



RECONSTRUCTING CRIMINAL PROCEDURE AND ACCOUNTABILITY: A COMPARATIVE REVIEW OF ENFORCEMENT MECHANISMS, PUNISHMENT PHILOSOPHY, AND STATE POWER UNDER THE IPC, 1860 AND THE BHARATIYA NYAYA SANHITA, 2023

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Abstract

This article evaluates the passage of India from the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita, 2023 as a major step in the development of a criminal justice system in India with respect to punishment philosophy, enforcement and state authority. The Penal Code was based on Colonial concepts of administrative control and deterrent punishment and placed an emphasis on punishment and sovereign state enforcement as major components of the criminal justice process. The Penal Code also remained largely unchanged with respect to basic principles of punishment, though some degree of progressive inclusion of constitutional principles through judicial interpretation had occurred. The Bharatiya Nyaya Sanhita will, through re-formulation of penalty, consolidation of present day offence categories and enhanced enforcement in the context of a democratic constitution, modernise the way that criminal law is defined and penalised. This investigation is based solely upon secondary sources such as statutes, legislative documentation, court judgement, reports from the Law Commission and legal literature available free of charge (the majority of which may have been written after the original author). The present research starts by examining the system of penalties established under the Indian Penal Code that relies primarily upon abdicating to judicial discretion and has as its aim to deter crime.

Following the analysis of the general substance of the Bharatiya Nyaya Sanhita's reforms, the author reflects on how they relate to their specific focus on justice-focused language and alternative penalties, and how the Bharatiya Nyaya Sanhita's reforms are an innovative approach to identifying and rationalising penalties, when compared with the original state-based and punitive approach to penalties. The author also describes how the design and rationale for the two statutes' accountability mechanisms, enforcement mechanisms and redeployment of the state within a general context of the relationship between democracy and the constitution, would enable an effective implementation of governmental authority.

The evidence supports the view that the Bharatiya Nyaya Sanhita is an additional approach for reform. Although it maintains a substantial degree of continuity with the state-based and punitive model of the past, it also incorporates some modern features and provides increased clarity of concepts. Based on the outcomes and content of the report, it is clear that the administration of fair, proportional and accountable justice will depend on consistent institutional processes, legislative scrutiny, and an understanding of how legislation affects the daily operation of the customary and common-corrective judicial systems, not based on new criminal laws alone.

Keywords: Bharatiya Nyaya Sanhita, Indian Penal Code, punishment philosophy, enforcement mechanisms, constitutional morality



1. INTRODUCTION

As a watershed point in the development of India's criminal law system, this study analyses the change from the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita, 2023. Colonial goals of retribution, administrative control, and deterrent informed the IPC's paradigm for criminal culpability, punishment, and enforcement for almost 160 years. There was no alteration to the IPC's substantive or punitive philosophy following independence; judicial interpretation, rather than legislative revision, was the primary means by which constitutional ideals were incorporated. Simplifying provisions, modifying sentencing procedures, and improving accountability in criminal justice administration are some of the modernization goals of the Bharatiya Nyaya Sanhita, 2023, a successor that aims to bring criminal law up to date. As a result, this alteration signifies a purported paradigm shift in the theory and practice of criminal justice as well as a modification to the language of existing statutes (Ministry of Home Affairs, 2023).

Criminal law reform is only worthwhile if it changes actual results like sentence justice, penalty proportionality, prosecution efficiency, and the balance between state power and individual safeguards; this work contributes to that understanding. Reforms in the philosophy of punishment and the logic of enforcement are crucial for a democratic society and the rule of law, as criminal law grants the state direct authority to limit individual liberty via the processes of arrest, trial, and punishment. It is critical to evaluate if the Bharatiya Nyaya Sanhita does indeed shift away from a punitive colonial model of criminal justice to one that balances deterrence and reform, balances state violence and accountability, and puts citizens at the centre, and provides them with equal justice rights. If there is no analysis done in this area, any legislative change will be nothing more than a symbolic gesture (PRS Legislative Research, 2023).

The issues of overcrowded jails, the backlog of criminal trials in the courts system, the increasing complexity of major crimes, and the public demand for more efficient means of delivering justice must all be carefully examined in the context of the implementation of the Bharatiya Nyaya Sanhita. Efficacious criminal procedure, victim-centric justice, streamlined legal drafting, and better control of law-and-order institutions are the main points of discussion in modern discussions about legal reform in India. According to the Press Information Bureau (2023), contemporary punitive techniques, such as reevaluating the severity of penalty and instituting alternative punishments like community service for specific types of offenses, have been brought up in policy debates pertaining to the new criminal legislation. The significance of these developments for the judicial, police, prosecution, and penal systems is highlighted by the fact that they highlight the need for adjustments to the BNS's enforcement design, crime classification, and penalty structures.

This paper's primary research question is whether or not the BNS radically changes the operational nature of India's criminal law as a result of the IPC's replacement or if it only modernizes the statute without changing its underlying enforcement rationale. This study seeks to answer the question of whether the BNS's reformed sanctions, reorganized punishments, and adjusted state powers increase accountability, proportionality, and justice delivery or if they increase the risk of extending coercive power without equivalent protections. Whether there is enough clarity and institutional readiness to guarantee consistent and fair use of the new punishment and enforcement framework is another question that the article seeks to answer.

In order to assess how the criminal law reform in India modifies the philosophy of punishment and sentencing architecture, rethinks enforcement mechanisms and accountability systems, and readjusts the nature and limits of state authority in criminal justice administration, this paper will conduct a critical comparison of the Indian Penal Code, 1860 with the Bharatiya Nyaya Sanhita, 2023.

This study has used a comparative legal and doctrinal approach, with no primary sources consulted whatsoever. The legal provisions of the Indian Penal Code (IPC) and the Bengal Narrative System (BNS) concerning penalties, sentencing alternatives, and categories of offenses related to enforcement were compared in the study. It looked at criminal justice reform committee documents and reports from the Law Commission, legislative purpose via analysis of discussions and summaries of bills, and seminal court decisions that influenced criminal responsibility, penalty theory, and proportionality. The larger implications for governance and justice delivery were also evaluated by reviewing reliable academic legal work and policy opinion. There was no need to conduct surveys, interviews, or gather empirical data because the methodology was still analytical and interpretative.

2. PUNISHMENT PHILOSOPHY AND SENTENCING ARCHITECTURE

Punishment Framework under the Indian Penal Code, 1860

The punitive philosophy of nineteenth-century colonial powers formed the basis of the punishment framework of the Indian punitive Code, 1860. For almost a hundred years, criminal sentencing in India was based on the Code's recognition of a small range of punishments: imprisonment, fine, life imprisonment, and the death sentence. Because of the colonists' conviction that limiting people's freedom was the best way to keep them in line, incarceration became the standard form of punishment. The death sentence and life in prison without parole were reserved for crimes that endangered public safety or the integrity of the state. Fines were usually used as additional punishments (India Code, 2023).

Colonial ideas about discipline, obedience, and administrative efficacy informed the IPC's punishment philosophy, which was primarily focused on deterrence. Rather than being a tool for social change or rehabilitation, criminal law was originally intended to quell opposition and prevent disturbance. The Indian Penal Code (IPC) focused on maintaining power, often bypassing or ignoring socioeconomic factors of crime; therefore, it is not surprising that people could easily perceive this as a punitive approach, particularly toward crimes that affected States and their people. As a result of this approach, the correctional system of India has emphasised punishment over rehabilitation, leaving people to fend for themselves once they leave prison. The IPC framework lacks an established structure for sentencing. In effect, the IPC provided no clear directive for judges, as to how to determine a sentence within the maximum and minimum terms of imprisonment. This led to considerable inconsistency within the sentencing process, as the imposition of a sentence was very much driven by the individual judge's own beliefs, as well as any previous decisions made by that same judge, and the specifics of that case. In fact, the discretionary powers available to judges created a legal landscape in which sentencing results were frequently inconsistent and often difficult to predict; therefore, this remains one of the primary weaknesses of the IPC's mechanism for assigning punishment, even though it did offer some degree of flexibility. (Law Commission of India, 2003).

Reforms in Punishment under the Bharatiya Nyaya Sanhita, 2023

The 2023 Bharatiya Nyaya Sanhita (BNS) was enacted to modernize India's criminal justice system and address present-day challenges. One key aspect of this modernization was the inclusion of community service and other non-traditional forms of punishment (e.g. probation) for specific types of offenses, indicating an overall shift away from the IPC's (Indian Penal Code) historical reliance on only fines and/or imprisonment for punishment, towards an overall willingness to use alternative forms of punishment that have a positive impact on rehabilitation and reduce the number of individuals in jails (Ministry of Home Affairs, 2023).

The BNS classified and rationally categorized the punishments for many different types of offenses, as well as introduced alternatives to those punishments. There were many laws that had either no longer any, or minimal, relationship to the community as a whole and were therefore eliminated, and the penalties imposed for some

offenses were modified to reflect current-day damage to the community and proportionality, with the intent of clarifying the laws and making them more consistent and understandable, allowing for their uniform application by courts and law enforcement agencies (PRS Legislative Research, 2023).

The use of language in the legislation by BNS showed a shift towards a narrative focused on justice. The BNS places heavy emphasis on terminology related to social responsibility, social justice, and justice, while the IPC makes use of very strong and repressive terminology. The name change from Penal to Nyaya also reinforces the legislative intent to place emphasis on Justice over Punishment.

Proportionality, Reformatory Justice, and Sentencing Consistency

The argument deems whether restorative justice will be fostered by the BNS or whether it will simply reflect and reinforce the properties of our existing deterrent system. The use of alternative sanctions and the redesignation of existing sentencing classifications provide for a more balanced and flexible approach to determining the appropriate level of sentence in relation to the severity of the offence, combined with consideration for the individual characteristics of the offender. This allows for a better relationship between the offence committed and the resulting conditions imposed on the offender through the use of alternative sanctions. The introduction of alternative punishment options, along with the decreased reliance on punitive approaches towards offenders, focuses on rehabilitation, reconnection to the community and the reduction of recidivism rates.

As previously mentioned, there is still a major disconnect in Canadian sentencing laws that prevents a single unified set of sentencing guidelines from being developed and implemented, thus continuing to pose challenges in minimizing the inconsistencies that currently exist in sentencing. While the BNS restructuring of existing punishment classifications opens the door for testimony by parole judges regarding which level of punishment is warranted for crimes of similar nature, it also allows for continued reliance on the individual discretion of parole judges in determining the level of punishment imposed for crimes of similar nature, therefore continuing to create variability in sentencing for similar offences. Without clear and consistent guidelines on how to impose alternative sanctions, a court may impose a community service sentence on one offender but not another, thereby undermining the goals of consistency and justice.

The necessity of creating a state that functions should never come into conflict with fair punishment. Equal and rational application of the newly structured punishment options and enhancements needs to be protected against arbitrary and disproportionate applications. Consequently, Interpretative norms consistent with constitutional values, i.e., equality and rationality, need to be developed, so as to create an exemplar of fairness and predictability in the operation of all sentencing processes utilized within the BNS. The interpretive norms developed by Authoritative advice and Judicial Interpretation provide the means of ensuring that these legislative reforms are applied in a uniform manner.

This section of the Final Report provides the Tools related to developing a comparative mapping process to systematically relate and connect the various forms of punishment mandated by the IPC to the respective categories of BNS Punishments and to determine the relative rate of those changes as well as their impact on Sentencing Practices and Prison Burden. The use of this type of mapping provides a framework to test the extent to which the evolution of Punishment Philosophy results in substantive change versus Minimal Adjustment.

3. ENFORCEMENT MECHANISMS AND ACCOUNTABILITY DESIGN

Enforcement Logic in Criminal Law

When discussing criminal law, "enforcement logic" describes how statutes influence the actions of law enforcement, prosecutors, and judges. Legislation outlining criminal offenses does more than just declare what is and is not acceptable; it also shapes the goals of investigations, tactics used by prosecutors, and the results of court

decisions. Law enforcement personnel, prosecutors, and courts all respond differently to differently worded offenses, penalties, and statutes depending on these factors. As a result of wide offense definitions and harsh punishments under criminal law, enforcement organizations are encouraged to take a control-and coercive stance. More precise definitions of crime, as well as fairer systems of punishment, can provide for greater transparency, better enforcement of rights, and improved public safety in addition to creating more equal sentencing structures.

This theory is based on a punishment hierarchy. Due to their increased focus on arresting, incarcerating, and prosecuting those accused of serious offences, law enforcement and courts are often overwhelmed with cases with disproportionate sentencing or extremely long sentences. Furthermore, such crimes are generally considered more dangerous to public order and/or to state security and are, therefore, prioritised when being prosecuted and punished.

Thus, starting with the development of new laws and carrying this through the entire spectrum of criminal justice operations, the logic of the chain reaction is evident throughout the policing and courts regarding any perceived impact of legislative changes on institutional behaviour and accountability, and therefore statutory wording.

IPC-era State Approach to Crime Control

Colonial Rule's key objectives are reflected in the Indian Penal Code 1860, and how they affected how the Government approaches Union's Criminal Law. Consolidating Governmental Power Ensuring Administrative Efficiency Across All Colonies; and Insuring Public Order were all motivating factors behind the development of the Penal Code; Thus, the enforcement framework to be established by the Penal Code was primarily designed for use on the States with little or no consideration of Individual Rights or legislative protections for Procedural Fairness. Also, by placing so much emphasis on crimes against the State and Public Order, the Indian Government perceives Criminal Law not as a tool for remedying Social Injustice, but as a method to maintain Order (See India Code 2023 for further information).

Under such a system, Prisons became a common, and often primary, method for enforcing order, and consequently, both Police and Prosecution's essential function was to produce confessions and arrests through investigations, and maximize punishment through prosecution, respectively. The disproportionate emphasis on punishment is the primary cause of many issues, including prison overcrowding, lengthy trial wait times, and massive case backlogs. Judgment was frequently delayed and trials were drawn out because of the large volume of criminal cases. Without established sentencing standards, prosecutorial discretion and judicial approach make it more likely that different people may face different punishments for the same crimes.

There were systemic pressures on the whole criminal justice system as a result of the reasoning behind the IPC's introduction. Investigative agencies were overwhelmed by the sheer volume and severity of criminal cases, leaving prosecuting agencies short-handed and courts backlogged with procedural delays. The judicial branch has made attempts to implement constitutional protections; however, the statutory framework has continued to put the needs of the state ahead of its responsibilities for holding individuals accountable and optimizing performance. The Bharatiya Nyaya Sanhita has offered important recommendations to address these systemic concerns (Law Commission of India, 2003).

BNS-era Accountability and Institutional Implications

The Bharatiya Nyaya Sanhita (BNS) proposes a new method for establishing and enforcing crime categories, as well as simplifying the language associated with those methods. By establishing uniform categories and definitions of crimes, the law will minimize the opportunity for law enforcement officials to interpret laws in a manner that is vague or inconsistent with the law as intended. Furthermore, the simplified language of the law will give law

enforcement officials easier means of determining the proper charges related to a particular crime, and provide more information to officers and prosecuting attorneys regarding how to correlate their investigative techniques with the intent of the law. In this regard, the BNS will have a significant impact on the manner in which law enforcement officials classify crimes, as it will remove the vagueness associated with broad definitions of crimes that can lead to officers making arbitrary or indiscriminate arrests based on crime categories. The new enforcement processes that will be implemented as part of the BNS will provide law enforcement officials with better predictability when classifying crimes and could also help limit their discretion on charging individuals with crimes. This could in turn create a larger base of targeted investigations rather than large-scale arrests without a clear purpose. Furthermore, by providing law enforcement officials with better clarity regarding the language associated with crime categories and the methods of enforcing them, it is likely there will be reduced numbers of cases being disposed of by the courts as law enforcement officers will be able to charge individuals with (1) crimes that are much more proportional to the conduct; and (2) use more logical plea negotiation practices in developing charges against individuals, which will ultimately reduce the case loads of the courts. By providing greater efficiency in the handling of cases and the uniformity of the application of the law by law enforcement officials, the courts will benefit.

Accountability considerations arise in conjunction with the stated benefits of reorganizing: A reorganization would provide clarity regarding the operation of enforcement agencies and allow for increased discretion to act without legal protection(s) being identified. More severe penalties coupled with more broadly defined offenses, in conjunction with less strict definitions of what is an offense, expand the range of coercive mechanisms available to individuals. When considering BNS's ability to create accountability, we must not only consider how the legislation was drafted, but also how BNS will prepare its institutions, train its employees, and supervise its operations to ensure the creation of accountability is sustainable.

Workflow processes associated with criminal justice systems will be significantly affected as a result. The application of consistent methodologies to impose penalties and alternatives (i.e., diversionary programs) can reduce court backlogs and decrease jail populations; conversely, inconsistent enforcement and reliance on discretion will continue to create delays and expenses. Therefore, the BNS has the potential to be both a benefit and a threat. On one hand, it allows BNS to change the rationale for enforcement; on the other hand, BNS can reinstate old methods of enforcing the law that were previously found to be ineffective within a new legal framework (PRS Legislative Research, 2023).

The section discusses the "accountability chain" of the Bharatiya Nyaya Sanhita, which runs through the law-making process, through the exercise of discretion by enforcement officers and prosecutors, through the Courts. The research identifies points on the accountability chain that have the greatest amount of pressure and highlights where the proposed reforms to the criminal justice system, under the Bharatiya Nyaya Sanhita, will create opportunities for both increased transparency and proportionality in the enforcement and prosecution of criminal offenses, while at the same time, providing inadequate protections from either over or under enforcement of these reforms. This framework will allow us to examine whether the changes to the criminal justice system will actually result in increased transparency, efficiency, and administrative effectiveness in the administration of justice.

4. STATE POWER, PUBLIC ORDER, AND DEMOCRATIC CONSTRAINTS

State Authority Embedded in Penal Codes

Historically, the Penal Code has existed for centuries to sanction and provide a framework for the Government on how to exercise control over its citizens through Criminal Law. Under these laws, the

Government has approved authority to restrict some aspects of an individual's personal liberty; enforce rules and requirements for a given community; maintain public order; and prosecuting (punishing) individuals for violating Penal Law through the process of investigation, trial, and conviction. The Penal Code provides a mechanism by which the Government can compel an individual to conform to the laws of a given community. In addition to defining what constitutes an offence, the Penal Code is an administrative tool with a primary purpose. The Indian Penal Code (IPC) is illustrative of the administrative purpose of a Penal Code as the drafting of the IPC was conducted during a time when the state was focused on establishing an effective administrative infrastructure for maintaining political stability and administrative order and protecting itself from insurrection by the population (India Code, 2023).

The IPC's foundation on a colonial government framework that viewed crime solely as a challenge toward government power and regulatory authority. The primary emphasis of the IPC focused on crimes against the state and public safety with a major purpose of maintaining public order. The IPC made no reference to democratic accountability or fair legal restrictions; therefore, crimes were perceived as government expansion into everyday life. Even with the changes in India's Constitution after Independence, the IPC retained its government-centric view of substantive criminal laws.

Bharatiya Nyaya Sanhita and the Recalibration of State Power

The Bharatiya Nyaya Sanhita, 2023 tries to change the state's role in modern societies. Organized crime, mob violence, and major threats to public order are some of the contemporary security difficulties that the new act aims to solve. These issues were either not sufficiently handled or were considered conceptually outmoded under the old IPC framework. According to the Ministry of Home Affairs (2023), the BNS aims to provide the state with legal instruments that are more sensitive to modern forms of crime by updating offense definitions and rearranging chapters.

A key point that this readjustment brings to light is whether the BNS's improved legal instruments serve to increase state control or to fortify citizen protection. One side of the coin is that the State may be better able to handle complicated crimes if crimes were defined more precisely and punishments were rationalized. The resulting growth in power could lead to authoritarian consolidation rather than democratic accountability, unless specific protections are established. Ultimately, the BNS is in a very vulnerable position; therefore, determining how its provisions are applied and applied will impact the BNS's overall impact on State authority and demonstrate its symbolic break from colonial terminology and emphasis upon justice-related framing. The success of the BNS in protecting individuals' rights will depend on how proportionality and functionality are achieved through the implementation of the recalibrated powers under genuine scrutiny.

Maintaining's State Power Within It's Constitutionality.

No legitimate democratic society may exercise its power in an unconstitutional manner, in no matter what way a government is constituted. The balance of dignity, equality, and rationality should remain the basis for how the power of a state to use coercive force within the context of criminal law is determined. The Indian Supreme Court has consistently held that where the legislative text may be in conflict with fundamental rights, that it is necessary to give effect to constitutional morality through the reinterpretation of legislation (Supreme Court of India, 2018). By moving from an IPC framework to a BNS framework, an opportunity exists to implement a more clearly defined and detailed legislative design underpinning these fundamental principles instead of relying solely upon the courts for the legislative and judicial correction of what may be in direct opposition to these principles. Despite this opportunity, there remain several concerns regarding the adoption of statutes that create additional definitions and/or increased categories of offences as a means of increasing the security of those that are affected

by the actual events surrounding an offence. Statutory language that is unclear allows for arbitrary application because there will be a wider range of interpretation by those persons who are charged with enforcing such statutes. When too many sentences given out for crimes, it makes people not trust the Justice system. Because of this people start thinking that how much a person gets sentenced is not appropriately based on the severity of the crime. So this lack of proportionality leads us to look at the way the Courts work with the checks and balances of Government and the way they operate within Criminal Law as being in need of reform in order to have an accountable Criminal Justice System. There is currently enough of a system in place for Accountability, however, the balance between Government's power and the Constitution is achieved through defining the types of Sentences imposed, what constitutes severities of the crime, and procedures for Government to check their Power.

The use of clear language helps prevent arbitrary interpretation of law; the proportionality of sanctions to the extent of harm creates consistency in enforcement; and the use of procedural safeguards (Judicial Review) and public access ensures there are avenues for accountability.

The ability of the BNS to achieve its objectives of facilitating justice-minded simplification as well as providing this Balance, depends on the consistent interpretations by Courts and the responsible actions of Enforcing Agencies.

Democratic accountability is not the result of achieving an End, but rather the ongoing effort of all citizens.

The Framework to build out of this section and create the "State Power vs. Accountability Assessment" would evaluate the following:

- 1) Proportional Sanctions - The size of the sanction must be appropriate for the harm done.
- 2) Availability of Safeguards - procedures in place to ensure the enforcement of the law is subject to Government accountability.
- 3) Transparency of Enforcement and Adjudication - the processes by which the law is enforced and adjudicated must be open and transparent for the public to have faith in the process of enforcing and adjudicating the law.
- 4) Evidence of a Greater Amount of Government Power - While this assessment would be in relation to the BNS Act in its statutory form, if this Assessment identifies an increase in State authority, additional consideration should be given to determining if the BNS Act promotes democratic Criminal Justice System or presents the possibility of Authoritarianism returning.

5. CONCLUSION AND RECOMMENDATIONS

Conclusion

In order to assess the evolution of the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita, 2023, a comparative analysis of punishment philosophy, enforcement techniques and how governments exercise their power in criminal justice systems has been conducted.

It was concluded that changes made from the IPC to the BNS do not represent a radical departure from the prior legal framework. However, rather than being a revolution, it has been an evolutionary process aimed at improving upon what existed prior, especially with respect to maintaining the State's role as a primary enforcer of laws controlling criminal activity and retaining the essential structure on which all criminal liability will continue.

Concurrently, efforts were made to transform the structure of the criminal justice system through newly developed models for imposing punishment, rewriting language of statutes involving crime, and redesigning statutes so that they better aligned with state constitutional ideals and governance structures of today.

It was discovered that the BNS reforms made to punishments include developing rational guidelines for punishment, providing more flexible options for enforcing punishment, and providing alternative options for punishing offenders. These changes could have increased the proportionality of punishments imposed upon offenders, as well as reduced systemic costs associated with punishing offenders, but there is still no centralised or comprehensive sentencing guideline for judges to follow. Because there are no established guidelines to guide judges in their decision-making, this gives rise to concerns about the uniformity and predictability of the sentencing process amongst judges.

Like the changes made to categorise crimes and clarify regulations regarding the imposition of punishment, the establishment of multiple government authorities provides greater latitude to enforce punishment with fewer available methods of obtaining protection for an offender. Therefore, the relationship between the philosophy of punishment, the logic/regulations for enforcement, and the authority of the state were all important factors affecting the success of criminal justice reform in providing more effective outcomes. Overall, the transition from IPC to BNS was done through a combination of reform strategies. While it has certainly modernised some of the language in legislative documents and put in place certain reforms, it continues to maintain the state-centric control mechanisms in place since colonial times. Whether or not this transition to a more equitable, efficient, and accountable criminal justice system is accomplished will depend on how the provisions of this bill are interpreted, implemented, and monitored by agencies of the criminal justice system. The BNS continues to be an excellent foundation from which positive changes can be made, but it has not yet been demonstrated how these changes will occur.

Recommendations

The research presented a number of ideas for increasing the effectiveness of the Bharatiya Nyaya Sanhita in accomplishing its constitutional and democratic purposes while at the same time increasing the influence of the Bharatiya Nyaya Sanhita. The first area suggested for improvement is to provide a definitive basis for interpretation and definition of the different types of punishment and offence category when the courts are considering changing or creating any new type or category of offence. For the judicial interpretation of legislative change to be effective, courts will need to use consistent proportionality and justice-based reasoning to avoid broad or arbitrary interpretations in the application of new law.

The second area of enhancement is the need for establishing official interpretive guidelines and commentary to facilitate clarity and consistency throughout the criminal justice system. Establishing clear and consistent interpretive materials for judges, prosecutors, and law enforcement will provide a more consistent application of the law, more closely following a legislative purpose, and less variability in the application of sentencing and prosecutorial practices.

The third area of enhancement is continued legislative review of the practical impact of the BNS on society. A regular legislative review process will help identify and correct inconsistencies, unintended consequences, and the need to adjust the BNS to meet the expectations of constitutional morals and the changing realities of society. Also, encouraging advanced theological research into the developments in theology since the BNS was strongly encouraged; maintaining the relationship between those working in each of the respective fields would help assess the credibility of the sentencing practices and also the discretion exercised by law enforcement and determine how far the state should go in exercising its authority over the administration of justice and therefore help initiate reform and continue the process of democratic accountability. Through collaborative efforts between the judiciary, legislature and the academics there is a better chance of creating a fair, just and balanced criminal system

based on the evolution of the Barristers' Code (Bharatiya Nyaya Sanhita) which will provide more than just a symbolic change.

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