
JUSTICE IN TRANSITION: EXAMINING INDIA'S JUDICIAL REFORMS UNDER THE BNS, BNSS, AND BSA

Georgiya Mariya George, BBA LLB, LLM

ABSTRACT

Delivery of justice constitutes the pillars of democratic government, safeguarding constitutional rights, enforcing the rule of law, and ensuring social harmony. In India, with a huge and heterogeneous population, the delivery of justice is both a constitutional obligation and a social requirement. In this Article, the delivery system of justice in India is critically analyzed through an exploration of its constitutional basis, institutional frameworks, and emerging trends, along with systemic issues and recent reforms.

New trends like judicial activism, extension of Article 21 to cover socio-economic rights, and development of Public Interest Litigations (PILs) have made the judiciary a tool of social justice. At the same time, technological incorporation—e-filing, online hearings, and e-evidence—has computerized the judicial process, although it also creates issues of a digital divide. Alternative Dispute Resolution (ADR) processes like arbitration, mediation, and Lok Adalats have also helped in minimizing pendency and increasing efficiency.

In spite of these advancements, systemic issues like backlogs in cases, meager judge-to-population ratios, and constrained prosecutorial autonomy continue to exist. A comparison with the United States serves to underscore potential lessons such as more extensive plea bargaining and greater prosecutorial independence. The launch of the three new criminal codes in 2023—the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA)—is a watershed reform, with a focus on time-bound trials, cyber evidence, and victim-justice. The paper concludes that though India's delivery system is changing, meaningful implementation of reforms, investment in infrastructure, and better legal aid are still needed to implement accessible and timely justice.

Keywords: Justice delivery, Indian Judiciary, BNS, BNSS, BSA

“There can be no equality without justice, and no justice without a strong and fair system to deliver it.”¹

INTRODUCTION

Justice delivery is the cornerstone of any democratic framework and is vital for ensuring the rule of law, safeguarding constitutional rights, and maintaining societal harmony. In India, with its vast population, pluralistic society, and layered governance, ensuring timely and effective justice is both a legal necessity and a moral imperative.

The judiciary has wonderfully stretched the connotation of justice by way of landmark judgments, Public Interest Litigation, and acknowledgement of socio-economic rights but the distance between constitutional aspirations and ground realities remains. The passing of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam in 2023 is an ambitious bid to update criminal justice by way of time-bound hearings, digitalization, and victim-oriented provisions. However, these reforms will be successful only if supported by capable implementation, institution-building, and balanced access in urban as well as rural India.

Going ahead, India needs to invest in judicial infrastructure, improve legal aid facilities, and adopt technology inclusivity in order to establish an infrastructure that is not just equitable and impartial but also efficient and accessible. Justice is not really justice if it is only delivered through the sound of pronouncements, but also if justice reaches every citizen in a timely and meaningful manner. Only then can justice as promised under the constitution—social, economic, and political—become a living reality for all.

CONSTITUTIONAL BASIS FOR JUSTICE DELIVERY: ARTICLE 21 AND BEYOND

Although the Indian Constitution does not explicitly guarantee the right to a speedy trial, the Supreme Court has interpreted this right as inherent under Article 21 the right to life and personal liberty. This was clearly established in the landmark *Maneka Gandhi v. Union of India*² judgment. Subsequently, in *Hussainara Khatoon v. State of Bihar*³, the Court addressed the plight of thousands of undertrial prisoners who had been languishing in jail without trial

¹ Dr. B.R. Ambedkar Constituent Assembly on 25 November 1949.

² *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

³ *Hussainara Khatoon (1) v. State of Bihar*, AIR 1979 SC 1360

for years. The Court declared such delays unconstitutional and asserted that the state has a duty to ensure swift justice. These interpretations collectively ensure that procedural efficiency is not just a matter of administrative concern but a constitutional mandate. Other constitutional provisions such as Article 14, which guarantees equality before the law, and Article 39A, which ensures free legal aid, reinforce the right to equal access to justice.⁴

STRUCTURE OF THE INDIAN JUDICIARY AND PROCEDURAL SAFEGUARDS IN JUSTICE DELIVERY

India's judiciary is a unified structure comprising the Supreme Court at the apex, followed by High Courts in each state and an extensive network of subordinate courts. The criminal justice process is governed by the Code of Criminal Procedure (CrPC), 1973, which outlines procedural safeguards aimed at protecting individual liberties and ensuring fair trial standards.

EMERGING TRENDS IN JUSTICE DELIVERY

Over the last few decades, the Indian judiciary has undergone a process of evolution in terms of judicial activism, rights-based interpretation, and modernization. One major development has been the expansion of Article 21 beyond traditional personal liberties. Through judgments like *Olga Tellis*⁵, and *Justice K.S. Puttaswamy v. Union of India*⁶, the Supreme Court has recognized that the right to life includes the right to dignity, privacy, health, and shelter. These expansive interpretations underscore the role of the judiciary as a protector of socio-economic rights.

The emergence of Public Interest Litigation (PIL) in the 1980s marked another transformative moment. PILs enabled concerned citizens, NGOs, and civil society actors to approach courts on behalf of marginalized communities.⁷ This democratized access to justice and allowed the judiciary to address large-scale injustices proactively. However, the judiciary has also cautioned against the misuse of PILs for political motives or personal publicity.⁸

⁴ Biswanath Bajpayee, "Law's Delay", The Journal of the Bar Council of India 70 Vol. 7(1), (1978)

⁵ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545.

⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1.

⁷ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 123 (Oxford Univ. Press 2002).

⁸ A. M. Ahmadi "judicial process: social legitimacy and institutional viability" 4 SSC (Journal) 6, 1 - 10(1996)

In recent years, the integration of technology has further modernized the justice system. E-filing, virtual court hearings, online cause lists, and digitized case management systems have become integral parts of judicial functioning, especially post-COVID-19. These measures have made courts more accessible but have also exposed the digital divide between urban and rural litigants.

SYSTEMIC AND STRUCTURAL CHALLENGES IN JUSTICE DELIVERY

Despite constitutional and institutional strengths, the Indian justice system continues to suffer from multiple structural and functional deficiencies. One of the most pressing issues is the massive backlog of cases.⁹ With over four crore cases pending across all levels of the judiciary, delays in resolution have become a defining feature of the system. The situation is worsened by an alarmingly low judge-to-population ratio approximately 21 judges per million people well below international standards.¹⁰

STRENGTHENING JUSTICE DELIVERY THROUGH ADR MECHANISMS

ADR mechanisms such as arbitration, mediation, conciliation, and Lok Adalats have emerged as vital tools for reducing pendency and offering speedy, cost-effective dispute resolution. Statutorily recognized through the Arbitration and Conciliation Act, 1996, and the Legal Services Authorities Act, 1987, ADR has been particularly successful in civil and family law matters. Lok Adalats, in particular, have disposed of lakhs of cases every year, providing amicable and time-bound solutions.¹¹

Mediation is increasingly used in commercial disputes, while arbitration has become the preferred mechanism for business conflicts. These forums offer greater procedural flexibility, less formality, and better satisfaction among disputing parties. Courts are now actively encouraging ADR, often referring suitable cases to mediation or Lok Adalats.¹²

COMPARATIVE PERSPECTIVE OF JUSTICE DELIVERY BETWEEN INDIA AND UNITED STATES

⁹ R. Sethi, Criminal Justice System: Problems and Challenges, 14–15 Aligarh L.J. 1 (1999–2000)

¹⁰ Law Comm'n of India, 245th Report on Arrears and Backlog 54 (2014).

¹¹ Dr. N.V. Paranjape, Law Relating to Arbitration & Conciliation in India, Central Law Agency, Allahabad, VIIth Ed. Reprint 2018, P. 433

¹² Sukumar Ray, *Alternative Dispute Resolution* 8 (1st ed. 2012).

India can draw lessons from U.S. practices such as expanded use of plea bargaining, greater prosecutorial autonomy, and institutional accountability. It is shown below.

Features	United States	India
Court Structure	Federal and State courts	Unified judicial system
Jury Trials	Constitutionally guaranteed	Abolished
Speedy Trial	Explicit (6th Amendment + statute)	Judicial interpretation (Article 21)
Plea Bargaining	Common practice	Restricted to limited cases
Prosecutorial Independence	Strong prosecutorial oversight	Police-led investigations

THE 2023 CRIMINAL LAW REFORMS: TOWARDS BETTER JUSTICE DELIVERY

The year 2023 marked a historic overhaul of India's criminal justice laws with the enactment of three new codes Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita ,and the Bharatiya Sakshya Adhinyam (BSA). These reforms aim to modernize the criminal justice process by introducing time-bound procedures, digital integration, and a victim-centric approach.¹³

The BNSS mandates strict timelines for investigation, trial, and delivery of judgments, thereby promoting procedural discipline. The BSA recognizes digital and electronic evidence, ensuring that the justice system remains relevant in a data-driven age. A notable innovation is the emphasis on victim rights, including mandatory updates on case progress and protection from intimidation. The reforms also impose responsibilities on citizens to assist law enforcement,

¹³ Rahul K. Gawadei & Sarika K. Karanjule, Replacement of Old Criminal Laws by New: A Reformative Step to Boost Criminal Justice System of India, Int'l J. Law Mgmt. & Humanities, vol. 7, iss. 6, 2105-13 (2024).

thereby encouraging community participation.¹⁴

POLICY RECOMMENDATIONS FOR STRENGTHENING JUSTICE DELIVERY

To overcome existing challenges and harness the potential of recent reforms, several steps must be taken. First, the right to speedy trial should be legislated explicitly to ensure consistent enforcement. The scope of plea bargaining should be expanded under judicial oversight to dispose of non-violent and white-collar crimes efficiently. Investment in infrastructure including digital case management, virtual hearings, and modern courtrooms must be scaled up.

Prosecutorial services must be made independent of police control to ensure impartiality. Legal aid services, especially through NALSA, should be extended using mobile clinics and regional language outreach. Judicial vacancies must be filled promptly, and the number of sanctioned posts increased to reduce caseloads. Finally, pre-litigation mediation should be made mandatory for specific civil matters, and legal education must incorporate ethics, clinical training, and access-to-justice models.¹⁵

CONCLUSION

India's justice delivery system is undergoing a pivotal transformation. While the judiciary has played a vital role in protecting constitutional rights and promoting social justice, the system remains beset by delays, inefficiencies, and barriers to access. The introduction of the BNS, BNSS, and BSA marks a promising new chapter in India's legal evolution, but their success will depend on meaningful implementation and widespread public engagement.

As India aspires to become a global leader in rule of law and constitutional governance, it must invest in making justice not only fair and impartial but also timely and accessible. Moving forward, an inclusive, transparent, and technologically integrated justice system must be prioritized. As Justice V.R. Krishna Iyer aptly observed, "Speedy justice is a component of social justice." India must now make this constitutional vision a reality for all its citizens.

¹⁴ Vijeta Shrivastava, Independence from Colonial Vestige and Overhaul of Indian Criminal Justice System through Three New Laws, 33 *Contemp. Soc. Sci.* 174 (2024).

¹⁵ Law Comm'n of India, *245th Report on Arrears and Backlog* 54 (2014); R. Sethi, *Criminal Justice System: Problems and Challenges*, 14–15 *Aligarh L.J.* 1 (1999–2000); Sukumar Ray, *Alternative Dispute Resolution* 8 (1st ed. 2012).