



MAINS iMPACT 2025

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NEW CRIMINAL LAWS

SYLLABUS:

GS 2 > Indian Polity

REFERENCE NEWS:

Union Home Minister **Amit Shah** stated that the **new criminal laws** introduced by the government include **adequate checks and balances** to hold police officers accountable for any **dereliction of duty** during criminal investigations. He described the legal overhaul as **the most significant reform since Independence**, aiming to make the **justice system transparent, citizen-centric, and time-bound**, thereby strengthening the protection of citizens' rights.

HISTORY:

In an effort to remove colonial influences on Indian Legal System and to strengthen the Justice delivery on time rather than focussing on punishment, Parliament passed the three new criminal laws. After 77 years, Justice is now completely swadeshi.

- Jurisprudence in India shaped by the concept of 'Dharma', prescribing various rules of right conduct as given in Puranas, Dharmashastras, Smritis.
- Judicial decisions conformed to legal texts, social usage and the edict of the king, who was prohibited from violating the decisions as seen during Mauryan, Gupta eras.
- During Medieval times, criminal justice system along with civil justice system evolved along with Delhi Sultanate and Mughal rules introducing Faujdari Adalat, Diwani Adalat etc.
- An **Indian Penal Code (IPC)** defining crime and prescribing appropriate punishments was adopted in 1860, prepared by the first **Law Commission of India** was developed in line with the English criminal law.

- **Code of Criminal Procedure** was enacted in 1861 and established the rules to be followed in all stages. This was amended in 1973.
- Later **Article 246** of the Constitution of India places the **police, public order, courts, prisons, reformatories and other allied institutions in the State List**. However, the Union laws are followed by the Police, Judiciary, and Correctional Institutes, which form the basic organs of the criminal justice system.
- **N N Vohra Committee of 1993** was setup which pointed out the unholy nexus and increased criminalisation in politics which shows an effort to push for criminal justice system reform
- **Justice V S Malimath Committee in 2003** also recommended for a rejuvenation to the colonial criminal justice delivery as it did not adequately focus on justice to the victims of crime.
- **Justice Verma Committee report of 2013** on amendments of criminal laws.

NEED FOR THE REFORMS:

- **Pendency of Cases:** Over 5 crore cases pending across all courts.
- **Judicial Vacancies:** India has only 21 judges per million people compared to target of 50 judges per million people.
- **Abuse of Power by Police:** Rising evidence of Human rights violations in prison like custodial deaths, rapes, increasing false FIRs, abuse of laws of sedition, UAPA etc
- Complex and exorbitantly expensive justice delivery system leading to non-inclusivity of marginalised
- Emergence of new age offences like cybercrimes, importance to gender neutrality and recognition of changing societal values.

ACHIEVEMENTS OF THE NEW CRIMINAL LAWS:

- **Technology-Driven Justice System**
 - **e-Sakshya** and **e-Summons** notified in **11 States/UTs**
 - **Nyaya Shruti** (video testimony system) implemented in **6 States/UTs**
 - **CCTNS network** expanded: Covers **14,000+ police stations, 22,000 courts** connected for integration
- **Capacity Building and Legal Awareness: 23 States/UTs** completed **100% capacity building** for implementation.
- **Community service** introduced as a new penalty in **12 States/UTs**
- **Key Supreme Court Judgments on New Laws:**
 - **Re-Inhuman Conditions in 1382 Prisons vs. Director General of Prisons:** Retrospective application of **BNSS Section 479** on undertrial release was upheld. Authorities must identify **eligible women prisoners for release** under **BNSS Section 479**.

- **Badshah Majid Malik v. Directorate of Enforcement:** Bail granted under **PMLA**, as accused served **one-third** of maximum sentence.

KEY FEATURES OF THE NEW LAWS:

- **Provisions regarding Women and Children:**
 - No tolerance for crimes against children- Death penalty/life imprisonment for gangrape of a minor, 7-14 years of imprisonment for buying or selling of a child for prostitution, punishment for abandoning a child.
 - Deceptive marriages can lead to 10 years of imprisonment.
 - Section 69 of BNS punishes whoever by deceitful means make promise to marry a woman without any intention of fulfilling the same and has sexual intercourse with her.
 - Dedicated chapter for offences against women and child.
- **Sedition provisions** removed from the new law and instead penalises exciting or attempting to excite secession, armed rebellion, or subversive activities, encouraging feelings of separatist activities, or endangering sovereignty or unity and integrity of India.
- **Defines Terrorism and Organised Crime:** The Act defines terrorism as an act that intends to threaten the unity, integrity, and security of the country, to intimidate the general public or disturb public order and destabilise the country. It also defines organized crime and imposes penalty.
- **Justice delivery within deadline:**
 - Mandatory chargesheet filing within 90 days of case filing.
 - Framing of charges within 60 days of charge sheet.
 - Delivery of judgement within 30 days of conclusion of hearing.
 - Review petitions against death sentences to be heard within 60 days.
- Adoption of World's most modern justice system.
 - 99% police stations are computerised.
 - Adoption of **ZERO FIR** to file FIR regardless of jurisdiction.
 - **e-FIR** provisions to file FIR without visiting police stations
- **Reformist approach to minor offences:**
 - Introduction of **Community Service** for offences of theft defamation.
 - Offering alternative to imprisonment and easing prison crowding.
- **Mob Lynching** as an offence can attract life imprisonment or death penalty
- The New version of **Indian Evidence Act widens the ambit of electronic records** admissible as evidence and removes provisions related to telegraphic messages Bhartiya Nagarik Suraksha Sanhita, 2023 provides for trials in electronic mode, forensic investigations for

offences punishable with at least 7 years, timeline for various procedures etc.

SIGNIFICANCE OF THE NEW LAWS:

- **Modernization and Relevance:**
 - **Updating Archaic Laws:** The new laws aim to modernize these provisions to better reflect contemporary societal values and norms.
 - **Alignment with International Standards:** The new laws are designed to bring India's legal framework in line with international human rights standards, ensuring better protection of individual rights and liberties.
- **Victim-Centric Approach:**
 - **Enhanced Victim Rights:** This includes better protection, compensation, and support mechanisms for victims of crime.
 - **Witness Protection:** Strengthened witness protection laws ensure that witnesses can testify without fear of retribution, leading to higher conviction rates. Data from the National Crime Records Bureau (NCRB) indicates that witness intimidation is a significant factor in low conviction rates.
- **Efficient Justice Delivery:**
 - **Speedy Trials:** The new laws include provisions to expedite the judicial process, reducing the pendency of cases. As of 2022, over 4.5 million criminal cases were pending in Indian courts, significantly straining the judicial system.
 - **Use of Technology:** Incorporating technological advancements, such as electronic documentation and virtual hearings, aims to streamline court procedures and enhance transparency.
- **Stringent Punishments for Heinous Crimes:**
 - **Enhanced Penalties:** The new laws propose harsher penalties for severe crimes, such as rape, terrorism, and organized crime.
 - **Special Provisions for Women and Children:** The reforms include specific provisions to protect women and children from sexual offenses and trafficking, addressing the increasing rates of such crimes. NCRB data shows a consistent rise in crimes against women and children, highlighting the need for stronger legal safeguards.
- **Decriminalization of Minor Offenses:**
 - **Reduction of Overcriminalization:** This also helps in avoiding the unnecessary criminalization of individuals for petty offenses.
 - **Focus on Rehabilitation:** Minor offenders are provided opportunities for rehabilitation rather than punishment, aligning with modern criminological theories that emphasize rehabilitation over retribution.
- **Ensuring Fair Trials:**

- **Enhanced Legal Aid:** Improved access to legal aid ensures that even the underprivileged have adequate representation, promoting equality before the law. According to the 2020 report by the National Legal Services Authority, nearly 80% of India's population falls under the eligibility criteria for free legal aid.
- **Safeguarding Accused Rights:** Reforms ensure that the rights of the accused are protected, including the right to a fair trial, presumption of innocence, and protection from torture and inhumane treatment.
- **Transparency and Accountability:**
 - **Judicial Accountability:** Introducing measures for greater accountability and transparency within the judiciary helps build public trust. This includes stricter mechanisms for dealing with judicial misconduct.
 - **Police Reforms:** Reforms in police procedures and accountability mechanisms are integral to the new criminal laws, aiming to reduce instances of police brutality and corruption. According to a 2019 report by the Bureau of Police Research and Development, public trust in the police is eroded due to frequent allegations of misconduct.
- **Economic and Social Impacts:**
 - **Reduction in Litigation Costs:** Speedier trials and streamlined processes reduce litigation costs, benefiting both the state and the litigants. According to the Economic Survey of 2018-19, delays in legal proceedings cost India approximately 1.5% of its GDP annually.
 - **Improved Social Harmony:** Efficient and fair justice delivery contributes to social stability and harmony, as timely justice deters crime and reassures the public about the rule of law.

CHALLENGES IN THE NEW LAWS:

- **Implementation Challenges:**
 - **Lack of Infrastructure:** The successful implementation requires substantial infrastructure improvements, including modernized courtrooms and digital systems.
 - **Training of Personnel:** Law enforcement and judicial officers need extensive training to understand and apply the new laws correctly.
- **Overburdened Judiciary:**
 - **Pending Cases:** The Indian judiciary is already grappling with a huge backlog of cases. As of 2023, over 4.4 million cases are pending in high courts, and over 34 million cases are pending in lower courts.
 - **Resource Allocation:** Adequate resources, including judges, court staff, and technology, are essential to handle the influx of

cases under the new laws. The current shortage of these resources poses a significant challenge.

- **Enforcement Issues:**
 - **Police Reforms:** Effective enforcement of new laws requires significant reforms in the police force, including better training, accountability mechanisms, and modernization. The Bureau of Police Research and Development (BPR&D) has highlighted gaps in these areas.
 - **Corruption and Misuse:** There is a risk of corruption and misuse of new provisions by law enforcement agencies. Instances of misuse of existing laws, like the Unlawful Activities Prevention Act (UAPA), raise concerns about potential abuses under new laws.
- **Legal Ambiguities and Inconsistencies:** Some new provisions may lack clarity, leading to varied interpretations and potential misuse. Clear and precise language is crucial to avoid legal ambiguities.
 - For example, **Section 69 of BNS** can be a source to false accusations and arrests.
 - **Inconsistencies in definition of child offences**
- **Human Rights Concerns:** In Detention and Arrest Provisions, use of handcuffs while arrest deters SC guidelines and NHRC guidelines.
- **Social and Economic Impacts:**
 - Impact on Marginalized Communities.
 - Missed opportunity for Gender justice.
 - Absence of provision for marital rape, crime against transgenders and queer community in new laws.
- **Public Awareness and Education:**
 - **Lack of Awareness:** Effective implementation requires comprehensive awareness campaigns to educate the public about their rights and responsibilities under the new legal framework.
 - **Civic Participation:** Engaging civil society and legal experts in the implementation process is crucial to address practical issues and ensure laws serve their intended purpose.
- **Technological Integration:**
 - **Digital Divide:** Rural and economically disadvantaged areas may struggle with access to necessary technology and digital literacy.
 - **Data Privacy:** Ensuring robust data protection measures is essential to prevent misuse of personal information as envisaged through **Puttaswamy judgement**. Videography compulsory during search and seizure. No charge sheet valid without such recording.
- **Judicial Independence:**
 - **Political Interference:** Instances of political interference can undermine public trust in the judicial system as there were exclusion of suggestions of Law Commission and SC.

- **Judicial Accountability:** While independence is crucial, mechanisms to ensure judicial accountability must also be strengthened to maintain the integrity of the legal process.

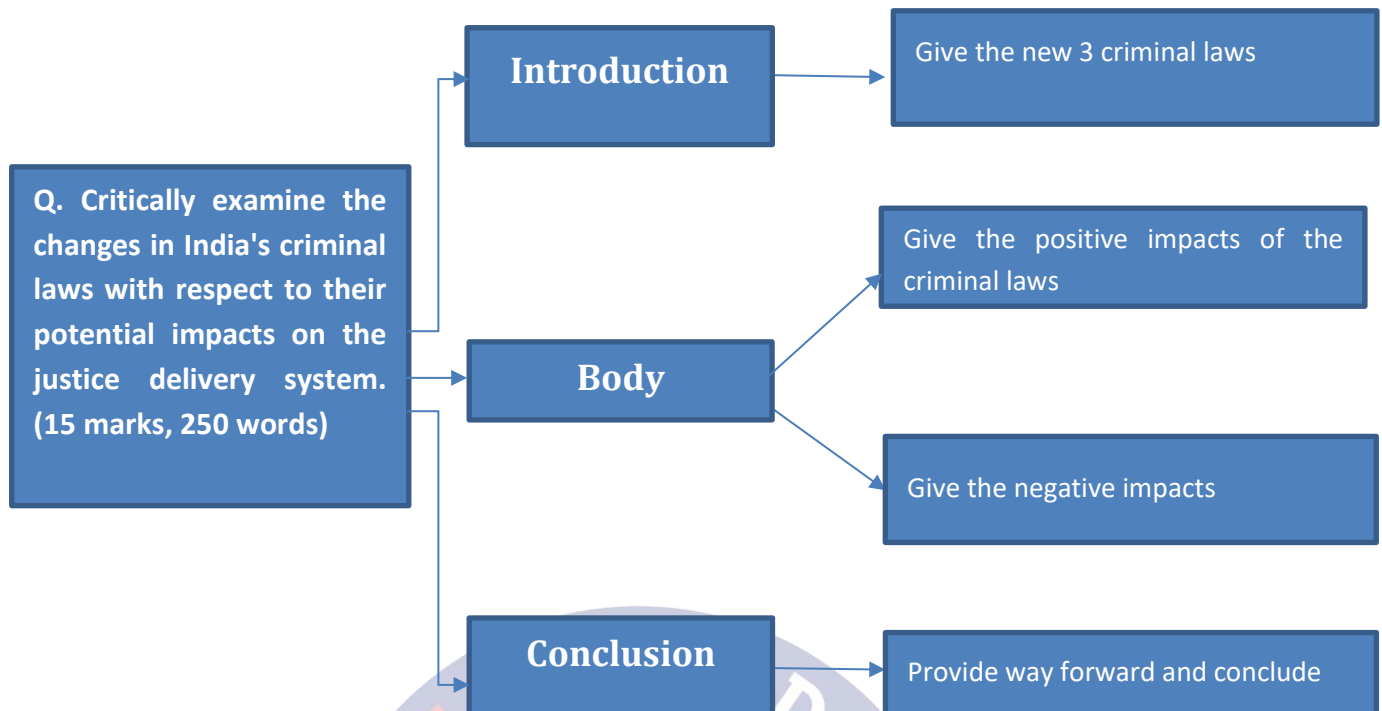
WAY FORWARD

- **Comprehensive Legislative Review with Detailed Analysis and Feedback:** Conduct thorough reviews of the new laws with inputs from legal experts, civil society, and stakeholders.
- **Strengthening Judicial Infrastructure through Modernization of Courts:** This includes digitization of records, electronic filing systems, and virtual courtrooms.
- **Increasing Judicial Capacity:** Appoint more judges and support staff to reduce the backlog of cases. Specialized fast-track courts for specific crimes like sexual offenses can expedite justice delivery.
- **Training and Capacity Building:** Comprehensive Training Programs and Continuous Professional Development to keep legal professionals updated with the latest developments and best practices in criminal law.
- **Police Reforms:** This includes better recruitment practices, regular training, and independent oversight bodies.
- **Effective Monitoring Systems:** Including regular audits and performance evaluations of law enforcement agencies.
- **Case Studies and Best Practices:**
 - Fast-Track Courts in Delhi
 - Lok Adalats (People's Courts)
 - Telangana's SHE Teams
 - Maharashtra's Use of Technology in Courts
 - Kerala's Community Policing Initiative (Janamaithri Suraksha Project)

MODEL QUESTION:

Q. Critically examine the changes in India's criminal laws with respect to their potential impacts on the justice delivery system. (15 marks, 250 words)

APPROACH:

**MODEL ANSWER:**

India has overhauled its criminal laws with the introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), replacing the Indian Penal Code, Code of Criminal Procedure, and the Indian Evidence Act respectively to modernize the criminal justice system, ensuring it aligns better with contemporary societal needs.

Potential Impacts on Justice Delivery System:**1. Speedier Trials and Reduced Backlogs:**

- The new laws aim to expedite judicial processes by mandating time-bound investigations and trials. For instance, fast-track courts have been effective in Delhi for cases of sexual offenses, reducing pendency and ensuring timely justice.

2. Enhanced Protection of Rights:

- Introduction of videography during searches and seizures ensures transparency and accountability, potentially reducing instances of custodial torture and false FIRs.
- Maharashtra's use of technology in courts has shown significant improvements in transparency and accountability.

3. Improved Efficiency and Accessibility:

- Digitization of court records and the introduction of electronic filing systems and virtual courtrooms aim to modernize the judiciary, making it more accessible to the public.
- Kerala's Community Policing Initiative (Janamaithri Suraksha Project) has successfully brought the police closer to the community, improving trust and cooperation.

4. Focus on Victim's Rights:

- The new laws emphasize victim compensation and protection, addressing long-standing issues of victim neglect in the criminal justice process.

Key Challenges to Justice delivery:

- **Ambiguous Provisions:** *Section 69* (deceptive marriage promise) may lead to **false accusations** and wrongful arrests. **New anti-secession provisions** may revive concerns of **curbing free speech**, similar to misuse of the repealed sedition law.
- **Human Rights Concerns:** Allowing use of **handcuffs during arrest** and compulsory videography without safeguards can violate **Supreme Court and NHRC guidelines**.
- **Exclusion of Marginalised Voices:** No recognition of **marital rape** or protections for **LGBTQIA+ individuals**. Reinforces patriarchal definitions of morality and sexual offences.
- **Digital Divide:** The push for electronic trials and digital evidence disadvantages those in **rural or tech-poor regions**.
- **Judicial Independence Concerns:** Exclusion of **Law Commission suggestions** and hasty implementation has raised fears of **executive overreach**.

Measures to Overcome Challenges:

1. **Comprehensive Legislative Review:**
 - Conduct thorough reviews of the new laws with inputs from legal experts, civil society, and stakeholders to identify and address potential issues.
2. **Strengthening Judicial Infrastructure:**
 - Invest in the modernization of courts, including digitization of records, electronic filing systems, and virtual courtrooms.
3. **Increasing Judicial Capacity:**
 - Appoint more judges and support staff to reduce the backlog of cases.
 - Specialized fast-track courts for specific crimes can expedite justice delivery.
4. **Training and Capacity Building:**
 - Implement comprehensive training programs and continuous professional development to keep legal professionals updated with the latest developments and best practices in criminal law.
5. **Effective Monitoring Systems:**

- Establish regular audits and performance evaluations of law enforcement agencies to ensure accountability and transparency.

The new criminal laws in India represent a significant step towards a more efficient, transparent, and victim-centric justice system. However, successful implementation requires addressing key challenges through infrastructure improvements, judicial capacity building, comprehensive training, and effective monitoring systems.

