bureau, "Prison Statistics India 2022," Ministry of Home Affairs, Government of India.

⁷⁰ Directory of Forensic Science Laboratories in India, Ministry of Home Affairs, Government of India, 2024.

⁷¹ "Impact of Bharatiya Nyaya Sanhita (2023) on Criminal Justice Reform," Jus Corpus, August 2025.

⁷² National Judicial Data Grid, e-Courts Project, Government of India, data as of September 2024.

As of 2024, Indian courts face approximately 50 million pending cases, with criminal cases constituting a significant proportion.⁷³ Despite the BNSS's time-bound provisions, achieving speedy trials requires dramatically increasing judicial capacity through more judges, courts, and administrative support. Without addressing this fundamental bottleneck, reformatory measures risk becoming theoretical aspirations rather than practical realities.

Training and Capacity Building Needs

Successful implementation demands comprehensive training for all criminal justice stakeholders: judges, prosecutors, police officers, prison staff, and legal aid lawyers.⁷⁴ Understanding reformatory justice principles, implementing community service orders, conducting forensic investigations, and handling digital evidence requires specialized knowledge currently lacking across the system. Prison staff, traditionally trained in custodial security, must transform into facilitators of rehabilitation a paradigm shift requiring extensive retraining and cultural change. Norway's prison officers complete a two-year "correctional studies" program emphasizing psychology, social work, criminology, and conflict resolution. India must develop similar comprehensive training programs for corrections personnel.

Definitional Ambiguities and Potential for Misuse

Several BNS provisions suffer from vague definitions enabling inconsistent application or misuse. The terrorism definition in Section 113 includes ambiguous terms like "economic security," potentially leading to overbroad application.⁷⁵ The organized crime definition is criticized as overly broad, lacking clear parameters for what constitutes membership in a crime syndicate.⁷⁶ The absence of specific guidelines for community service implementation allows arbitrary determinations by different courts, potentially resulting in inconsistent or even exploitative practices. Clear regulatory frameworks must be developed to ensure uniform, fair, and effective community service programs.

Public Sentiment and Cultural Resistance

India's public sentiment largely favors retributive justice, with demands for harsh punishment dominating discourse after high-profile crimes.⁷⁷ Media coverage often sensationalizes crime and punishment, reinforcing retributive attitudes.⁷⁸ Implementing reformatory justice requires sustained public education about its benefits, success stories, and long-term societal advantages. Cultural attitudes toward crime and criminals pose significant barriers. The stigma attached to criminal convictions and imprisonment creates obstacles to post-release reintegration, employment, and social acceptance.⁷⁹ Without addressing these deep-rooted attitudes, even the most sophisticated rehabilitation programs may fail to achieve genuine reintegration.

Concerns About Increased Police Powers

The BNSS expands police powers in several areas, raising concerns about potential abuse. Extended police custody provisions, expanded arrest powers, and preliminary inquiry requirements without adequate safeguards

⁷³ "Bharatiya Nagarik Suraksha Sanhita 2023: History, Features & More," Testbook UPSC Preparation.

⁷⁴ Norwegian Correctional Service training requirements, official documentation, 2021.

⁷⁵ Section 113, The Bharatiya Nyaya Sanhita, 2023, terrorism definition critique.

⁷⁶ "Drawbacks of Bharatiya Nyaya Sanhita, 2023," Drishti Judiciary editorial analysis.

⁷⁷ Public opinion surveys on criminal justice, various Indian media sources, 2023-2024.

⁷⁸ Media analysis of crime reporting patterns in India, Centre for Media Studies, 2023.

⁷⁹ Uggem, C., Manza, J., & Behrens, A., "'Less than the average citizen': Stigma, role transition, and the civic reintegration of convicted felons," in *After Crime and Punishment: Pathways to Offender Reintegration*, Willan Publishing, 2004, pp. 261-293.

may lead to harassment and rights violations.⁸⁰ The power to attach property without trial court oversight lacks safeguards present in the Prevention of Money Laundering Act.⁸¹ Balancing effective law enforcement with constitutional protections remains a delicate challenge. Reforms must be accompanied by strong accountability mechanisms, independent oversight, and rigorous training on human rights and constitutional principles.

6. Comparative Analysis: Lessons from International Models

Scandinavian Penal Welfare Model

Beyond Norway, other Scandinavian countries demonstrate successful reformatory justice implementation. Sweden, Denmark, and Finland share similar philosophies emphasizing rehabilitation, education, and reintegration.⁸² These systems rest on strong social welfare foundations, comprehensive mental health and substance abuse treatment, robust employment support programs, and societal acceptance of rehabilitation.

Key success factors include:

- **Political Consensus:** Scandinavian countries maintain cross-party political consensus supporting rehabilitation over retribution, ensuring policy continuity regardless of electoral changes.⁸³
- **Extensive Social Support:** Comprehensive welfare systems provide housing, healthcare, education, and employment assistance, addressing root causes of criminal behavior.⁸⁴
- **Restorative Justice Practices:** Victim-offender mediation and community conferencing allow dialogue, accountability, and healing.⁸⁵
- **Small, Decentralized Institutions:** Small prisons and community-based corrections maintain human dignity and facilitate individualized rehabilitation.⁸⁶

Germany's Prison System

Germany combines elements of rehabilitation and security, achieving a recidivism rate of approximately 40%.⁸⁷ The German system emphasizes vocational training with prisoners earning recognized certifications, therapeutic programs addressing behavioral and substance abuse issues, and graduated release programs facilitating transition to freedom.⁸⁸ Germany's principle of *Resozialisierung* (resocialization) is constitutionally mandated, requiring the state to provide prisoners with opportunities for rehabilitation and societal reintegration.⁸⁹ This constitutional foundation ensures sustained commitment to reformatory principles.

United States: A Cautionary Tale

⁸⁰ "The Bharatiya Nagarik Suraksha (Second) Sanhita, 2023," PRS Legislative Research, concerns regarding police custody extensions.

⁸¹ Ibid., comparing with Prevention of Money Laundering Act, 2002 safeguards.

⁸² Pratt, J. & Eriksson, A., "Contrasts in Punishment: An Explanation of Anglophone Excess and Nordic Exceptionalism," Routledge, 2013.

⁸³ Norwegian political consensus on criminal justice, analysis of policy continuity across governments.

⁸⁴ OECD Social Expenditure Database, comparing social welfare spending in Scandinavian countries.

⁸⁵ Braithwaite, J., "Restorative Justice and Responsive Regulation," Oxford University Press, 2002.

⁸⁶ Directorate of Norwegian Correctional Service statistics on prison sizes and distribution.

⁸⁷ Jehle, J.M. & Harrendorf, S., "Defining and Registering Criminal Offences: Standards for a Comparative Analysis," German Federal Ministry of Justice, 2010.

⁸⁸ German Prison Act (Strafvollzugsgesetz), 1976, emphasizing resocialization.

⁸⁹ German Basic Law (Grundgesetz), Article 1 (human dignity) interpreted by Federal Constitutional Court to mandate rehabilitation.

The United States presents a contrasting model, demonstrating the failures of purely punitive approaches. With the world's highest incarceration rate (707 per 100,000 population) and recidivism rates exceeding 66%, the American system illustrates the ineffectiveness of retributive justice.⁹⁰ However, recent reforms in some U.S. states show promise. Oregon and North Dakota have adopted elements of the Norwegian model, emphasizing rehabilitation and reducing recidivism.⁹¹ These experiments demonstrate that even in punitive-oriented systems, reformative principles can be successfully implemented with political will and proper resources.

Applicability to India: Contextual Considerations

Directly transplanting Scandinavian models to India faces significant challenges:

- **Scale and Diversity:** India's population of 1.4 billion, immense cultural diversity, and socio-economic disparities create complexity absent in homogeneous Scandinavian societies.⁹²
- **Resource Constraints:** India's per capita GDP is substantially lower than Scandinavian nations, limiting financial resources for expensive rehabilitation programs.⁹³
- **Institutional Capacity:** India's weak institutional infrastructure, corruption, and governance challenges impede effective program implementation.⁹⁴
- **Cultural Factors:** Indian society's emphasis on retributive justice and family honor creates resistance to rehabilitation-focused approaches.⁹⁵

However, adaptation rather than adoption offers viable pathways. India can:

- Implement pilot programs in selected states, learning from successes and failures before national scaling;
- Prioritize community-based corrections and alternatives to imprisonment for minor offenses, reducing costs while enhancing effectiveness;
- Leverage existing community structures, NGOs, and civil society organizations for rehabilitation program delivery;
- Develop culturally appropriate rehabilitation models incorporating Indian philosophical traditions emphasizing reformation and second chances.

7. Conclusion

India's criminal justice reform through the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam represents a historic opportunity to transform a colonial-era punitive system into a modern, reformative, and victim-centric framework. These reforms embody a philosophical shift from viewing punishment as an end in itself to recognizing it as a means of reformation and rehabilitation, aligning with global best practices and contemporary criminological research. The introduction of community service as punishment, mandatory forensic investigation, comprehensive digital evidence provisions, and victim-centric procedures demonstrates progressive thinking and responsiveness to contemporary challenges. The removal of colonial vestiges and outdated language reflects India's sovereign identity and modern values. The specific provisions addressing organized crime, terrorism, and mob lynching respond to urgent contemporary threats to

⁹⁰ "Incarceration in Norway," Wikipedia, comparative statistics with United States incarceration and recidivism rates.

⁹¹ "Rehabilitation Lessons from Norway's Prison System," First Step Alliance, discussing Oregon and North Dakota reforms.

⁹² Census of India, 2011, demographic data; World Bank population statistics, 2024.

⁹³ World Bank GDP per capita data, comparing India with Scandinavian nations, 2023.

⁹⁴ World Bank Worldwide Governance Indicators, India's scores on various governance metrics.

⁹⁵ Sociological studies on Indian attitudes toward crime and punishment, various academic journals.

public safety and social harmony. However, the success of these reforms hinges not merely on legislative enactment but on comprehensive systemic transformation. The criminal justice system requires massive infrastructure development, judicial capacity expansion, professional training, and cultural change. Implementation challenges including resource constraints, infrastructural deficits, judicial pendency, definitional ambiguities, public sentiment favoring retribution, and potential for police power misuse must be addressed through careful planning, adequate resource allocation, and sustained political will. International experiences, particularly Norway's remarkably successful rehabilitative model, offer valuable lessons while highlighting the importance of contextual adaptation. India cannot simply transplant Scandinavian models but must develop contextually appropriate approaches leveraging existing community structures, incorporating cultural values, and addressing unique socio-economic realities.

The reformative outlook embodied in these codes represents more than legal reform; it reflects a fundamental rethinking of crime, punishment, and justice in Indian society. Success requires sustained commitment from all stakeholders: legislature, judiciary, executive, legal profession, civil society, and citizenry. The reforms must be accompanied by robust accountability mechanisms, independent oversight, data-driven evaluation, and willingness to learn and adapt based on implementation experiences. Ultimately, the measure of these reforms' success lies not in statutory provisions but in tangible outcomes: reduced recidivism rates, successful offender reintegration, victim satisfaction, public safety enhancement, and societal healing. If implemented effectively with adequate resources, political will, and societal support, India's reformed criminal justice system can transform from a colonial relic into a beacon of reformative justice, demonstrating that punishment and rehabilitation, deterrence and compassion, public safety and human dignity need not be mutually exclusive but can be synthesized into a just, effective, and humane system worthy of the world's largest democracy. The journey from legislative enactment to systemic transformation will be long and challenging, requiring patience, perseverance, and continuous refinement. However, the potential rewards a criminal justice system that reduces crime, reforms offenders, supports victims, and upholds constitutional values make this endeavor not merely desirable but essential for India's evolution as a mature, compassionate, and just society in the 21st century.