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# YOJANA MAGAZINE ANALYSIS

(November 2024)

(Part 2/3)

## 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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# FUTURE OF AI IN INDIA

## Introduction

- The integration of **Artificial Intelligence (AI)** is revolutionizing sectors like **commerce**, **governance**, and **law enforcement** in India.
- This rapid technological evolution presents significant challenges, particularly in balancing **innovation** with concerns around **privacy** and **ethics**.

## KEY LEGISLATIONS SHAPING AI IN INDIA

- **Digital Personal Data Protection Act (DPDP Act) 2023:**
  - Regulates the collection, storage, and processing of **personal data**, especially **behavioral data**.
  - Empowers users with rights to **access**, **correct**, and **erase** their data, thereby prioritizing **data protection** and **privacy**.
- **Bharatiya Nyaya Sanhita (BNS) 2023:**
  - A law focusing on **criminal investigations**, with provisions for the use of **AI** in enhancing investigative processes.

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- It provides legal support for the **seizure of digital devices** and **access to personal data** for criminal investigations, reinforcing **digital forensics**.

## AI & PROFILING

- **Profiling** in AI involves analyzing **behavioral data** (e.g., user interactions, online activities) to predict potential outcomes.
  - Common in **personalized services** such as **recommendation engines**, **financial risk assessments**, and **targeted advertising**.
- **Privacy Concerns:**
  - Profiling raises significant **privacy issues**, as it involves **deep analysis of personal data without explicit user consent or transparency**.
- **PDP Act 2023 and Profiling:**
  - The **DPDP Act 2023** defines **behavioral data** as **personal data** and gives individuals the right to:
    - **Access** and **correct** their data.
    - **Erase** their data, if they choose.
  - This regulation challenges traditional AI models that rely on **continuous data aggregation** to deliver services like targeted ads and recommendations.

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## GLOBAL CONTEXT OF AI REGULATION

- India's approach to **AI governance** aligns with global standards such as:
  - **EU's General Data Protection Regulation (GDPR):**
    - GDPR requires **explicit consent** for data collection and mandates **privacy-centric AI systems**.
    - GDPR's principles of **data minimization** and **user control** resonate with India's DPDP Act, ensuring that privacy rights are upheld while leveraging AI for innovation.
  - **Global and Domestic Shifts:**
    - Both domestic laws (DPDP Act) and international regulations (GDPR) reflect a global trend towards **safeguarding user rights** while allowing technological advancements.

## AI IN CRIMINAL INVESTIGATION

- **AI in Law Enforcement:**
  - **Predictive Policing:** AI algorithms are used to **analyze data** and predict potential criminal activities, helping law enforcement agencies prevent crimes before they occur.

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- **Example: UK's National Crime Agency (NCA)** uses AI to monitor online behavior and combat **child exploitation** by identifying at-risk individuals and potential perpetrators.
- **Applications of AI in India:**
  - **Crime Investigations:** AI systems analyze large datasets (e.g., **social media activity, location history**) to detect **fraud, cybercrime, and terrorist activities**.
  - The **BNS 2023** enhances law enforcement's capabilities to handle **digital evidence, such as seizing devices and accessing personal data for investigation purposes**.
- **Role of AI in Crime Prevention:**
  - AI enables predictive policing by identifying **crime patterns** and forecasting potential crimes.
  - **Example:** In the **UK, the NCA uses AI to track online behavior and identify child exploitation risks**. This system provides **preemptive interventions** and helps **prevent** crimes before they occur.

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## CHALLENGES & ETHICAL CONCERNS

- **Privacy Risks:**

- The **expansion of law enforcement powers** to access personal data can lead to **unlawful surveillance** and **privacy violations**.
- Adequate **oversight mechanisms** are necessary to protect individual rights and prevent misuse of this data.

- **Bias in Algorithms:**

- AI systems, especially in predictive policing, can perpetuate existing biases if trained on **biased data**.
- This could lead to **discriminatory outcomes** based on race, gender, socio-economic status, etc., disproportionately affecting marginalized communities.

- **Accountability and Oversight:**

- Ensuring **algorithmic transparency** and **judicial oversight** is crucial to maintaining **accountability** in AI deployment.
- Lack of oversight could lead to the **misuse** of AI in criminal investigations, potentially violating rights and freedoms.

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## CHALLENGES & WAY AHEAD

- **Balancing Innovation with Privacy and Fairness:**

- The **DPDP Act 2023** provides robust protection for **personal data**, but this may create challenges for businesses that rely on extensive data usage.
- The **BNS 2023** allows the use of AI in **predictive policing**, but its implementation requires ethical standards and proper **training** for law enforcement.

- **Key Priorities for AI in India:**

- **Auditing AI tools** to prevent **biases** and ensure that AI systems are **fair** and **transparent**.
- Establishing **transparency** in algorithmic decisions and **judicial oversight** to ensure fairness in criminal justice applications.
- Implementing **user safeguards**, such as the ability to **correct** and **erase** personal data.

- **Global Frameworks as Guidance:**

- **EU's GDPR** and **UK's NCA** serve as **models** for India in creating AI systems that respect individual rights while benefiting society as a whole.

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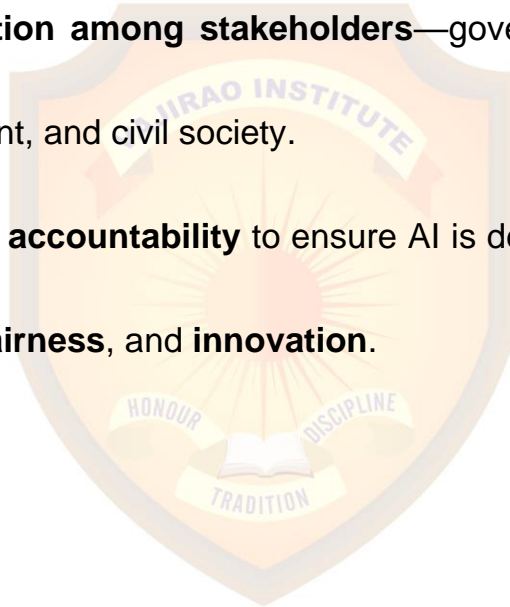


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- **India's Future with AI:**

- India's future in AI requires:

- **Evolving legal frameworks** to keep pace with technological advancements.
- **Collaboration among stakeholders**—government, tech companies, law enforcement, and civil society.
- A focus on **accountability** to ensure AI is deployed responsibly, balancing **privacy, fairness, and innovation.**



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# CRIMINAL JUSTICE REFORMS: EVALUATING BNS

## Introduction

- The **Bharatiya Nyay Sanhita (BNS) 2023** replaces the **Indian Penal Code (IPC) 1860**, marking a significant shift from **punitive justice** (focused on punishment) to **restorative justice** (focused on rehabilitation and protection).
- Alongside the **Bhartiya Nagrik Suraksha Sanhita (BNSS) 2024** and **Bharatiya Sakshya Adhiniyam (BSA) 2023**, these reforms aim to **decolonize** India's legal system and address modern-day challenges.
- These laws come into effect from **1 July 2024**.

## KEY FEATURES & CHANGES

### Philosophical Shift in Justice

- The **BNS 2023** emphasizes **justice delivery** over mere punishment, protecting vulnerable groups and focusing on **social rehabilitation**.
  - Unlike the **colonial-era IPC**, which was **punitive in nature**, the **BNS** seeks to adopt a more **restorative approach**, focusing on **rehabilitation, protection, and reintegration** into society.

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## Unmasking Organized Crime

- BNS takes strong measures against **organized crime**, with provisions to combat **syndicate-based crimes, terrorism, and hate crimes**, among other significant threats to societal stability.

## KEY ADDITIONS IN BNS

### A. New Offences Against Women and Children

- **Deceptive Relationships (Section 69):**
  - Criminalizes sexual intercourse through deceit or identity suppression.
  - Penalty: **up to 10 years' imprisonment.**
  - Resolves ambiguities in past legal interpretations, strengthening **protections for victims.**
- **Exploitation of Children (Section 95):**
  - **Penalizes the use of children to commit offences, particularly sexual exploitation or pornography.**
  - Penalty: **Minimum 3 years' imprisonment.**
  - Tackles **misuse of minors** by organized criminals and sexual exploiters.

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## B. New Offences Against Human Body

- **Mob Lynching (Section 103(2)):**

- **Punishes group murders (5+ people)** motivated by discriminatory or prejudiced reasons.
- Penalty: **Death or life imprisonment.**
- Implements **Supreme Court's 2018 guidelines** for mob violence (**Tehseen Poonawalla case**).

- **Organized Crime (Section 111):**

- Defines and criminalizes crimes committed by criminal syndicates, including **land grabbing, cybercrimes, and trafficking.**

- **Petty Organized Crime (Section 112(1)):**

- Introduces penalties for **minor syndicate crimes**, including **snatching, gambling, and unauthorized betting.**

- **Grievous Hurt and Hate Crimes (Section 117):**

- Addresses **grievous hurt** that causes permanent disability or vegetative states (**e.g., Aruna Shanbaug case**), with punishments of **life imprisonment.**
- Penalizes hate-motivated violence with **up to 7 years imprisonment.**

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## C. Offences Against the Nation

- **Defining Terrorism (Section 113):**

- Defines **terrorism** as acts aimed at **undermining India's sovereignty, unity, or security.**
- Provides a **legal framework** to combat domestic and international **terrorist threats.**

- **Acts Endangering Sovereignty and Integrity (Section 152):**

- Replaces the colonial **sedition law (Section 124A of IPC)** with provisions targeting actions that threaten India's unity.
- **Punishment: Life imprisonment or up to 7 years** with a fine, particularly for **secessionist or separatist** activities.

- **Protection of Public Servants (Section 195(2)):**

- Penalizes threats or use of **criminal force** against public servants during **riot control or dispersing unlawful assemblies.**
- Penalty: **Up to 1 year imprisonment** or fines.

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- **Tackling Misinformation (Section 197(1)(d)):**
  - Legal provisions to address **fake news** and **propaganda** on social media and traditional media.
  - Balances the need for **public safety** with **freedom of speech** under **Article 19(1)(a)**.
- **Extraterritorial Abetment (Section 48):**
  - Penalizes individuals outside India who **abet crimes** within the country.
  - Allows **trials** for absconding abettors under the **Bharatiya Sakshya Adhiniyam**, circumventing **extradition issues**.

#### **D. Offences Against Property**

- **Snatching (Section 304(1)):**
  - Defines theft involving the **forcible seizure** of movable property, particularly addressing **chain and mobile snatching**.
  - Focuses on crimes that disproportionately target vulnerable groups like **women** and the **elderly**, with a provision that was absent in the IPC.

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## E. Expanded Definitions

- **Child (Section 2(3)):**

- **Child** is defined as anyone below **18 years of age**, standardizing the definition across laws.

- **Gender (Section 2(10)):**

- Expands the definition of **gender** to include **males, females, and transgenders**.
- Ensures **equal legal protection** for **transgender individuals**, in line with the **Supreme Court's 2014 judgment**.

## F. New Punishment Provision

- **Community Service (Section 4(f)):**

- Introduces **community service** as a punishment for **first-time petty offenders**.
- Inspired by **Indian restorative justice philosophy**, this provision aims to rehabilitate offenders through **constructive societal contributions** rather than traditional punitive measures.

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## IMPACT OF BNS ON CRIMINAL JUSTICE REFORM

### Restorative Justice Focus

- The **BNS 2023** shifts the focus from **punishment** to **restorative justice**, emphasizing **rehabilitation, protection, and prevention**.
- It provides more comprehensive protections for **women, children, and marginalized groups**, addressing **gender and social justice issues** that were not adequately addressed in the IPC.

### Combatting Modern Crimes

- The introduction of **new offences** (e.g., **deceptive relationships, mob lynching, organized crime**) reflects the evolving nature of criminal activity in India.
- The legal framework offers stronger tools to **counter emerging threats**, such as **cybercrimes, terrorism, and hate crimes**.

## FAKE NEWS & ORGANISED CRIME

- The **BNS** introduces provisions to **counter fake news, terrorism, and misuse of digital platforms**, enhancing **national security** while balancing **freedom of speech**.

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- The removal of the **sedition law (Section 124A of IPC)** aligns with the shift towards a more **democratic** and **progressive legal framework**.

### Addressing Organized Crime

- The introduction of laws targeting **organized crime** (e.g., **land grabbing, human trafficking, cybercrimes**) strengthens India's capacity to tackle large-scale, syndicated criminal activities that were previously difficult to prosecute.

### CONCLUSION

The **Bharatiya Nyaya Sanhita (BNS) 2023**, along with other legal reforms like the **BNSS 2024** and **BSA 2023**, marks a significant step towards **modernizing India's criminal justice system**. By addressing contemporary issues such as **organized crime, terrorism, and gender-based violence**, the **BNS 2023** aims to create a more **equitable, effective, and restorative** justice system, while ensuring protection for vulnerable populations and enhancing national security.

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