



LEX SILENTIA:

INTERPRETING THE UNSPOKEN

Bharatiya Nagrik Suraksha Sanhita, 2023

**BY . : Adv. Amandeep Kaur,
Adv. Ashima Mahajan, Adv. Yashika Bajaj**



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**Adv. Amandeep Kaur
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Chapter 2

Challenges in Implementing New Criminal Laws in India: Analytical Study

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Abstract

India's legal framework, rooted in a rich historical legacy, continues to adapt to evolving social, economic, and technological landscapes. However, the implementation of new criminal laws faces considerable obstacles, including systemic inefficiencies, lack of public awareness, resistance to change, and infrastructural constraints. This paper examines these challenges, offering insights into potential solutions to strengthen criminal law enforcement in India. While the country's criminal justice system has been shaped by its colonial past, it has progressively evolved to address modern concerns such as cybercrime, financial fraud, and gender-based violence. Despite the progressive intent behind these laws, their enforcement often falls short of expectations. This paper delves into the difficulties surrounding their enactment and implementation, highlighting key gaps within the system.

Keywords: Judicial Delays, Forensic Infrastructure, Human Rights, Judicial Overhaul, 'Training of Trainers' (TOT), National Judicial Data Grid

1. Introduction

Many new laws are drafted without adequately addressing overlaps with existing statutes, creating confusion among law enforcement agencies. Critics argue that the changes, however, are largely superficial. 'It's mostly old wine in a new bottle and a step backwards in many respects,' says Harish B Narasappa, a designated senior advocate and co-founder of Daksh, an Indian think-tank and research institution focused on law and justice system reforms and access to justice.¹ While opposition politician P Chidambaram has stated that "there are a few improvements in the new laws they could have been introduced as Amendments," Mandviwala estimates that 90% of the wording found in the new legislation has been preserved from the current statutes. Longer sentence periods and the creation of a more comprehensive sedition legislation that covers any conduct deemed to be "endangering the sovereignty, unity, and integrity of India" are the two primary amendments. The Repeal and Savings clause of the Nagarik Suraksha (Second) Sanhita provides that pending investigations, cases, trials, and inquiries will not be affected by the repeal of the Cr. P C and will continue to be governed by it.² But there will inevitably be ambiguities in the criminal justice system as a result of the New Codes' introduction. For example, it would be difficult to determine which laws would apply in situations when the police submit an accepted closure report and the party who feels wronged wants to reopen the case. Similarly, it is uncertain if the Nagarik Suraksha (Second) Sanhita clauses, which permit trial in absentia, might be used to resurrect cases that have been closed due to the non-appearance of a proclaimed offender. Uncertainty about the New Codes' implementation has already shown up in the form of pleas submitted to the Supreme Court and the Delhi High Court, respectively, asking for guidance on the laws' viability and practice directives pertaining to cases in which the cause of action originated before the New Codes were passed. Despite not having been notified, the

¹ Root, R., Criminal Law: New Legislation Leaves Indian Lawyers Confused and Ruining Missed Opportunities, International Bar Association, August 2, 2024, available at <https://www.ibanet.org/criminal%20law-new-legislation-leaves-indian-lawyers-confused-and-ruining-missed-opportunities> (last visited Dec. 23, 2024).

² A Comparative Analysis of the New Criminal Codes and the Existing Codes, India, Lexology, Jan. 16, 2024, available at <https://www.lexology.com/library/detail.aspx?g=5a4c16b0-4d5b-449d-985b-85dbf6fe3617> (last visited Dec. 23, 2024).

Karnataka High Court registry recently released objections to applications that were not filed in compliance with the New Codes.

The statutory implementation of timeframes, e-FIRs, and zero FIRs shows a progressive convergence with contemporary criminal procedure and technical improvements. The Bureau of Police Research and Development has formed a task force to train important officials in order to ensure a smooth implementation. Additionally, a 'Training of Trainers' (TOT) program has been established to deploy trainers throughout districts. Although there are still difficulties in aligning hiring, technology integration, and forensic enhancements with the aggressive December 2024 timetable, the Central Academy for Police Training will equip judicial officers for the shift. The New Codes' interim implementation is fraught with uncertainty until they are notified and judicial clarification is obtained.

Material and Methods

This research examines the challenges in implementing new criminal laws in India through a multidisciplinary approach, drawing from both primary and secondary sources. It entails a critical analysis of legislative enactments, statutory amendments, and policy frameworks, alongside judicial interpretations through landmark rulings. Reports from authoritative bodies such as the Law Commission of India and NCRB provide empirical insights, supplemented by scholarly discourse from legal commentaries and academic research. Additionally, media investigations offer contextual realities, while qualitative data from surveys, structured interviews, and expert opinions enrich the study with practical perspectives from legal practitioners, law enforcement, and policymakers. This study employs a multifaceted methodological framework, encompassing doctrinal analysis of statutes, case law, and policy instruments to ascertain legislative intent and applicability. Thematic scrutiny of legal and policy documents unveils systemic inefficiencies, resistance to reform, and public unawareness. Quantitative assessment, leveraging NCRB data and other empirical sources, evaluates legislative impact on crime trends and enforcement efficacy. By synthesizing these approaches, the research aims to dissect implementation barriers and propose strategic interventions for enhanced criminal law enforcement in India.

1.1 Hasty Legislation

Some laws are passed under public or political pressure without thorough deliberation, leading to vague or impractical provisions. Legal experts say that the new laws retain colonial-era provisions, introduce misogynistic elements, and encroach on the powers of States.³

1. The introduction of new criminal laws in India has caused significant confusion among lawyers due to the complexities and nuances of the legislation. Key issues arise from the interpretation of provisions, particularly those in the BNS, BNSS, and BSA, which introduce new definitions, penalties, and procedures. Ambiguities in language, unfamiliar legal concepts, and inconsistencies with existing laws create uncertainty in applying these provisions, leading to varying interpretations among legal professionals.
2. The application and enforcement of new criminal statutes have caused significant misunderstanding among attorneys. Understanding the various perspectives of various solicitors can help you better grasp it. Pradeep Rai, a senior Supreme Court advocate, expressed his opinion on the new criminal law's applicability. Even if the offence was reported or registered after the new criminal laws went into effect, the case will still be started under the old regulations if the date of the incident falls before July 1. This is because, prior to July 1st, when the offence was committed, there were no new laws in effect. Therefore, not even a portion of the new legislation applies in this situation. Because the new rules were not in effect when the crime was committed, a case involving a murder committed before to July 1 would be brought under the old statutes (Section 302 of the IPC) rather than the new ones.

³ New Criminal Laws Take Effect Amidst Legal Ambiguity: Interpretation Challenges Loom, Rest the Case, July 25, 2024, available at <https://restthecase.com/knowledge-bank/news/new-criminal-laws-take-effect-amidst-legal-ambiguity-interpretation-challenges-loom> (last visited Dec. 20, 2024).

Nipun Saxena, another Supreme Court attorney, disagreed. The issue occurs when the crime was committed before to July 1st and case information is obtained after that date. *"You are recording crimes under the new [evidence preservation] code, but under the old laws,"* Saxena stated in this particular situation. When asked how a case is decided whether the old or new law applies, he replied that *"the judge makes the decision in each case."* The debate is about what combination to apply: old substantive or new procedure; new evidence or old evidence," he stated. Despite their contradictory assertions, the two solicitors agreed that *"there is enormous confusion about which law governs where and what it governs."* Rai stated: "At first, there is misunderstanding. Only until the verdicts in subsequent trials are rendered will the situation become evident. He claimed that confusion arises from even minor departmental changes.

Lawyers have also been perplexed by practical issues pertaining to the application of these new statutes. Close attention is being paid to worries over the ability of the judiciary, law enforcement, and other stakeholders to successfully execute and enforce the new laws. The possible overlap between the new laws and current legislation is a major worry for attorneys. There are concerns regarding how the BNS, BNSS, and BSA will operate with and enhance the current legal system in light of their arrival. Civil law, administrative law, and constitutional law are just a few of the legal fields that frequently interact with new criminal legislation. It can be difficult and complicated for lawyers to reconcile these intersections and comprehend the interactions between provisions from other legal jurisdictions. The majority of law enforcement and attorneys have not received any official training. Since the implementation of the new criminal laws, the government has not started any programs to teach police officers and solicitors how to apply the legislation. Assuring adherence to updated legal standards and educating clients on the ramifications of new criminal legislation are important tasks for solicitors. Confusion among lawyers can arise when there are uncertainties about the scope of legal obligations and the potential consequences of non-compliance. Changes in procedural aspects, such as evidence handling, trial procedures, and sentencing guidelines, require lawyers to stay updated and adapt their litigation strategies accordingly.

Negative consequences for clients and procedural blunders may result from a failure to understand new needs. Lawyers may face real-world difficulties when adjusting to new legal frameworks during the early stages of their adoption. This entails adjusting to new forms, protocols, court procedures, and directives from judicial bodies. New criminal legislation have the potential to upend long-standing case law and precedents. It can be difficult for solicitors to forecast case outcomes and legal tactics because of the way these changes combine with current judicial interpretations and principles. New criminal legislation may call for modifications to litigation methods, such as defence, negotiation, plea bargaining, and appeals tactics. Attorneys must evaluate the effects of evolving legal requirements and sanctions on their clients' situations and modify their approaches accordingly. It might be difficult for solicitors to stay up to date on new advances through ongoing legal education and training. Professional development and continual learning are necessary to comprehend the nuances of new criminal statutes. Universities should also educate students on new criminal laws so they are familiar with them. Overall, new criminal laws add complexity that can cause lawyers to become confused, even while their goal is to improve the justice system's effectiveness and impartiality. To effectively navigate the changing legal landscape, addressing these issues calls for strong professional development programs, clear direction from legal authorities, and cooperation from legal professionals.

1.2 Periodic Amendments

Justice delivery is slowed down by a number of systematic obstacles, including a shortage of forensic experts and open police positions. These issues are not addressed by the laws. ⁴The laws contain several draughting errors, outdated illustrations, and omissions of some offense-related information. Constant revisions to laws result in inconsistencies, making it challenging for stakeholders to stay updated.

⁴ Analyzing the New Criminal Laws' Impact on India's Modern Legal Framework, Feb. 3, 2024, available at <https://www.starexuniversity.com/post/analysing-the-new-criminal-laws-impact-on-indias-modern-legal-framework> (last visited Dec. 23, 2024).

1.3 Institutional Barriers

Law enforcement personnel often lack the necessary training to interpret and enforce new criminal laws effectively. With millions of pending cases, the judiciary struggles to prioritize and adjudicate matters related to new laws. The criminal law can play a back-up role in the fight against corruption. Corruption within law enforcement agencies undermines the fair and just implementation of laws. Some offenses, like corruption, are covered under multiple laws, causing redundancy and potential legal conflicts.⁵

1.4 Infrastructural Deficiencies

Courts and police stations often lack basic infrastructure such as technology, forensic labs, and skilled personnel. In cases like cybercrime, the lack of advanced technological tools and expertise hampers the enforcement process. The implementation of new laws is often uneven, with rural areas facing significant challenges due to limited access to legal resources.

1.5 Social and Cultural Resistance

The history of the Indian legal order shows an intricate construction of institutions and codifications which relate to the British legal system, to Hindu or Muslim traditions (partly reinvented), and, since independence, to various international interactions. "The interplay between law and culture—be it local, religious, or national—has often taken center stage in legal debates, whether to advance a reformist legal agenda or to accommodate elements of personal law shaped by entrenched cultural narratives. In cases of gender-specific legislation like the Protection of Women from Domestic Violence Act, societal attitudes often hinder enforcement. Historical mistrust in the police and judiciary deters victims from reporting crimes. Many communities resist new laws that challenge traditional norms or practices. "Reforms were required in the existing criminal colonial laws through specific amendments and more deliberation with all stakeholders but not in this manner. Notably, these laws were passed arbitrarily, in haste, and without even proper debate in the Lower House and Upper House of Parliament," Advocate Gehlot added.⁷

1.6 Awareness and Outreach

One of India's most highly regarded senior advocates and former Additional Solicitor General Indira Jaising has said that if the three new criminal laws come into force on July 1, which is what the Union government intends, we will have "a legal and judicial mess" on our hands, adding specifically that "life and liberty could be in danger".⁸ A significant portion of the population remains unaware of their rights and the existence of new laws. Awareness campaigns are often poorly designed or fail to reach marginalized sections of society. India's linguistic diversity creates obstacles in disseminating legal information effectively.

1.8 Political and Bureaucratic Interference

According to the National Judicial Data Grid, there are over 4.7 crore cases pending in Indian courts across different levels of the judiciary. This leads to delays in justice delivery, violation of the right to speedy trial, and loss of public

⁵ Pavani, M., New Criminal Laws Criticized for Hasty Implementation and Superficial Changes, LawStreet, July 2, 2024, available at <https://lawstreet.co/vantage-points/new-criminal-laws-criticised-for-hasty-implementation-and-superficial-changes> (last visited Dec. 20, 2024).

⁶ Berti, D. & Tarabout, G., Criminal Proceedings in India and the Question of Culture: An Anthropological Perspective, Dec. 12, 2024, available at <https://shs.hal.science/halshs-00870593/document> (last visited Dec. 24, 2024).

⁷ As New Criminal Laws Come into Effect, Here's What Experts Think of Their Impact on the Legal System, Economic Times, July 1, 2024, available at <https://economictimes.indiatimes.com/news/india/as-new-criminal-laws-come-into-effect-heres-what-experts-think-of-their-impact-on-legal-system/articleshow/111391882.cms?from=mdr> (last visited Dec. 24, 2024).

⁸ Thapar, K., Full Text: Why Indira Jaising Thinks the New Criminal Laws Should Be Deferred, The Wire, June 24, 2024, available at <https://thewire.in/law/full-text-why-indira-jaising-thinks-the-new-criminal-laws-should-be-deferred> (last visited Dec. 24, 2024).

trust in the system.⁹ Law enforcement agencies often face pressure to selectively implement laws based on political agendas.

“The basic and fundamental problem regarding the police today is how to make them function as an efficient and impartial law enforcement agency fully motivated and guided by the objectives of service to the public at large, upholding the constitutional rights and liberty of the people.”

First Report of the National Police Commission. Government of India, 1979, P-7¹⁰

As long as democracy is the political benchmark of a civilized society, politics and Politian's will be an integral part of that society. Similarly, as long as there is society, there are bound to be cases of social deviance, warranting the presence of a system of policing.¹¹ The bureaucratic process involved in allocating funds and resources delays the operationalization of new laws. Weak mechanisms to hold officials accountable for lapses in implementation further exacerbate the issue.

1.8 Case Studies

A key introduction in the New Criminal Laws is the inclusion of 'Organized Crime' as a separate offence which defines organized crime as criminal activities, including cybercrimes and economic offences, committed by any person or a group of persons acting in concert, singly or jointly, either as a member or on behalf of an organized crime syndicate.¹² The Information Technology Act, 2000, and its amendments have faced challenges due to inadequate technical expertise among enforcement agencies. The three new codes have used technology as the fulcrum on which this foundational transition is to be leveraged. From the introduction of cybercrimes and electronic registration of FIRs to mandatory virtual recording of seized property, the new criminal laws have set about digitizing the Indian criminal system in the hopes of achieving efficiency, speed and equity in the delivery of justice to citizens.¹³

1.9 Challenges for Policing Systems

India's introduction of three new criminal laws marks a comprehensive overhaul of the country's criminal justice system. These laws encompass the entire spectrum of criminal jurisprudence, from defining offenses and outlining investigation procedures to governing court trials.¹⁴

⁹ Reforming Country's Criminal Justice System, Drishti IAS, Aug. 17, 2023, available at <https://www.drishtias.com/daily-updates/daily-news-editorials/reforming-country-s-criminal-justice-system> (last visited Dec. 24, 2024).

¹⁰ Policy Watch No. 18: Citizens and the State: Policing, Impunity, and the Rule of Law in India, The Hindu Centre, Mar. 1, 2024, available at <https://www.thehinducentre.com/incoming/citizens-and-the-state-policing-impunity-and-the-rule-of-law-in-india/article67887312.ece> (last visited Dec. 24, 2024).

¹¹ A Research Study on Creating a Functional Positive Police-Politician Interface for Public Order Maintenance, Sardar Vallabhbhai Patel National Police Academy, Oct. 5, 2018, available at https://www.svpnpa.gov.in/static/gallery/docs/27_researchcreatingfunctionalpositivepolice.pdf (last visited Dec. 24, 2024).

¹² Stringent Measures Against Cybercrimes in India's New Criminal Justice System, JSA Prism, July 15, 2024, available at <https://www.jsalaw.com/newsletters-and-updates/stringent-measures-against-cybercrimes-in-indias-new-criminal-justice-system/> (last visited Dec. 24, 2024).

¹³ The Impact of India's New Criminal Codes on Digital Businesses, BTG Advaya, Feb. 12, 2024, available at <https://www.lexology.com/library/detail.aspx?g=19877e24-cf39-4b8b-b99b-a2065706e983> (last visited Dec. 24, 2024).

¹⁴ Discuss the Potential Challenges Faced by the Policing and Judicial Systems with the Implementation of the New Criminal Laws. Suggest Ways to Mitigate These Challenges – 15 Marks, 250 Words, PW Only IAS, available at <https://pwonlyias.com/mains-answer-writing/discuss-the-potential-challenges-faced-by-the-policing-and-judicial-systems-with-the-implementation-of-the-new-criminal-laws-suggest-ways-to-mitigate-these-challenges-15-marks-250-words/> (last visited Dec. 20, 2024).

1. Training and Adaptation

The enforcement of these new laws necessitates extensive training for police officers to ensure they understand and apply the updated legal framework effectively. This process demands significant time and resources, placing additional pressure on existing training facilities. Example: The government has established a specialized task force comprising 3,000 officers dedicated to training and guiding police personnel and legal professionals on the new legislation.

2. Resource Allocation

The implementation of the new laws requires increased manpower, upgraded technology, and improved infrastructure, posing substantial financial and logistical challenges for police departments. Managing Forensic Science Laboratory vans and conducting mandatory forensic examinations for applicable cases demand significant resource investments.

2.1 ADDITIONAL CHALLENGES FOR POLICING SYSTEMS

1. Technological Integration: Modern law enforcement relies heavily on advanced technology, requiring officers to receive thorough training in utilizing digital evidence systems and crime analytics tools. Example: The transition to online FIR filing through the Crime and Criminal Tracking Network and Systems (CCTNS) required extensive training to help police personnel effectively process and manage digital complaints.

2. Public Engagement: The introduction of new laws often leads to heightened public queries and potential confusion. This calls for clear communication strategies and expanded community outreach efforts to educate citizens and address their concerns effectively.

3. Legal Proficiency: The new legislation's emphasis on expediting trials is one of their more ambitious features. Charges must now be framed within 60 days of the initial hearing, and judgments must be given within 45 days after the trial's conclusion. This raises questions about how well-equipped the system is to handle the strict deadlines. National Judicial Data Grid (NJDG) data show that 5.1 crore cases are pending across all courts. The workload that averaged 2,391 per judge in 2022 has gone up to 2,474 in 2024. This means trials take longer. The cascading effect is seen in the number of people being held in prisons while awaiting trial or investigation.¹⁵

Police officers must quickly develop a deep understanding of the complexities and nuances of the new laws. This is essential to avoid legal errors and ensure accurate and effective law enforcement practices.

2.2 POTENTIAL CHALLENGES FOR THE JUDICIAL SYSTEM

1. Training and Adaptation: The emphasis on 'Nyaya' and restorative justice is expected to lead to fairer and more effective outcomes for victims, offenders, and society as a whole.¹⁶ Judges and judicial staff require comprehensive training to accurately interpret and apply the new laws. This demands continuous education programs to ensure they stay updated on the changes.

2. Legal Precedents: The introduction of new laws may create uncertainties, as existing legal precedents may not align with the updated provisions. Judges must carefully differentiate between old and new legal provisions, especially when section numbers have changed, to avoid inconsistencies in their rulings.

¹⁵ Daruwala, M., New Criminal Codes, Same Old Challenges of the Justice System, Indian Express, available at <https://indianexpress.com/article/opinion/columns/new-criminal-codes-same-old-challenges-of-the-justice-system-9577694/> (last visited Dec. 23, 2024).

¹⁶ What is the Transformative Impact of India's New Criminal Laws?, Lingayas Vidyapeeth, available at <https://www.lingayasvidyapeeth.edu.in/what-is-the-transformative-impact-of-indias-new-criminal-laws/> (last visited Dec. 23, 2024).

3. Case Backlog: The transition to implementing new laws could exacerbate existing case backlogs as judges and lawyers adapt to the revised legal framework. In 2023, the Law Ministry reported over 5 crore pending cases across various courts, including 80,000 in the Supreme Court.

4. Resource Constraints: Courts may face resource shortages, such as outdated legal databases and a lack of skilled support staff, which could hinder the effective enforcement and administration of the new laws.

2.3 ADDITIONAL CHALLENGES FOR THE JUDICIAL SYSTEM

1. Judicial Interpretation: Ensuring consistent interpretation of the new laws across courts requires clear guidelines and authoritative rulings from higher courts to maintain uniformity in application. The inclusion of 'terrorism' as an offense under ordinary penal law, alongside existing special anti-terrorism legislation, is likely to create confusion and necessitates clarity.

2. Coordination with Law Enforcement: Effective collaboration between the judiciary and law enforcement agencies is essential for seamless implementation. This requires the establishment of clear protocols, regular communication, and joint training initiatives to enhance understanding and cooperation.

2.4 MITIGATION STRATEGIES

1. Training and Skilling: Comprehensive training programs and workshops should be developed for police, judicial officers, and legal professionals, incorporating online platforms and periodic refresher courses. The Bureau of Police Research and Development (BPR&D) has designed 13 training modules to enhance the skills of police officers, prison staff, prosecutors, judicial officers, forensic experts, and central police organizations.

2. Balancing Old and New Provisions: Detailed comparative guides and cross-referencing tools should be created to assist officers in understanding the transition from old to new provisions. Regular briefings and interactive Q&A sessions can further clarify ambiguities. The Bar Council of India has mandated that universities and legal education centers integrate the new laws into their curricula starting in the 2024-25 academic year.

3. Strengthening Forensic Infrastructure: Securing adequate funding, partnering with private forensic labs, and providing continuous training for forensic personnel are essential steps for effective resource management. Like, The National Informatics Centre (NIC) has developed e-Sakshya, a platform for electronic videography and photography of crime scenes.

4. Technology Integration in Judiciary: The judiciary should adopt a phased approach to technology integration, coupled with robust training and ongoing technical support for judicial staff. NIC has created applications like NyayShruti and e-Summon, enabling electronic delivery of court summons and conducting judicial hearings digitally.

5. Ensuring Uniformity in Judiciary: Standardized guidelines and procedures for interpreting the new laws should be implemented across all courts, with oversight by a central judicial authority to maintain consistency.

6. Public Awareness: Collaboration with law enforcement and community organizations is vital to educate the public about the new laws. Public education campaigns, accessible resources, and helplines can help address queries and concerns effectively. The new criminal laws aim to streamline legal processes, enhance transparency, and improve the efficiency of investigations and evidence management. These reforms are expected to deliver swifter and fairer justice, thereby strengthening the rule of law and fostering greater public trust in the judicial system.

1.11 Recommendations

The landscape of criminal law in India is undergoing a transformative phase, marked by a series of significant legislative reforms. These changes are aimed at addressing contemporary challenges, ensuring justice, and aligning the

legal framework with global standards.¹⁷ Regular training for police, prosecutors, and judges to ensure they are equipped to handle cases under new laws. Chief Justice of India DY Chandrachud, while speaking at a conference today (April 20), underscored that the new criminal laws will only bring positive changes if the required investments for infrastructure development and capacity building of forensic experts and investigating officers are made "as soon as possible."¹⁸ Investments in forensic labs, digital tools, and court infrastructure to improve efficiency. Also there is need to tailored campaigns in local languages to educate citizens about new laws and their rights. Great efforts are needed for establishing independent bodies to oversee the implementation of new laws and address grievances. Also Partnerships between government, civil society, and private entities to bridge resource gaps.

Conclusion

While India's evolving criminal laws reflect its commitment to addressing modern challenges, their effective implementation requires addressing systemic inefficiencies, building capacity, and fostering societal change. A holistic approach, involving all stakeholders, is essential to ensure justice and uphold the rule of law in the country. The older regime was conceptualized and implemented during the colonial era. While several amendments occurred post independence, the colonial era laws were proving to be cumbersome for effective and quick judicial dispensation.¹⁹ By replacing colonial-era laws with a contemporary, effective, and inclusive framework that is adapted to modern needs and technological advancements, the new laws, Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam mark a revolutionary step in India's criminal justice system. In a landmark development, India has introduced three new criminal laws aimed at enhancing justice, security, and accountability within its legal framework. These laws, collectively known as The Bharatiya Nyaya Sanhita, 2023; The Bharatiya Nagarik Suraksha Sanhita, 2023; and The Bharatiya Sakshya Adhiniyam Act, 2023 mark a significant departure in the nation's approach to law enforcement and protection of citizens' rights. Let's delve into these legislations to understand their implications and potential impact on Indian society.²⁰

Every day, since July 1, 2024, the country's 17,535 police stations have been grappling with the implementation of three new criminal laws. Pursuing investigation, filing charge sheets, attending court hearings in respect of both old and new laws, can be fairly tricky especially when a whole lot of new features are introduced — imposing further responsibility, without providing any additional resources.²¹ There are fresh challenges every day. Therefore, the new process cannot be followed for impromptu searches or seizures, and in every major instance, the forensic team as required cannot get to the more than 9,000 rural police stations in time. Will the system be redesigned by the new criminal laws? Is this a significant step in the direction of decolonization? Most evidence points to the answer being no. In actuality, these laws can yet be repealed. While considering a number of Public Interest Litigations (PILs) challenging the new laws, the Madras High Court claimed that the new nomenclature had created confusion and questioned why the Law Commission had not been called to draft them. Furthermore, changes to previous laws would have been adequate if fewer than 10% of the laws were to be altered. Sandeep Bajaj Advocate, Supreme Court of India has said,

¹⁷ Standard Operating Procedures for New Criminal Laws Effective from 1 July 2024, Bureau of Police Research and Development, June 28, 2024, available at https://bprd.nic.in/uploads/pdf/Standard_Operating_Procedures.pdf (last visited Dec. 24, 2024).

¹⁸ Khanna, G., New Criminal Laws Would Produce Positive Impact Only If Infrastructure Development & Capacity Building Are Done: CJI DY Chandrachud, Live Law, Apr. 20, 2024, available at <https://www.livelaw.in/top-stories/new-criminal-laws-would-produce-positive-impact-only-if-infrastructure-development-capacity-building-are-done-cji-dy-chandrachud-255623> (last visited Dec. 24, 2024).

¹⁹ Singh, L. G., Implementation of Three New Laws, Conference of Governors, Rashtrapati Bhavan, New Delhi, Aug. 2–3, 2024, available at <https://cdnbbsr.s3waas.gov.in/s3978d76676f5e7918f81d28e7d092ca0d/uploads/2024/09/202409122002279314.pdf> (last visited Dec. 20, 2024).

²⁰ Exploring India's New Criminal Laws: A Paradigm Shift in Legal Framework, Manipur MyGov, Sept. 2, 2024, available at <https://blog.mygov.in/exploring-indias-new-criminal-laws-a-paradigm-shift-in-legal-framework/> (last visited Oct. 20, 2024).

²¹ Azad, Y., Hegde, S. & Vij, R. K., Why India's New Criminal Laws Need to Be Rolled Back, The Wire, Aug. 29, 2024, available at <https://thewire.in/law/why-indias-new-criminal-laws-need-to-be-rolled-back> (last visited Dec. 20, 2024).

“The Introduction of new Criminal Laws can be a bumpy road for both Lawyers and Litigants. New Laws mean new procedures, interpretations, and potential loopholes, resultantly Lawyers will need to get familiar with the new statutes whereas litigants might struggle to understand their rights and obligations.”²²

The success of the new criminal laws, which seek to modernize India's legal system, depends on resolving transitional issues, enhancing judicial infrastructure, and guaranteeing proper training. While Supreme Court precedents will offer continuity, accelerating judicial procedures and clearing backlogs will require consistent work and funding.

²² Online Bureau, ETLegal World, New Criminal Laws Landmark; Training and Administrative Burden a Challenge, Says Legal Expert, July 2, 2024, available at <https://legal.economictimes.indiatimes.com/news/law-policy/new-criminal-laws-landmark-training-and-administrative-burden-a-challenge-says-legal-experts/111424784> (last visited Dec. 20, 2024).

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