

From IPC to BNS: Evolution of India's Criminal Justice System

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ABSTRACT

The codification of substantive criminal law in India under the British Raj culminated in the Indian Penal Code (IPC) of 1860, drafted primarily by Lord Thomas Babington Macaulay. While the IPC stood as an enduring monument of colonial jurisprudence for over 160 years, its underlying philosophy remained rooted in imperial hegemony, social control, and state preservation rather than citizen-centric welfare. In December 2023, the Parliament of India enacted the Bharatiya Nyaya Sanhita (BNS), 2023, which completely repealed and replaced the IPC, coming into full operational effect on July 1, 2024, with continued systemic adjustments extending into 2025. This article provides a comprehensive academic and critical evaluation of this historic transition from the IPC to the BNS. It traces the historical trajectory of criminal codification in India, identifies the systemic failures that necessitated the repeal of the IPC, and dissects the structural and substantive reforms introduced by the BNS. Through comparative analysis, the paper highlights how colonial anachronisms like sedition (Section 124A IPC) have been recast into contemporary offenses against state sovereignty (Section 152 BNS), while modern developments such as organized crime, terrorism, mob lynching, and digital criminality have been explicitly institutionalized. It simultaneously probes critical human rights implications, potential enforcement overreach, and structural implementation bottlenecks across India's law enforcement and judicial apparatus. The article concludes that while the BNS marks a structural paradigm shift toward an indigenous and victim-centric framework, its success remains contingent upon robust judicial safeguards, institutional readiness, and the democratic containment of systemic abuse.

Keywords: *Bharatiya Nyaya Sanhita (BNS), Indian Penal Code (IPC), Decolonization of Jurisprudence, Criminal Law Reform, Sovereignty, Organized Crime, Judicial Administration.*

1. INTRODUCTION

The architecture of a nation's criminal justice system is a profound reflection of its constitutional values, socio-political ethos, and structural alignment with human rights. For over sixteen decades, substantive criminal jurisprudence in India was dictated by the Indian Penal Code (IPC), 1860—a monumental legislative product of the British colonial enterprise designed by the First Law Commission under the chairmanship of Lord Thomas Babington Macaulay. Enacted in the wake of the 1857 Uprising, the primary objective of the IPC was not the vindication of citizen rights or democratic liberties, but rather the consolidation of colonial authority, preservation of public order against native insurgencies, and structural subjugation of the populace. Despite India's transition into an independent, sovereign democratic republic in 1947 and the subsequent adoption of a progressive, rights-oriented Constitution in 1950, the statutory core of criminal liability remained practically unchanged. The IPC continued to operate via patchwork amendments, resulting in an ideological fracture between an authoritarian statutory code and a constitutional framework dedicated to individual liberty and human dignity under Articles 14, 19, and 21.

The introduction of the Bharatiya Nyaya Sanhita (BNS), 2023, which officially replaced the IPC with effect from July 1, 2024, represents one of the most comprehensive legislative overhauls in the history of the Commonwealth. Spearheaded by the Ministry of Home Affairs and informed by the recommendations of the Committee for Reforms in Criminal Laws (CRCL) established in 2020, the BNS seeks to break free from the 'colonial mindset' that prioritized the state over the individual. It aims to reposition the paradigm of penal law from one of punitive deterrence and imperial control to one of justice delivery, national security consolidation, and victim-centric alignment. This shift has triggered intense academic

debate, parliamentary scrutiny, and operational friction within the judiciary and law enforcement agencies, extending into 2025 as the nation transitions to the new statutory matrix.

This paper aims to critically evaluate the systemic, jurisprudential, and structural evolution of Indian criminal law from the IPC to the BNS. The primary research objectives are fourfold: first, to interrogate the historical and ideological foundations of Macaulay's penal code and examine its operational friction with modern constitutionalism; second, to critically dissect the substantive transformations introduced by the BNS, including the institutionalization of terrorism, organized crime, and gender justice; third, to conduct a comparative analysis of the provisions, identifying structural advantages and systemic vulnerabilities; and fourth, to examine the constitutional, judicial, and logistical challenges confronting the implementation of the BNS up to the year 2025. Employing a doctrinal and analytical research methodology, this study draws upon parliamentary standing committee reports, statutory provisions, landmark Supreme Court jurisprudence, and comparative international criminal legal doctrines to evaluate whether the BNS achieves genuine decolonization or merely wraps colonial coercion in an indigenous nomenclature.

HISTORICAL EVOLUTION OF CRIMINAL LAW IN INDIA

Pre-Colonial Justice Systems

Prior to British intervention, criminal justice in the Indian subcontinent was pluralistic, decentralized, and governed by deep-seated religious, textual, and customary frameworks. In Hindu jurisprudence, the concept of Dharma regulated societal conduct, with penal texts such as the Manusmriti, Yajnavalkya Smriti, and Kautilya's Arthashastra defining offenses and prescriptions for punishment (Danda). Crimes were often categorized by their spiritual and social impact, and punishments varied drastically depending on the caste (varna) hierarchy of both the perpetrator and the victim. Following the establishment of the Mughal Empire, Islamic criminal law (via the Hanafi school of Fiqh) was institutionalized across major regions, classifying offenses into Qisas (retaliation), Diyya (blood money), Hadd (fixed Quranic punishments), and Tazir (discretionary punishments administered by the sovereign or Qazi). While these pre-colonial systems possessed structured judicial hierarchies, they lacked systemic codification, uniform geographical application, and egalitarian baseline principles, rendering the administration of justice highly discretionary and structurally fragmented.

British Codification and the Charter Act of 1833

The East India Company initially retained local criminal systems, but found the application of Islamic and Hindu penal laws inconsistent with Western commercial interests and administrative objectives. The Charter Act of 1833 revolutionized this landscape by establishing the First Law Commission of India in 1834, explicitly tasked with creating a uniform, codified system of criminal law applicable across all Presidencies. Lord Thomas Babington Macaulay was appointed as its President. Macaulay drew inspiration from the Napoleonic Code, Edward Livingston's draft penal code for Louisiana, and classical English common law principles, yet meticulously customized the penal framework to serve an occupying colonial power. The draft was completed in 1837 but sat in legislative limbo for over two decades. The systemic shock of the 1857 War of Independence forced the British Crown to accelerate codification as an instrument of pacification and control. Consequently, the Indian Penal Code was enacted on October 6, 1860, and went into effect on January 1, 1862.

Ideological Features and Criticisms of Macaulay's Code

The IPC was widely praised by contemporary Western jurists for its semantic clarity, logical taxonomy, and pioneering use of statutory illustrations to define criminal intent (*mens rea*) and *actus reus*. It established a uniform territorial penal standard, theoretically eliminating caste-based disparities in legal liability. However, beneath this veneer of formal equality lay a deeply authoritarian design. The IPC gave structural priority to 'Offences against the State' (Chapter VI) and 'Offences against the Public Tranquillity' (Chapter VIII) over individual liberties. It criminalized political dissent through sedition (Section 124A, inserted in 1870), penalized non-violent non-conformity, and institutionalized policing provisions meant to suppress public mobilization. Over the next 160 years, the Code faced mounting criticism for its rigid resistance to emerging criminal typologies, its patriarchal foundations (such as the marital rape exception and the outdated structure of the offense of adultery under Section 497, eventually struck down by the judiciary), and its complete failure to articulate a modern, human rights-compliant theory of sentencing.

THE IMPERATIVE FOR REFORM: STRUCTURAL IMPERFECTIONS OF THE IPC

The demand for replacing the IPC was driven by a fundamental ideological conflict: a democratic society cannot indefinitely govern itself using penal tools designed to subjugate a colonies' populace. This friction manifested across several critical axes:

- 1. Colonial Anachronism and State-Centric Design:** The IPC prioritized the protection of the sovereign state over the safety of the individual citizen. Vague and overbroad formulations like Section 124A (Sedition) were routinely deployed by the state to suppress legitimate political expression, journalistic inquiry, and civic dissent. This routinely required intervention by the Supreme Court, as seen in *S.G. Vombatkere v. Union of India* (2022), which directed a complete moratorium on the use of the provision.
- 2. Institutionalization of Systemic Delay:** The archaic definitions and rigid procedural dependencies of the IPC, when paired with the older Indian Evidence Act of 1872 and Criminal Procedure Code, created an environment prone to exploitation. The backlog of criminal cases across trial courts crossed tens of millions by 2023, transforming the criminal justice process itself into a form of extra-legal punishment.
- 3. Technological and Digital Deficiencies:** The IPC was designed in a pre-industrial, agrarian era. Although patchworks like the Information Technology Act, 2000 were introduced, the IPC lacked organic internal provisions to combat advanced cybercrimes, deepfakes, cryptocurrency frauds, digital identity theft, and algorithmic syndication, leaving prosecutors dependent on strained analogies to traditional definitions of cheating and forgery.
- 4. Governance of Extraterritorial and Transnational Crime:** Modern criminality operates beyond physical borders. The IPC's framework for organized crime, financial cartels, and cross-border terrorism was heavily fragmented, relying on localized state-level enactments (such as MCOCA in Maharashtra or KCOCA in Karnataka) rather than a uniform federal penal response.
- 5. Pathologies in Gender Justice:** The IPC maintained outdated Victorian moral standards. It treated women as historical property in certain frameworks and lagged in providing robust gender-neutral definitions for specific offenses, while failing to address contemporary crimes like tech-facilitated stalking or deceptive promises of marriage as distinct statutory categories.

OVERVIEW OF BHARATIYA NYAYA SANHITA (BNS), 2023

Legislative Background and Philosophical Orientations

The legislative journey toward the BNS accelerated in June 2020 when the Ministry of Home Affairs constituted the Committee for Reforms in Criminal Laws (CRCL). The committee collected inputs from judiciaries, bar councils, law universities, and state governments. The draft bills were introduced in the Lok Sabha in August 2023, referred to the Parliamentary Standing Committee on Home Affairs under the leadership of Brij Lal, refined via comprehensive multi-party feedback, and subsequently passed by both Houses of Parliament in December 2023. Receiving presidential assent on December 25, 2023, the BNS represents an ideological repositioning. Its stated objective is to transition from Danda (punishment) to Nyaya (justice), shifting focus from penal retribution against the subject to the restoration of harmony and protection of the citizen's legal rights.

Structural Reorganization and Key Legal Mechanics

The structural layout of the BNS is more streamlined than its predecessor. While the IPC contained 511 sections spread across 23 chapters, the BNS compresses this into 358 sections distributed over 21 chapters. This consolidation was achieved by eliminating redundant colonial terms, merging related offenses, and integrating electronic record definitions directly into the core statutory provisions. Crucially, the BNS reorders the hierarchy of chapters: chapters concerning offenses against women, children, and the human body are placed at the beginning of the code (Chapters V and VI), while offenses against the state are positioned later. This structural inversion is intended to symbolize that in a constitutional democracy, the security and rights of individual citizens take precedence over the administrative convenience of the state apparatus.

Comprehensive Comparative Statutory Table

IPC Provision	Corresponding BNS Provision	Nature of Change and Legislative Rationale
Section 124A Sedition	Section 152 Acts endangering sovereignty, unity, and integrity of India	The explicit term 'sedition' is discarded. Replaced by a modernized framework targeting acts that incite secession, armed rebellion, or subversive activities

			endangering the sovereignty and integrity of India. Increases the minimum prison sentence from three years to seven years.	
Section Punishment for Murder	302	Section Punishment for Murder	103	The statutory section for murder is repositioned from 302 to 103. Section 103(2) introduces a specific statutory sub-category for mob lynching and hate-motivated killings committed by groups of five or more on grounds of race, caste, sex, or language, prescribing the death penalty or life imprisonment.
Section Rape & Penalties	375 & 376	Section Sexual Assault Framework	63 & 64	Repositioned to Chapter V (Offenses against Women and Children). Maintains the controversial marital rape exception under Section 63 Exception 2, despite severe criticism from civil society and ongoing constitutional challenges in the Supreme Court.
Section Adultery	497	Omitted	No corresponding section	Formally omitted from the code, aligning substantive criminal law with the Supreme Court's landmark ruling in Joseph Shine v. Union of India (2018), which declared the penalization of adultery unconstitutional and patriarchal.
Section Unnatural Offenses	377	Omitted / Restructured	No corresponding general section	Completely dropped in its traditional form to comply with Navtej Singh Johar v. Union of India (2018). However, its absolute removal has created a legal vacuum regarding non-consensual sexual acts against adult men and animals.
Section Types of Punishment	53	Section Punishments Matrix	4	Introduces Community Service as a distinct, formal sixth category of punishment for petty offenses (e.g., small thefts, public intoxication, defamation), seeking to incorporate restorative justice principles into the penal framework.
No Uniform Provision	Organized Crime	Section Organized Crime	111	Codifies organized crime as a distinct federal offense, standardizing definition mechanics previously scattered across regional enactments like MCOCA. Covers kidnapping, extortion, contract killing, cyber-fraud, and economic syndicates.
No Core Substantive Provision		Section Terrorist Act	113	Integrates the definition of a 'Terrorist Act' directly into the general penal code, borrowing heavily from the specialized Unlawful Activities (Prevention) Act (UAPA), thereby giving local police broader authority to handle national security cases.

DEEP-DIVE ANALYSIS OF SUBSTANTIVE MODIFICATIONS

Recasting Dissent: The Transition from Sedition to Sovereignty

One of the most consequential adjustments in the BNS is the removal of Section 124A IPC ('Sedition') and its replacement with Section 152 BNS, which penalizes 'acts endangering sovereignty, unity, and integrity of India.' Under Section 124A IPC, the criminal standard revolved around inciting 'disaffection' or 'hatred' against the government established by law. This standard was criticized for its subjectivity and susceptibility to political misuse. Section 152 BNS shifts the focus from the 'government' to the 'nation-state' itself, targeting anyone who purposely or knowingly, by words spoken or written, or by signs, or by visible representation, or by electronic communication, excites or attempts to excite secession, armed rebellion, or subversive activities.

While proponents argue this anchors the offense within the reasonable restrictions permitted under Article 19(2) of the Constitution (specifically the sovereignty and integrity of India), critics highlight that the text remains broad. The inclusion of 'electronic communication' and 'subversive activities'—without precise statutory definitions—leaves a wide margin of interpretation for law enforcement agencies. This breadth could match or exceed the sweep of the old sedition law. Furthermore, Section 152 elevates the punitive threshold by setting the minimum term of imprisonment at seven years, compared to the three-year minimum under the IPC.

Institutionalization of Mob Lynching and Hate Crimes

In response to the Supreme Court's directives in *Tehseen S. Poonawalla v. Union of India* (2018), where the Court condemned vigilantism and demanded a dedicated penal response to hate-motivated mob violence, the BNS introduces Section 103(2). This clause provides that when a group of five or more persons acts in concert to commit murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other ground, each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine. By explicitly identifying shared biases as an aggravating factor in joint liability homicides, the BNS creates a clear statutory tool to track and penalize identity-driven mob violence. This marks a notable step forward from the IPC, which required prosecutors to navigate complex multi-layered applications of Section 34 (common intention) and Section 149 (unlawful assembly).

The Advent of Restorative Justice: Community Service

For the first time in Indian statutory history, community service has been integrated into the penal catalog under Section 4(f) and specific petty provisions of the BNS. For instance, in cases of attempted suicide to deter public servants (Section 226), minor theft of property under five thousand rupees where the offender is a first-time violator (Section 303(2) Proviso), misconduct in public by an intoxicated person (Section 355), and criminal defamation (Section 356), courts are empowered to mandate community service instead of incarceration. This reform addresses the over-crowding of Indian prisons, which operated at an average capacity utilization exceeding 130% up to 2024–2025, primarily crowded with under-trial prisoners accused of non-violent infractions. However, the BNS leaves the structural execution of 'community service' undefined, passing the administrative burden of defining, monitoring, and validating such services to state-level prison rules and judicial discretion.

The Codification of Transnational and Syndicated Offenses

The incorporation of Organized Crime (Section 111) and Terrorist Acts (Section 113) into the BNS marks a significant consolidation of special penal laws into the general substantive code. Section 111 defines organized crime broadly, encompassing continuous unlawful activity such as kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offenses, cyber-crimes, and trafficking executed by a syndicate through violence, intimidation, or coercion. Section 113 imports a definition of terrorism heavily modeled on Section 15 of the Unlawful Activities (Prevention) Act (UAPA), 1967. It penalizes acts done with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India. This parallel integration introduces jurisdictional complexities, as ordinary police officers gain the authority to register security offenses that were previously restricted to specialized counter-terrorism squads operating under strict executive oversight.

Gender Justice and the Reform of Sexual Offenses

The BNS shifts sexual offenses against women and children to Chapter V, giving them clear legislative priority. Section 69 BNS introduces a specific provision criminalizing sexual intercourse by deceitful means, such as false promises of marriage, deceptive employment promotions, or concealment of identity. This codifies and clarifies a complex line of judicial precedents (e.g., *Anurag Soni v. State of Chhattisgarh*, 2019) regarding when a misconception of fact vitiates consent under penal law. However, the BNS faces criticism for maintaining the marital rape exception under Section 63 Exception 2, which states that sexual intercourse by a man with his own wife, the wife not being under eighteen years of age, is not rape. This exemption remains under intense judicial review before the Supreme Court as a potential violation of

Article 21 rights. Additionally, the omission of Section 377 IPC without a gender-neutral replacement for adult non-consensual sexual assault has left a statutory gap regarding male-on-male sexual assaults and acts of bestiality.

COMPARATIVE ANALYSIS: IDEOLOGICAL AND STRUCTURAL DICHOTOMIES

The structural evolution from the IPC to the BNS reveals a deep interplay between legislative continuation and jurisprudential disruption. While the political rhetoric surrounding the BNS emphasizes complete decolonization, analytical comparison reveals that roughly 70% to 75% of the substantive rules of the IPC have been retained, often with modified section numbering, minor phrasing updates, or adjusted penal brackets. The true differentiation lies in their underlying philosophies and procedural integration:

Analytical Dimension	Indian Penal Code (IPC), 1860	Bharatiya Nyaya Sanhita (BNS), 2023
Primary Jurisprudential Goal	Imperial stability, deterrence, public order preservation, and colonial population control.	Citizen safety, national security integration, victim-centric restorative justice, and streamlined processing.
Status of Digital Evidence	Indirectly incorporated via amendments to Section 29A; treated as secondary or separate infrastructure.	Fully integrated; electronic and digital records are explicitly included within the foundational definition of 'Document' (Section 2(8)).
Sentencing Philosophy	Strictly retributive and deterrent; focused on fines, asset forfeitures, and varying durations of imprisonment.	Blended model introducing community service for minor infractions, alongside mandatory minimum sentences for syndicates.
Treatment of Minor/Petty Crimes	Treated via regular trial mechanics, contributing to significant case backlogs and overpopulated jails.	Differentiated through summary trial linkages and restorative alternatives to prevent judicial gridlock.

The primary advantage of the BNS is its structural modernization, which removes obsolete colonial terms (such as 'British India,' 'Queen,' and 'Lunatic') and explicitly codifies modern security threats. However, its main disadvantage is its structural duplication of specialized anti-terrorist and economic laws, which risks creating conflicting standards for bail, investigation timelines, and evidentiary admissibility. Furthermore, expanding the definitions of public nuisance and economic threat gives broader discretionary powers to local police forces, raising clear human rights concerns regarding potential misuse against vulnerable or marginalized populations.

JUDICIAL AND CONSTITUTIONAL PERSPECTIVES

The enforcement of the BNS presents several constitutional challenges that the Supreme Court of India and various High Courts must address through 2025. The core of this constitutional debate hinges on the protection of Fundamental Rights guaranteed under Part III of the Constitution:

1. The Right against Retrospective Criminal Law (Article 20(1)): Article 20(1) protects individuals from being convicted under laws that were not in effect at the time the act was committed, and guards against penalties harsher than those applicable when the offense occurred. Because the BNS introduces higher minimum sentences for offenses like state-endangering acts (Section 152) and organized crime (Section 111), courts must carefully police the transition. Any offense committed prior to July 1, 2024, must be tried and penalized under the substantive parameters of the IPC, requiring the Indian judiciary to run parallel legal systems for years to come.

2. Vague Penal Standards and Overbreadth Doctrine: In *Shreya Singhal v. Union of India* (2015), the Supreme Court ruled that criminal statutes causing a chilling effect on free speech due to vague, overbroad language violate Article 19(1)(a). Terms used in Section 152 BNS, such as 'subversive activities' or 'encouraging feelings of separatism,' lack

precise statutory definitions. This requires courts to read down these provisions to ensure they target only direct incitement to violence, in line with the foundational standard set in *Kedar Nath Singh v. State of Bihar* (1962).

3. The Problem of Overlapping Enactments and Double Jeopardy (Article 20(2)): Incorporating anti-terrorism provisions into Section 113 BNS creates a direct overlap with the UAPA. While the UAPA includes specialized procedural safeguards—such as mandatory review by an independent authority before executive sanction under Section 45—the BNS lacks these specific filters. This discrepancy creates a risk of arbitrary enforcement, allowing police to bypass statutory protections by selecting which law to file under. This raises serious issues under Article 14 (Equality before the law) and Article 21 (Due process), challenging judges to reconcile these competing legal frameworks.

IMPLEMENTATION CHALLENGES AND SYSTEMIC BOTTLENECKS

The successful transition from the IPC to the BNS is constrained by significant administrative, technological, and institutional challenges across India's justice system. Up to 2025, these bottlenecks have created transitional friction across five primary areas:

1. Institutional Re-training and Human Resource Limits: India's law enforcement network includes over 2.5 million police personnel across states, many of whom operate within under-funded local stations. Re-training this entire workforce to correctly apply the new section numbers, master revised definitions of intent, and manage changes in corresponding procedural codes represents a massive administrative undertaking. This challenge is magnified by a severe shortage of certified legal trainers and standardized multilingual training materials.

2. Structural Gaps in Digital and Forensic Infrastructure: The BNS relies heavily on the mandatory digital recording of searches, seizures, and crime scenes, alongside increased integration of electronic evidence. However, many rural and semi-urban police stations lack secure digital cameras, high-capacity encrypted storage networks, reliable high-speed internet, and cyber-trained staff. Without these resources, complying with new statutory requirements risks rendering key evidence inadmissible in court.

3. Reluctance within the Legal Ecosystem: Decades of familiarity with the IPC have created a deep institutional memory among judges, prosecutors, and defense lawyers. The sudden shift to an altered numbering system has slowed courtroom efficiency, as legal professionals must continuously verify cross-references between old precedents and new statutory sections.

4. Managing Parallel Legal Frameworks: Because retrospective application is unconstitutional under Article 20(1), trial courts must manage two distinct systems simultaneously. They must apply the IPC to the massive backlog of millions of cases filed before July 2024, while applying the BNS to all new offenses. This structural division places an unprecedented administrative burden on an already strained judicial system.

IMPACT ON INDIAN SOCIETY, GOVERNANCE, AND CIVIL LIBERTIES

The long-term impact of the BNS on Indian society depends on how its provisions are balanced by the courts. On one hand, it offers real progress toward protection and efficiency. Incorporating provisions for mob lynching, electronic fraud, and sexual exploitation through deceit gives vulnerable groups better access to targeted legal remedies. The inclusion of community service also offers a path to reduce the criminalization of minor offenses, shifting the system away from purely punitive incarceration toward a more restorative model.

Conversely, the expansion of state security powers under the general penal code raises serious concerns for civil liberties. Giving local police wider discretion to apply broad anti-terror and sovereignty provisions risks increasing arbitrary arrests and suppressing political dissent or investigative journalism. From a governance perspective, because 'Criminal Law' falls under the Concurrent List (List III, Seventh Schedule), individual states retain the power to amend these federal codes. If states introduce conflicting local amendments, it could undermine the core goal of maintaining a unified, uniform penal structure across India

COMPARATIVE INTERNATIONAL PERSPECTIVE

India's legislative transition reflects a broader global trend where post-colonial and democratic nations rewrite inherited penal structures to meet modern technological and human rights standards. Comparing India's approach with other common law jurisdictions highlights both shared strategies and distinct differences:

United Kingdom: The UK has moved away from a single, unified penal code, choosing instead to systematically update its criminal law through specialized statutes, such as the Terrorism Act 2000 and the Sexual Offences Act 2003. Notably, the UK formally abolished the offense of sedition under the Coroners and Justice Act 2009, viewing it as an obsolete restriction on free speech. In contrast, India chose to retain and restructure the offense within Section 152 of the BNS, emphasizing national security concerns over complete deregulation.

United States: Substantive criminal law in the US is bifurcated between the Federal Criminal Code (Title 18, US Code) and individual state penal codes, guided by the American Law Institute's Model Penal Code (MPC). The US relies heavily on a clear distinction between state and federal jurisdictions, and utilizes strict evidentiary rules (such as the fruit of the poisonous tree doctrine) to regulate digital policing. The BNS, by contrast, maintains a highly centralized, single penal framework for the entire country, which helps ensure uniformity but provides fewer localized procedural safeguards.

Canada and Australia: Canada's Criminal Code, 1985 and Australia's Criminal Code Act 1995 offer valuable templates for balancing national security with civil liberties. Both nations use precise, narrow definitions for terrorism and sabotage to prevent overlap with regular political protest, and have integrated advanced rules for digital and algorithmic evidence. While the BNS successfully matches their standards for digital evidence integration, its broader definitions for state security offenses lack the precise statutory limitations seen in the Canadian and Australian codes.

Key Findings and Discussion

This analytical study yields several core findings regarding India's transition from the IPC to the BNS. First, the claim of complete decolonization is only partially accurate; while the ideological framework has shifted toward citizen justice and national security, the retention of the vast majority of IPC provisions means the BNS functions more as a modernized refinement than a complete rejection of colonial legal principles. Second, the BNS successfully updates the law for the digital age and introduces valuable restorative options like community service, but these improvements are undermined by vague, overbroad definitions in security offenses like Section 152. Third, the simultaneous integration of terrorism and organized crime into both the general penal code and specialized statutes like the UAPA creates dangerous legal overlaps. This duplicate structure risks allowing law enforcement to bypass established procedural safeguards, potentially compromising constitutional protections under Articles 14 and 21.

Targeted Policy Recommendations

1. Judicial Narrowing of Security Definitions: The Supreme Court should issue clear, binding guidelines to narrowly define terms like 'subversive activities' and 'acts endangering sovereignty' under Section 152. These definitions should require proof of direct incitement to imminent violence or serious public disorder, preventing the law from being used to suppress legitimate political dissent.

2. Establishing Independent Oversight for Overlapping Offenses: To prevent arbitrary enforcement resulting from the overlap between Section 113 BNS and the UAPA, a mandatory review mechanism should be established. Charges under these sections should require the prior approval of an independent judicial or administrative authority, ensuring consistent procedural protections regardless of which statute is applied.

3. Standardizing and Funding State-Level Community Service: The Ministry of Home Affairs should draft a model set of rules to standardize the administration of community service across all states. This framework must clearly define what constitutes community service, establish secure monitoring systems, and provide targeted funding to ensure probation departments can manage these programs without relying on arbitrary local practices.

4. Funding and Upgrading Digital Forensic Infrastructure: The central government must provide dedicated financial grants to modernize local and rural police stations. Funding should focus on establishing secure digital evidence vaults, equipping officers with certified recording devices, and providing continuous technical training to ensure compliance with the new electronic evidence standards.

CONCLUSION

The transition from the Indian Penal Code of 1860 to the Bharatiya Nyaya Sanhita of 2023 represents a pivotal moment in India's legal history. It marks an intentional effort to replace a century-old colonial instrument of state control with a modern, indigenous penal code designed for an academic and progressive democratic society. By reorganizing its structure to prioritize offenses against individuals, integrating digital evidence, and introducing restorative justice through community service, the BNS establishes a progressive framework for modern criminal jurisprudence. However, the retention of broad state security provisions and the procedural challenges of managing parallel legal systems present real

risks to civil liberties and judicial efficiency. The ultimate success of this legal transformation will not be determined by its legislative intent alone, but by how effectively the judiciary balances state security with individual rights, ensuring the BNS serves as an instrument of genuine justice rather than modified state control.

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