
REFORMING THE CRIMINAL JUSTICE SYSTEM IN INDIA: A CONSTITUTIONAL IMPERATIVE FOR FAIRNESS, ACCOUNTABILITY, AND ACCESS TO JUSTICE

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ABSTRACT

With India marking 79 years of Independence and constitutional governance, this is a critical moment to conduct a prospective study of the criminal justice system and assess the extent to which it upholds the constitutional ideals of justice, liberty, equality, and dignity. The criminal justice system in India, despite its robust constitutional framework, grapples with serious issues including police brutality, judicial delays, undertrial detention, custodial torture, and inadequate legal aid availability.

The criminal justice system has failed to adequately safeguard provisions under Articles 14, 20, 21, and 22 of the Constitution, which guarantee the right to equality, protection from arbitrary arrest, fair hearings, and legal counsel. While the Supreme Court has attempted to address these gaps through judicial activism as evidenced in *D.K. Basu v. State of West Bengal* and *Arnesh Kumar v. State of Bihar* the effectiveness of such interventions remains limited.

In a significant development, the Government of India enacted three new Acts: The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, replacing the Indian Penal Code, Code of Criminal Procedure, and Evidence Act respectively. While these enactments purport to overhaul criminal procedure and substantive law, their capacity to fulfill constitutional objectives and safeguard civil rights remains contested.

This paper contends that criminal justice reform in India must be situated within the broader context of legislative modernization but understood fundamentally as a constitutional imperative. Only when criminal justice reform is pursued in this manner can the transformative promise of the Constitution be realized in its 79th year.

1. Introduction

1.1 Constitutional Promise and Institutional Reality

India's criminal justice system operates within one of the world's most progressive constitutional frameworks, yet it continues to fail its most fundamental mandate ensuring fair, efficient, and dignified justice for all citizens. As the nation commemorates 79 years of constitutional governance, a rigorous examination of the criminal justice system is essential to evaluate its fidelity to the constitutional principles of justice, liberty, equality, and dignity articulated in the Preamble and Fundamental Rights.

The Constitution of India represents a commitment to a transformative vision of justice not merely formal legal equality but substantive fairness that recognizes and remedies systemic inequities. This vision is not abstract but deeply practical: it envisions a system where every citizen, regardless of economic status, caste, gender, or social position, can access justice expeditiously, fairly, and with dignity. Yet the gap between this constitutional vision and institutional reality has widened dangerously, creating a legitimacy crisis within the criminal justice system itself.

1.2 The Crisis: Dimensions and Scale

The disconnect between constitutional promise and lived reality manifests acutely across multiple dimensions:

Undertrial Incarceration Crisis: According to the National Legal Services Authority (NALSA) Under Trial Review Committee (January-March 2025), **India's prisons house 5,06,660 prisoners, of which 3,75,000 are undertrials comprising a staggering 74.2% of the total prison population.** This means that nearly three-quarters of India's prisoners have not been convicted of any crime. Thousands languish in custody for years awaiting trial, violating the constitutional guarantee of speedy trial enshrined in Article 21. The phenomenon represents not merely a procedural inefficiency but a wholesale failure to protect the presumption of innocence a cornerstone of constitutional criminal justice.

Custodial Violence and Torture: Despite judicial safeguards established in landmark cases like *D.K. Basu v. State of West Bengal* (1997), incidents of custodial violence, torture, and extrajudicial killings continue to plague the system. Police custody remains a site of profound

human rights violations, with the weakest and most marginalized citizens most vulnerable to abuse. These violations directly contravene Article 21's guarantee of the right to life and personal liberty, as well as constitutional commitments to human dignity.

Unequal Access to Justice: Structural inequalities systematically deny meaningful access to justice for marginalized communities, women, and the economically disadvantaged. Legal aid provisions remain inadequately funded and unevenly implemented. Marginalized communities Dalits, tribal groups, religious minorities, and LGBTQ+ persons confront discriminatory practices in bail determinations, prosecutorial decisions, and sentencing. Women's complaints, particularly in sexual violence and domestic abuse cases, are often dismissed or mishandled by police and courts. The poor are trapped in cycles of undertrial detention precisely because they lack resources for bail, while the affluent secure swift release.

Judicial Backlog and Delays: The judiciary, conceptualized as the guardian of constitutional rights, drowns under an unsustainable caseload. The National Judicial Data Grid reports over 36 million pending criminal cases across Indian courts as of 2025. Cases stretch across decades, leaving witnesses unavailable, evidence degraded, and justice illusory. Delays compound the damage of undertrial detention, transforming the criminal process from a mechanism of accountability into an instrument of prolonged suffering.

These failures are not ancillary deficiencies but profound constitutional violations. They represent systemic denial of the rights guaranteed in Articles 14 (equality), 20-22 (protection of the accused), and 21 (life and liberty). They undermine the legitimacy of the criminal justice system and erode public confidence in the rule of law.

1.3 Legislative Reform and Ongoing Debates

The recent enactment of three comprehensive criminal law codes the Bharatiya Nyaya Sanhita (BNS, 2023), Bharatiya Nagarik Suraksha Sanhita (BNSS, 2023), and Bharatiya Sakshya Adhiniyam (BSA, 2023) presents both an opportunity and a challenge to India's criminal justice architecture. These codes, which replaced the Indian Penal Code (1860), Code of Criminal Procedure (1973), and Indian Evidence Act (1872) respectively, were introduced with the stated objective of moving beyond colonial legacies and advancing toward a justice-oriented (*Nyaya*-based) rather than punishment-oriented (*Dand*-based) criminal law framework.

The government's framing emphasizes India's sovereign rewriting of its legal codes, freeing them from colonial imprints and anchoring them in contemporary constitutional values and international best practices. This narrative carries substantial political and symbolic weight, particularly given India's postcolonial commitment to constitutional self-determination.

However, preliminary substantive analysis reveals a more complex and concerning reality. Approximately 80% of the legal framework remains structurally identical to its colonial era predecessor. More troublingly, several new provisions paradoxically expand state power including extended police custody, discretionary preliminary inquiries before FIR registration, and relaxed digital evidence standards while simultaneously weakening constitutional protections for accused persons and individuals subject to state investigation.

The question thus emerges: Do these new codes genuinely embody constitutional imperatives, or do they represent rebranding of existing frameworks under nationalist language?

1.4 Research Objectives and Central Argument

This paper undertakes a comprehensive analysis of the criminal justice system in India through the lens of constitutional imperatives. The analysis proceeds through several interconnected dimensions:

Constitutional Foundations: Examining the theoretical architecture of the Constitution as it relates to criminal justice, including the Preamble's vision of justice, the Fundamental Rights safeguarding accused persons and citizens, the Directive Principles guiding state policy, and the doctrine of constitutional morality that animates judicial interpretation.

Institutional Realities: Assessing the structural and procedural challenges within policing, prosecution, judiciary, and correctional systems that prevent the system from realizing constitutional ideals examining police investigations' reliance on confessions and susceptibility to political influence, prosecutorial independence deficits, judicial capacity crises, and the undertrial incarceration phenomenon.

Legislative Modernization: Subjecting the three new criminal codes to rigorous constitutional scrutiny, evaluating whether they genuinely advance constitutional values or merely repackage existing frameworks.

Transformative Reform: Proposing a framework for criminal justice reform that addresses intersectional vulnerabilities, implements structural changes to achieve institutional independence, and prioritizes constitutional imperatives over technocratic efficiency.

The central argument of this paper is that **authentic criminal justice reform in India must transcend legislative rebranding and instead prioritize the alignment of law, procedure, and institutional practice with constitutional values of fairness, accountability, and human dignity.** Reform cannot be achieved through incremental procedural adjustments or nationalist relabeling of colonial laws. Rather, it demands a fundamental reconceptualization of criminal justice as a constitutional enforcement mechanism one that protects individual rights while simultaneously maintaining public order and accountability. Only when criminal justice reform is pursued through this constitutional lens can the transformative promise of the Constitution be realized in India's 79th year of independence and constitutional governance.

2. Legal Methodology

2.1 Research Approach

This research adopts a multi-method doctrinal and constitutional legal methodology, combining textual analysis, comparative assessment, and empirical evaluation to assess the criminal justice system's conformity with constitutional standards.

2.2 Primary Sources

The study centres on the following primary sources:

Constitutional Provisions: A detailed examination of Articles 14, 20, 21, and 22 of the Indian Constitution, which form the constitutional foundation for criminal justice, alongside the Preamble and Directive Principles of State Policy (Articles 38, 39A, 46) relevant to criminal justice administration.

Judicial Precedents: Analysis of landmark Supreme Court decisions that have shaped criminal justice jurisprudence, including but not limited to:

- *D.K. Basu v. State of West Bengal* (1997) on custodial safeguards
- *Arnesh Kumar v. State of Bihar* (2014) on arrest procedures

- *Satender Kumar Antil v. Central Bureau of Investigation* (2022) on bail reform
- *Navtej Singh Johar v. Union of India* (2018) on constitutional morality and criminal law
- *Justice K.S. Puttaswamy v. Union of India* (2017) on privacy and dignity
- *Hussainara Khatoon v. State of Bihar* (1979) on speedy trial rights

Legislative Framework: Critical analysis of the three new criminal codes Bharatiya Nyaya Sanhita (2023), Bharatiya Nagarik Suraksha Sanhita (2023), and Bharatiya Sakshya Adhiniyam (2023) evaluated against constitutional standards and international best practices.

2.3 Secondary Sources

The research incorporates analysis of:

Government Reports and Data: Statistics and findings from the National Legal Services Authority (NALSA), National Judicial Data Grid, National Crime Records Bureau (NCRB), and parliamentary committee reports, particularly the Malimath Committee Report and Law Commission reports.

Scholarly Literature: Academic commentaries on criminal law reform, constitutional jurisprudence, and criminal justice administration in India.

3. Constitutional Foundations of the Criminal Justice System in India

3.1 The Constitution as Grundnorm

The Constitution of India is not merely an administrative document but a sacred law that serves as the foundational authority what Hans Kelsen termed the **Grundnorm** for the entire legal system. The Constitution provides the ultimate guidance for how law must operate legitimately and justiciably, and no law can validly exist beyond its boundaries.

In Kelsonian terms, the Indian Constitution represents the fundamental norm from which all subordinate laws derive their validity. The Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, the Bharatiya Sakshya Adhiniyam, and all other criminal and procedural statutes obtain their legitimacy from the Constitution. Should any law conflict with the

constitutional framework, courts possess the authority to strike it down as void under Article 13.

This constitutional supremacy was affirmed in *Kesavananda Bharati v. State of Kerala* (1973), where the Supreme Court held that the Constitution possesses a basic structure that cannot be destroyed or fundamentally altered. This doctrine establishes that the Constitution stands as the highest norm in the legal order, immune from amendment that would violate its foundational principles.

3.2 Rule of Law and Constitutional Supremacy

A defining characteristic of India's criminal justice system is its grounding in the rule of law a principle that subjects every authority, governmental or individual, to the same legal order. This foundational principle, embedded in Articles 14 and 21, ensures that criminal law cannot be wielded selectively, arbitrarily, or discriminatorily. The supremacy of the Constitution reinforces this ideal by establishing that any criminal law inconsistent with constitutional provisions can be invalidated by courts.

Consequently, the criminal process functions not merely as an instrument of state control and punishment but as a constitutional mechanism for maintaining order while simultaneously safeguarding individual rights. The balance between state power and individual liberty is not incidental to criminal justice but constitutive of its constitutional legitimacy.

3.3 The Preamble and the Vision of Justice

The Preamble to the Indian Constitution articulates a vision of justice encompassing social, economic, and political dimensions a vision that serves as the guiding principle for the entire legal and criminal justice system.

Social Justice demands the eradication of discrimination and exploitation, requiring the criminal justice system to protect vulnerable communities and promote fairness in society. Criminal law must serve as a shield against systemic oppression and exploitation.

Economic Justice aims to prevent inequalities arising from deprivation or exploitation. The criminal justice system plays a vital role by prosecuting crimes rooted in poverty, including

bonded labor, exploitative labor practices, and economic offenses that perpetuate systemic disadvantage.

Political Justice ensures equal opportunity for participation in governance. Criminal law safeguards democratic processes by combating corruption, violence, and governmental overreach that undermine fair political participation.

The constitutional values of **liberty** and **equality**, enshrined in the Preamble, establish boundaries on the reach of criminal law. Liberty demands that deprivations of human freedom be necessary, proportional, and consistent with fair procedures. Equality prohibits discriminatory application of criminal statutes and mandates equal treatment regardless of status, identity, or social position.

Paramount among these constitutional values is **individual dignity**. Criminal justice departments bear an equal obligation to punish wrongdoers and to protect the dignity of every accused, victim, and citizen. Only when criminal justice administration aligns with this principle of dignity can the system embody the Constitution's ideal of justice.

3.4 Criminal Justice as an Enforcement Tool for Constitutional Rights and Duties The Indian Constitution does not conceive of the criminal justice process merely as a mechanism for punishment. Rather, it functions as a protector of rights and an enforcer of constitutional duties. Violations of Fundamental Rights including equality before law, protection against self-incrimination, and the right to life and liberty circumscribe the permissible scope and procedures of criminal trials and punishments.

Simultaneously, the criminal process embodies constitutional duties imposed on citizens, including the preservation of national unity, the protection of women's dignity, and the preservation of public property. The criminal justice system achieves its full constitutional purpose only when it equilibrates these rights and duties, thereby enabling the Constitution's commitment to social, economic, and political justice to manifest in lived reality.

4. Fundamental Rights Relevant to Criminal Justice

Article 14: Equality Before Law and Equal Protection

Article 14 guarantees that the State cannot arbitrarily discriminate in the enactment or

implementation of criminal laws. The Supreme Court, in *E.P. Royappa v. The State of Tamil Nadu* (1974), held that arbitrariness is fundamentally antithetical to equality. In *Maneka Gandhi v. Union of India* (1978), the Court clarified that Article 14 must be read in conjunction with Articles 19 and 21 to assess whether criminal statutes and procedures satisfy the requirement of non-arbitrariness.

The criminal justice system violates Article 14 when similar situations are treated differently without rational justification or when criminal laws employ vague classifications that permit discriminatory application.

Article 20: Protection in Respect of Conviction for Offences

Article 20 provides three critical protections:

Ex Post Facto Laws: No person may be convicted under a law that was not in force at the time of the alleged offense. In *Rattan Lal v. State of Punjab* (1965), the Court clarified that while beneficial provisions may have retrospective application, penal provisions cannot.

Double Jeopardy: No person shall be prosecuted and punished for the same offense more than once. In *Maqbool Hussain v. State of Bombay* (1953), the Court distinguished between departmental and criminal proceedings, holding that double jeopardy applies to criminal proceedings.

Protection Against Self-Incrimination: Article 20(3) protects the accused from compulsory self-incrimination. In *Nandini Satpathy v. P.L. Dani* (1978), the Court broadened this protection to encompass police interrogation, establishing that the right against self-incrimination extends through the investigation stage.

Article 21: Right to Life and Personal Liberty

Article 21 stands as the most expansive and dynamic safeguard in criminal justice, subject to liberal interpretation by courts. Originally restricted in *A.K. Gopalan v. State of Madras* (1950) to procedural requirements, the provision underwent transformative expansion in *Maneka Gandhi v. Union of India* (1978), which introduced a substantive due process requirement demanding that procedures be just, fair, and reasonable.

Subsequent judicial developments have extended Article 21 to encompass:

- **Right to Speedy Trial:** In *Hussainara Khatoon v. State of Bihar* (1979), the Court recognized speedy trial as integral to Article 21, highlighting the constitutional violation inherent in prolonged undertrial detention.
- **Prisoners' Rights:** In *Sunil Batra v. Delhi Administration* (1978), the Court held that even incarcerated persons retain fundamental rights and that torture or inhuman prison conditions violate Article 21.
- **Custodial Safeguards:** *D.K. Basu v. State of West Bengal* (1997) established detailed procedural safeguards against custodial violence, including restrictions on police interrogation, mandatory medical examinations, and videotaping of confessions.
- **Bail and Presumption of Innocence:** In *Satender Kumar Antil v. Central Bureau of Investigation* (2022), the Supreme Court acknowledged systemic failures in India's bail system and urged a liberal approach to bail, recognizing that the presumption of innocence is illusory if individuals languish in jail pending trial.

Article 22: Safeguards in Arrest and Preventive Detention

Article 22 carefully balances individual liberty against the state's power of preventive detention. Its protections include the right to be informed of arrest reasons, the right to counsel, and mandatory production before a magistrate within 24 hours. Simultaneously, it permits preventive detention for fixed periods under specified conditions.

In *A.K. Gopalan v. State of Madras* (1950), the Court upheld preventive detention laws, defining liberty narrowly. This permissive approach was severely criticized during India's Emergency period, exemplified by the notorious *ADM Jabalpur v. Shivkant Shukla* (1976), which suspended fundamental rights including Article 21.

The Court remedied this approach in *Justice K.S. Puttaswamy v. Union of India* (2017), holding that the right to life and liberty constitutes an inalienable right that cannot be suspended even in extraordinary circumstances.

Collectively, Articles 14, 20, 21, and 22 form a constitutional guarantee that while the

State possesses investigative, prosecutorial, and punitive authority, this power must be exercised consistently with equality, justice, and human dignity.

5. Judicial Interpretation and Constitutional Morality

5.1 The Doctrine of Constitutional Morality

The Indian judiciary is recognized as essential to implementing the rule of law and protecting citizens' fundamental rights. The doctrine of constitutional morality, articulated by the Supreme Court, holds that **the Constitution itself not transient majoritarian sentiment or contemporary social morality must guide judicial decisions** on matters touching liberty, equality, and dignity.

The Supreme Court has categorically stated that constitutional morality applies whenever fundamental rights are implicated, particularly in criminal justice matters where individual liberty and dignity are at stake.

5.2 Landmark Cases on Constitutional Morality and Criminal Law

Decriminalization of Homosexuality: In *Navtej Singh Johar v. Union of India* (2018), the Court decriminalized homosexuality, holding that societal disapproval cannot justify denying individuals dignity and privacy. This decision reflects a fundamental principle: criminal law cannot enforce majoritarian moral judgments at the cost of constitutional rights.

Right to Privacy: In *Justice K.S. Puttaswamy v. Union of India* (2017), the Court affirmed that the right to privacy is intrinsic to liberty and dignity, establishing constitutional limits on state intrusion into private life.

Decriminalization of Adultery: In *Joseph Shine v. Union of India* (2018), the Court decriminalized adultery, recognizing that criminal law cannot enforce patriarchal social norms or restrict individual autonomy in personal relationships.

These judgments demonstrate that judicial interpretation animated by constitutional morality has revolutionized criminal law, bringing the system closer to the Constitution's ideals of justice, equality, and dignity.

6. Structural and Procedural Challenges in the Current System

6.1 Policing and Investigation

Police represent the entry point to India's criminal justice system but are burdened by deep structural inefficiencies. Investigations rely excessively on confessions, creating vulnerability to coercion and custodial abuse despite constitutional protection against selfincrimination.

In *Prakash Singh v. Union of India* (2006), the Supreme Court prescribed comprehensive police reform, including fixed officer tenures, separation of investigation from law and order functions, and independent complaint authorities. Implementation, however, has been inconsistent and fragmented. Investigative agencies remain vulnerable to political influence and corruption. Training remains inadequate, forensic capabilities are underdeveloped, and evidence collection remains poor, resulting in low conviction rates and substantial case backlogs at the investigation stage. Delays accumulate, leaving undertrials imprisoned for extended periods. Technological upgrades such as CCTNS have had limited practical impact in most jurisdictions.

Without fundamental structural reform, policing will perpetuate arbitrary decisionmaking and continued erosion of fairness and due process.

6.2 Prosecution Inefficiencies

Prosecution should serve as the backbone of fair trials but suffers systematic challenges. Public prosecutors, representing the State's interests, struggle to operate independently, often remaining subject to executive control or political appointment. In *Shiv Kumar v. Hukam Chand* (1999), the Court clarified that prosecutors serve justice, not persecution.

In practice, however, overwhelmed prosecutors, inadequate infrastructure, and poor coordination with investigators generate acquittals and delays. The Law Commission's 197th Report (2006) recommended establishing an independent Directorate of Prosecution free from police control, yet most states have not implemented this recommendation. Victim-oriented approaches, including victim participation in trials, remain nascent, further eroding public confidence in the system.

Meaningful prosecution reform through better training, genuine independence, and

victim-centered practices is essential to realize constitutional promises of equality and justice.

6.3 Undertrial Incarceration and Bail Jurisprudence

India's prison system confronts a severe undertrial crisis. According to NALSA's Under Trial Review Committee report (January-March 2025), of 5,06,660 prisoners, 3,75,000 are undertrials comprising 74.2% of the total prison population. This represents a fundamental breakdown in the criminal process and reflects courts' excessive reluctance to grant bail.

Article 21 guarantees speedy trial, yet undertrials languish in prison for years without verdict. The Supreme Court addressed this in *Hussainara Khatoon v. State of Bihar* (1979), ordering release of undertrials held beyond reasonable periods. In *Satender Kumar Antil v. CBI* (2022), the Court urged liberal bail application and cautioned against mechanical arrest practices.

On the ground, however, bail remains a function of financial capacity. Affluent accused secure release quickly; the poor remain imprisoned. While Under Trial Review Committees now scrutinize undertrial cases, translating recommendations into releases occurs slowly.

Until bail practices decisively favor liberty and alternatives such as electronic monitoring and community service become standard, undertrial incarceration will continue degrading the system and mocking equality before law.

6.4 Judicial Backlog and Delays

The judiciary, guardian of justice, drowns under a caseload crisis. As of 2025, **the National Judicial Data Grid** indicates over 36 million pending criminal cases across Indian courts. This backlog does not merely slow proceedings; it transforms trials into endless ordeals, perpetuates unjust detention, and erodes public confidence.

The backlog reflects multiple causes: insufficient judicial strength, weak court infrastructure, routine procedural delays, and frequent judge transfers. **The Law Commission's 245th Report (2014)** identified India's critically inadequate judge to population ratio, yet substantive change has been minimal.

7. The New Criminal Laws: Reform or Rebranding?

India's new criminal laws the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) replace the Indian Penal Code,

Code of Criminal Procedure, and Evidence Act respectively. The government positions this transition as breaking from colonial legacies and advancing toward *Nyaya* (justice) rather than *Dand* (mere punishment).

However, substantive analysis reveals that approximately 80% of the legal framework remains structurally identical, with most innovations expanding state power without proportionate strengthening of constitutional protections.

A. Bharatiya Nyaya Sanhita: New Face, Old Structure

The BNS claims modernization but retains the Indian Penal Code's fundamental architecture.

Sedition and Sovereignty: Section 124A (sedition) was ostensibly abolished but replaced with provisions criminalizing acts threatening India's sovereignty, unity, or integrity. Though *Kedar Nath Singh v. State of Bihar* (1962) narrowed sedition's scope, governments continue weaponizing such provisions against journalists, activists, and political opponents. Changing the heading has not eliminated the threat.

Terrorism: Terrorism finally appears as a distinct crime, addressing a previous legislative gap. However, the definition is dangerously broad, encompassing economic disruption and threats to public order, inviting misuse. Under the Unlawful Activities Prevention Act (UAPA), such expansive definitions have enabled state abuse, as the Court recognized in *Union of India v. K.A. Najeeb* (2021), intervening to protect fundamental liberty.

Gender Justice: The BNS increases penalties for sexual violence, human trafficking, and crimes against women and children. While such measures represent progress on paper, the focus remains on harsh punishment rather than survivor support, police accountability, or systemic reform of investigative practices.

B. Bharatiya Nagarik Suraksha Sanhita: Digitization Without Liberty

The BNSS is marketed as embracing the digital age through electronic FIRs, video trials, and mandatory forensics. Yet simultaneously, police powers expand.

Preliminary Inquiry Before FIR: *Lalita Kumari v. State of UP* (2014) mandated immediate FIR registration. The BNSS permits police preliminary inquiries lasting up to 14 days before filing the FIR. This delay can deny or substantially delay justice, particularly for violence victims.

Extended Police Custody: Police may now obtain custodial remand in increments, extending up to 40-60 days. In a nation where custodial deaths occur with disturbing frequency, this provision does more than adjust technicalities it undermines Article 21's dignity guarantee.

Bail Reform Absent: With over 74% of prisoners being undertrials (5+ lakh people as of January 2025), the BNSS fails to implement meaningful bail reform. Default bail provisions remain rare, and the presumption of innocence rings hollow when the poorest and most marginalized remain indefinitely imprisoned pending trial.

C. Bharatiya Sakshya Adhiniyam: Digital Justice or Surveillance State?

The BSA advances the digital era by more readily admitting electronic records, potentially accelerating trials. However, critical concerns emerge.

In *Anvar P.V. v. P.K. Basheer* (2014), the Court required strict certification standards to ensure digital evidence reliability. The BSA relaxes these safeguards, opening pathways to convictions based on doctored or unreliable data.

Combined with expanding state surveillance capabilities, this threatens privacy—the right recognized in *Puttaswamy* (2017) as intrinsic to liberty and dignity.

D. Constitutional Adequacy of the New Codes

Article 14 (Equality): Vaguely defined terrorism and sovereignty offenses remain ripe for abuse, particularly against minorities and political dissenters.

Article 21 (Liberty): Extended police custody and restrictive bail practices erode personal freedom.

Articles 20-22 (Accused's Rights): Safeguards against self-incrimination and arbitrary arrest exist largely on paper.

Dignity: Despite landmark decisions like *Sukanya Shantha v. Union of India* (2024) striking down caste-based prison segregation, the new laws remain silent on these structural inequities.

The new codes represented a rare opportunity to transcend colonial frameworks and anchor criminal justice in constitutional morality. Instead, they perpetuate colonial logics under nationalist terminology. **Authentic reform demands holding criminal law to constitutional standards of fairness, liberty, equality, and dignity. Anything less repeats historical injustices with modernized language.**

Conclusion

India's criminal justice system, rooted in colonial legacies and strained by modern inequities, stands at a pivotal juncture in the nation's 79th year of constitutional governance. True transformation demands more than superficial legislative rebranding; it requires an intersectional lens that centers the lived realities of marginalized communities, including Dalits, tribal groups, LGBTQ+ persons, and women, who face systemic biases in policing, bail, legal aid, and prisons. Recent Supreme Court interventions and stark empirical data on undertrial demographics highlight the pressing need for targeted reforms to ensure substantive equality and robust judicial oversight.

A critical evaluation of recent laws reveals risks of perpetuating injustices through expanded police powers, digital evidence vulnerabilities, and prolonged undertrial detention. Drawing from national committee recommendations and global best practices, authentic reform must prioritize independent oversight mechanisms, procedural fairness, and safeguards for civil liberties in the digital age. Simultaneously, addressing structural gaps such as police and prosecutorial independence, judicial capacity shortages, dehumanizing prison conditions, and inadequate victim support is essential. Innovations like technology-driven transparency, alternative bail and sentencing models, efficient case management, and accessible legal education, coupled with community-driven restorative justice, form the bedrock of progress.

Ultimately, realizing the Constitution's transformative vision of justice beyond punishment hinges on unwavering commitment to dignity, equality, and liberty for all. By bridging these gaps through pragmatic, evidence-based measures, India can forge a criminal justice system that not only punishes but heals, upholds human rights, and fosters societal restoration.

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