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YOJANA MAGAZINE ANALYSIS

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(Part 3/3)

TOPICS TO BE COVERED

PART 1/3

- **EVOLUTION OF INDIAN CONSTITUTION: CONSTITUTIONAL AMENDMENTS**
- **ROLE OF INDIAN CONSTITUTION IN PROMOTING SOCIAL JUSTICE**

PART 2/3

- **FUTURE OF AI IN INDIA**
- **CRIMINAL JUSTICE REFORMS: EVALUATING BNS**

PART 3/3

- **REDEFINING LAW IN A CYBER AGE: INDIA'S LEGISLATIVE SHIFT AGAINST MODERN CRIME**

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REDEFINING LAW IN A CYBER AGE: INDIA'S LEGISLATIVE SHIFT AGAINST MODERN CRIME

Introduction :

The digital age has dramatically reshaped the way people interact, but it has also led to a significant increase in cybercrime. India, as a rapidly growing digital economy, faces a surge in online crimes like fraud, data breaches, and cyber espionage.

In response, India has introduced three key legislative reforms:

- **Bharatiya Nyay Sanhita (BNS)**
- **Bharatiya Nagrik Suraksha Sanhita (BNSS)**
- **Bharatiya Sakshya Adhinyam (BSA)**

These laws are designed to modernize India's criminal justice system to effectively tackle cybercrime and secure the country's digital future.

EVOLUTION OF CYBERCRIME & ITS CHALLENGES

- **Historical Perspective:** Traditionally, India's criminal justice system was built to handle physical crimes with clear evidence such as fingerprints, testimonies, or

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footprints. These crimes had geographic boundaries, and law enforcement could effectively operate within these limits.

- **Cybercrime Characteristics:** Unlike traditional crimes, cybercrime operates in a **borderless digital world.** **Cybercriminals can operate globally, exploiting weaknesses in digital infrastructure,** committing fraud, and stealing data without leaving physical evidence. **The evidence, typically in the form of digital data, can be easily hidden or erased,** complicating investigations and prosecutions.
- **Challenges in Investigation:** Cybercrimes often **lack tangible evidence, making it harder for authorities to gather proof and prosecute offenders.** Moreover, **criminals can conceal their tracks behind encrypted data, multiple servers, or even destroy digital footprints entirely.** These issues highlight the need for a legal framework that adapts to the complexities of the digital age.

BNS: A MODERN APPROACH TO CRIME JURISDICTION

- **Virtual Jurisdiction:** The **Bharatiya Nyay Sanhita (BNS)** focuses on adapting India's legal framework to deal with the digital era. It shifts from the traditional concept of jurisdiction, **where crimes happen within physical boundaries, to virtual**

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jurisdiction—where crimes can occur across multiple locations, both within India and globally.

- **Example of Cybercrime:** For instance, in the **case of a cyberattack on a bank, the victim might be in one state, the server could be in another, and the criminal could be located in yet another state or country.** The BNS allows law enforcement agencies to act across different jurisdictions, enabling them to pursue cybercriminals regardless of geographical location.
- **Key Function:** It ensures that investigations and prosecutions are not limited by physical boundaries, making the criminal justice system more efficient in the digital age.

BNSS: ENHANCING SECURITY IN THE DIGITAL AGE

- **Focus on Protection:** The **Bhartiya Nagrik Suraksha Sanhita (BNSS)** complements the BNS by focusing on safeguarding citizens in a digital environment. It **addresses the rising scale and sophistication of cybercrime and equips law enforcement agencies** with the tools necessary to combat these modern threats.
- **Section 176(3):** One important provision is **Section 176(3), which mandates forensic audits in cases involving cybercrime, especially when financial fraud or data**

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theft is involved. This provision acknowledges that digital evidence can be hidden or erased and provides a framework for more thorough investigations.

- **Digital Forensics:** The BNSs strengthens digital forensic practices, allowing investigators to analyze large volumes of data, trace encrypted communications, and track digital footprints. This approach standardizes forensic investigations, ensuring that digital evidence is preserved and analyzed properly.

BSA: REVOLUTIONISING DIGITAL EVIDENCE HANDLING

- **Handling Digital Evidence:** The **Bharatiya Sakshya Adhiniyam (BSA)** provides clear guidelines for the collection, preservation, and presentation of digital evidence. **Unlike physical evidence, digital data can be easily modified or deleted, making it crucial to follow strict protocols to ensure its integrity.**
- **Admissibility in Court:** In cyber crimes such as identity theft or online fraud, digital evidence may include email records, transaction histories, or social media activity. The BSA ensures this evidence is handled with the same care as physical evidence, **making it admissible in court and helping to strengthen the prosecution's case.**

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- **Ensuring Justice:** By standardizing the processes for handling digital evidence, the BSA ensures that justice is not delayed or denied due to procedural issues, **safeguarding individuals from cybercriminals who might attempt to manipulate or destroy evidence.**

THE NEED FOR SPECIALISED CYBER CRIME UNITS & DIGITAL FORENSICS

- **Specialized Expertise:** Investigating cybercrime requires specialized skills in digital forensics. **While India already has cybercrime units in several states, the increasing scale and complexity of cybercrime demand further strengthening of these units.**
- **Investment in Infrastructure:** For effective cybercrime investigations, India needs to invest in digital forensic laboratories, provide advanced training programs for police officers, and upgrade existing infrastructure. **This will ensure that law enforcement agencies can keep pace with the rapidly evolving landscape of cybercrime.**

LOOKING AHEAD

- **Adapting to Emerging Threats:** The introduction of the **BNS, BNSS, and BSA is a significant step in modernizing India's criminal justice system. However, as**

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technologies like artificial intelligence, blockchain, and quantum computing evolve, new forms of cybercrime will emerge.

- **Continuous Investment:** To remain effective, **India's legal system must be agile and adaptable, with continuous investment in cybersecurity, digital forensics, and law enforcement training.** This ongoing effort will ensure that the system can address the challenges posed by emerging cyber threats.

CONCLUSION

The **BNS**, **BNSS**, and **BSA** represent a forward-thinking approach to digital security, equipping India's legal system to tackle the growing threat of cybercrime. By strengthening specialized cyber crime units, enhancing digital forensic capabilities, and providing law enforcement with the necessary tools and knowledge, India is laying the foundation for a safer digital future. However, these reforms must be supported by robust infrastructure, continuous training, and an unwavering commitment to adapt to the evolving nature of cybercrime.

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