



Modern Trends in the Criminal Justice System in India

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Keywords : <i>criminal justice reform, BNS–BNSS–BSA, bail jurisprudence, digital evidence, e-Courts, victim rights, forensic science, prisons, restorative justice, privacy</i>	<i>India’s criminal justice system (CJS) is undergoing a phase of accelerated reform. While its core institutions—police, prosecution, judiciary, prisons, and legal aid—remain anchored in constitutional guarantees of due process and equality, the ecosystem is being reshaped by technological modernization, rights-based jurisprudence, legislative overhauls, and evolving social expectations. This paper critically surveys key modern trends: the transition to the Bharatiya Nyaya Sanhita, 2023 (BNS), Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and Bharatiya Sakshya Adhiniyam, 2023 (BSA); digitization through the e-Courts project, ICJS, CCTNS, and e-Prisons; forensic turn and electronic evidence norms; bail and arrest jurisprudence emphasizing “bail, not jail”; victim-centric justice including compensation and witness protection; expansion of restorative and community-based alternatives; carceral reforms including the Model Prisons framework; and the constitutionalization of privacy and dignity in policing and surveillance. The paper also maps persistent challenges—pendency, undertrial incarceration, investigative capacity gaps, and digital due process risks—and offers practical</i>

*recommendations: data-driven case management, pre-trial release reform, community supervision, targeted forensic capacity-building, calibrated tech use with strong safeguards, and outcome-oriented accountability. The analysis indicates that India's CJS sits at an inflection point: reforms that marry **speed with fairness, technology with rights, and efficiency with empathy** will determine whether modernization translates into justice that is timely, proportionate, and dignified.*

1. Introduction

The criminal justice system in India is a constitutional project: it operationalizes the promises of **Articles 14, 19, 20, 21, and 22**—equality, freedoms, protection against ex post facto laws and double jeopardy, life and personal liberty, and procedural safeguards in arrest and detention. Over seven decades, legislative evolution, Supreme Court jurisprudence, and administrative reform have steadily pushed the system from colonial legacies toward a rights-centered paradigm.

In recent years, modernization has assumed a faster cadence. Three structural forces are especially salient. First, **legislative overhaul**: the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act have been replaced by BNS, BNSS, and BSA, respectively, signalling a comprehensive recalibration of offences, procedure, and proof regimes. Second, **digital transformation**: the e-Courts Mission Mode Project (Phase II and III), **Inter-Operable Criminal Justice System (ICJS)**, **Crime and Criminal Tracking Network & Systems (CCTNS)**, and e-Prisons have enabled real-time information flows, virtual hearings, e-filing, and data-driven management. Third, **jurisprudential shifts**: the Supreme Court has foregrounded liberty (e.g., *Hussainara Khatoon*, *Arnesh Kumar*, *Satender Kumar Antil*), privacy (*K.S. Puttaswamy*), and accountability in arrest, remand, and surveillance.

This paper synthesizes these developments, identifies doctrinal and operational trends, and proposes a reform agenda to align modernization with constitutional morality and measurable outcomes.

2. Method and Scope

This is a doctrinal and policy-analytic study. It integrates: (a) statutory developments (BNS, BNSS, BSA); (b) leading Supreme Court and High Court precedents shaping due process, bail, arrest, and digital rights; (c) programmatic initiatives (e-Courts, ICJS, CCTNS, e-Prisons, NALSA); and (d) institutional reforms (Model Prisons, fast-track mechanisms). While the paper references well-known cases and schemes, its

core contribution is to weave them into thematic “modern trends” with practical implications and recommendations.

3. From IPC–CrPC–Evidence Act to BNS–BNSS–BSA

3.1 Legislative Recalibration

India’s 19th-century criminal law triad has been replaced by the **Bharatiya Nyaya Sanhita, 2023 (BNS)**, **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, and **Bharatiya Sakshya Adhiniyam, 2023 (BSA)**. The shift is not merely semantic; it strives to streamline offences, clarify mens rea and sentencing, and formalize technology-enabled procedure and evidence.

Key directional changes include:

- **Offence architecture:** Rationalization of certain offences; replacement of colonial-era sedition with a rearticulated offence focusing on acts endangering sovereignty, unity, and integrity; enhanced treatment of organized crime and terrorism; and explicit recognition of cyber-facilitated harms.
- **Community service and alternatives:** Introduction/expansion of **community service** and fines for select minor offences, signaling a move toward **proportionality** and **decarceration** for low-level crime.
- **Procedural modernization (BNSS):** Institutionalization of **electronic FIR/e-summons**, witness examination via video-link, **time-bound investigations** in specific categories, and greater use of digital platforms for service and records.
- **Proof and electronic records (BSA):** Consolidated provisions on **electronic and digital evidence**, hash-based integrity, and admissibility protocols that reflect the realities of a digital society.

3.2 Implications

The new framework solves long-standing frictions—e.g., delays in service of process, difficulties in producing witnesses, inconsistent electronic evidence practices. Yet it raises design questions that modern reforms must answer: how to guard against **over-policing** via easy digitization of surveillance; how to ensure **chain-of-custody** standards are realistically met; and how to fund the **forensic** and **IT** capabilities needed to comply with statutory expectations.

4. Digitization and Data-Driven Justice

4.1 e-Courts and Virtual Hearings

The **e-Courts project**—spanning e-filing, virtual cause-lists, online payments, and video-conferencing—has transformed access and scheduling. Virtual hearings, adopted at scale during the pandemic, continue for remands, bail, and routine case-management. Phase III emphasizes **paperless courts**, **inter-operability** with police and prisons (ICJS), and **data dashboards** to monitor pendency, disposal rates, and compliance with time limits.

Benefits: Reduced travel and adjournments, quicker listings, and enhanced transparency of case status.

Risks: Digital divide for litigants and counsel in smaller towns, procedural fairness concerns (e.g., assessing witness demeanor), and the need for robust cybersecurity and standard operating procedures (SOPs).

4.2 CCTNS and ICJS

CCTNS digitizes FIRs, charge-sheets, and crime analytics, while **ICJS** connects police, prosecution, courts, prisons, and forensics. This end-to-end pipeline promises **single-source truth**, **real-time updates**, and **less paperwork**.

Use-cases: automated production warrants, e-transmission of remand orders, and instant access to previous convictions. The challenge is to ensure **data quality**, **role-based access**, **audit logs**, and compliance with **privacy** and **retention** policies.

4.3 e-Prisons and Carceral Management

e-Prisons supports digitized inmate records, sentence computation, parole/furlough workflows, and video mulakat. This aids judicial oversight of **undertrial detention**, facilitates compliance with **Section 436A CrPC/BNSS equivalents** (statutory relief for prolonged undertrial incarceration), and enables case-specific interventions.

5. The Forensic Turn and Electronic Evidence

5.1 Mandatory Forensics for Serious Crime

Investigations increasingly mandate **forensic collection** and scene-of-crime protocols for offences attracting higher sentences (often cited as seven years or more). This pillar aims to reduce reliance on oral

testimony and confessions, and to align with global best practices emphasizing **physical and digital corroboration**.

5.2 Electronic Records and Chain of Custody

Under the **BSA**, electronic records are recognized on par with documentary evidence, subject to integrity and authenticity requirements (hash values, metadata, device seizure logs). Courts now routinely grapple with **cloud-based data, messaging app chats, CCTV, and mobile tower dumps**.

Opportunity: More reliable adjudication where evidence trails are digital.

Risk: Function creep (using data beyond original purpose), **illegible logs**, and **privacy breaches**. The jurisprudence following *Puttaswamy* requires **necessity, proportionality, and legality** tests for intrusive surveillance; investigators must internalize these standards to preserve admissibility and public trust.

6. Bail, Arrest, and Liberty Jurisprudence

6.1 “Bail, Not Jail” Reinvigorated

The Supreme Court has, across decades, reaffirmed liberty-centric norms:

- ***Hussainara Khatoon v. State of Bihar (1979)***: Speedy trial is part of Article 21.
- ***D.K. Basu v. State of West Bengal (1997)***: Arrest and detention safeguards.
- ***Arnesh Kumar v. State of Bihar (2014)***: Cautioned against routine arrests for offences punishable up to seven years; promoted **Section 41A** notice compliance.
- ***Satender Kumar Antil v. CBI (2022)***: Structured categories for **bail** and stressed non-arrest during investigation absent necessity; reinforced the **default rule** of summons over warrants for cooperating accused.
- ***Siddharth v. State of U.P. (2021)***: Filing of chargesheet does not require custody if arrest is unnecessary.

These principles recalibrate the **arrest-first** policing culture, emphasizing **necessity and proportionality**.

6.2 Undertrial Reform

A persistent pathology is the **overrepresentation of undertrials** in prisons. Doctrinal tools to mitigate this include: **Section 436A** relief (release after half the maximum sentence as undertrial in specified conditions), **periodic judicial audits** of remand, **default bail** on charge-sheet delays, and high-level directions encouraging **bail over incarceration** for minor, non-violent, and first-time offences.

7. Victim-Centric Justice

7.1 Compensation and Participation

Victim rights have moved to the foreground:

- **Victim compensation schemes** (under the CrPC/BNSS framework and state rules) provide statutory support for medical, rehabilitative, and livelihood needs.
- **Victim impact statements** and **hearing at sentencing** are increasingly recognized, aligning with comparative jurisdictions.
- Specialized regimes—**POCSO, SC/ST (Prevention of Atrocities) Act, DV Act, Trafficking**—embed victim protection, in-camera trials, and support persons.

7.2 Witness Protection

The Supreme Court's **Witness Protection Scheme (2018)**, adopted across states, supplies graded protection, anonymity in suitable cases, and relocation where necessary—vital for organized crime and communal violence trials. Its success depends on budgetary allocation, police-prosecution coordination, and judicial monitoring.

8. Restorative, Diversionary, and Community-Based Approaches

8.1 Plea Bargaining and Compounding

Originally introduced in the CrPC and now carried forward, **plea bargaining** allows early resolution where culpability is clear and parties consent. **Compounding** of minor offences by victims reduces trial burden and promotes **reparative outcomes**, provided voluntariness is verified.

8.2 Probation, Community Service, and Open Prisons

The **Probation of Offenders Act, 1958** remains central for first-time and juvenile-adjacent offenders. The policy turn toward **community service** (explicitly referenced in the new framework for select minor offences) and **open/ semi-open prisons** (pioneered in Rajasthan and adopted in various forms elsewhere) reflects confidence in **rehabilitation, risk-based classification, and reintegration**.

8.3 Diversion for Children and Young Adults

The **Juvenile Justice (Care and Protection of Children) Act, 2015** emphasizes diversion, social investigation, and individualized care. For 16–18-year-olds accused of heinous offences, transfer

provisions remain controversial; best practices urge rigorous psychosocial assessments and robust legal representation to avoid net-widening.

9. Policing, Accountability, and Community Trust

9.1 Police Reforms and Professionalization

Post-*Prakash Singh* jurisprudence focuses on insulating police from political interference (tenure, security of senior appointments), separating **law and order** from **investigation** wings, and establishing **complaints authorities**. Implementation is uneven but the direction of travel is clear: **specialized investigative units**, **forensic liaison**, and **standardized SOPs** for arrest, seizure, and digital forensics.

9.2 Body-Worn Cameras, Drones, and Predictive Analytics

Police increasingly deploy **body cameras** for transparency, **drones** for crowd management and search, and **analytics** for hotspot policing. These tools can reduce force, improve officer safety, and enhance evidence quality—if governed by clear policies on activation, retention, audit, and public disclosure; otherwise, they risk **surveillance excess** and **disparate impacts**.

9.3 Privacy by Design

Justice K.S. Puttaswamy (2017) constitutionalized **informational privacy**, requiring that state surveillance satisfy **legality, necessity, and proportionality**. Any modern policing toolkit must embed **privacy by design**—data minimization, purpose limitation, and strong oversight—and harmonize with general data protection norms.

10. Carceral Reform: From Custody to Correction

10.1 Model Prisons Framework and Beyond

The shift from a punitive to a **correctional** model is seen in the **Model Prison** frameworks and state-level modernization (video mulakat; e-canteens; skill training). Core priorities are:

- **Decongestion** via bail reform, community sanctions, and faster trials.
- **Health and mental health** services, including de-addiction and suicide prevention.
- **Education, skilling, and work-release** to reduce recidivism.
- **Women and transgender persons** in custody: gender-responsive infrastructure, childcare facilities, and anti-discrimination safeguards.

10.2 Undertrial Review Mechanisms

District **Undertrial Review Committees (URCs)**, chaired by District Judges, periodically assess eligible inmates for release—particularly under **Section 436A** and for compoundable, bailable, or remission-eligible cases. Digitized prison dashboards can prompt automatic review alerts.

11. Special Laws and National Security

Modernization also grapples with stringent special statutes—**UAPA, NDPS, PMLA**, and organized crime laws. Courts are increasingly attentive to:

- **Strict bail clauses** and their interface with Article 21.
- The need for **timely, fair investigations** with forensic rigor.
- Avoiding overreach in **material seizure, freezing of assets, and communications intercepts**.

A forward-looking trend is to **harmonize special-law rigor** with **due process**: narrow tailoring of preventive detention and surveillance, reasoned bail refusals, and robust scrutiny of digital evidence chains.

12. Gender Justice, Vulnerable Groups, and Intersectionality

12.1 Gender-Based Violence and POCSO

Fast-track courts, survivor-friendly procedures (in-camera, video-link testimony), and **one-stop centers** show the system's move toward **trauma-informed** justice. Challenges persist in **medical-legal cooperation, witness support, and post-trial rehabilitation**.

12.2 Caste Atrocities and Community Harms

For **SC/ST** communities, specialized courts and presumptions against anticipatory bail in certain contexts underscore a protection-first approach, which must be implemented without sacrificing fairness and accuracy.

12.3 LGBTQIA+ and Carceral Dignity

Following **NALSA (2014)** and subsequent jurisprudence, custodial policies increasingly recognize **self-identification**, separate facilities where appropriate, and protection from custodial violence and harassment.

13. Cybercrime, Platform Harms, and the New Evidence Ecology

The explosion of **cyber-fraud, child sexual abuse material (CSAM), deepfakes, and ransomware** has pulled the CJS into novel terrain. Trends include:

- **Specialized cyber police stations** and CERT-type coordination.
- **Mutual Legal Assistance** and cross-border data requests.
- **Platform cooperation** balanced against **speech and privacy rights** (*Shreya Singhal* striking down Section 66A is a constant reminder).
- Judicial comfort with **hash-based verification, server logs, blockchain for time-stamping**, and **AI-assisted review**—accompanied by skepticism of **opaque algorithmic tools** affecting liberty.

14. Pendency, Delay, and Performance Management

14.1 Pendency as the Central Operational Challenge

Backlogs remain acute across the system. Modern responses:

- **Data dashboards** for case aging and “hot lists” for priority hearing.
- **Judicial time standards** and calendaring reforms.
- **Prosecution capacity-building** and **early engagement** to improve charge quality and reduce adjournments.
- **Pre-trial case conferencing** to narrow issues, encourage pleas where appropriate, and schedule trials realistically.

14.2 Metrics that Matter

A mature performance culture emphasizes:

- **Time-to-disposition** and variance.
- **Pretrial detention days averted** via non-custodial measures.
- **Witness attendance rates, adjournment counts, forensic turnaround.**
- **User experience:** litigant wait times, digital service uptime, and accessibility.



15. Comparative Glimpses and Lessons

Comparable common-law jurisdictions offer lessons:

- **United Kingdom:** Crown Prosecution Service (CPS) charging standards, **pre-charge advice**, and disclosure duties can reduce weak cases entering court.
- **United States:** **Risk assessment in pre-trial release** (with caution against bias), **problem-solving courts** (drug treatment, mental health), and **community supervision** models offer templates for decarceration with accountability.
- **Canada/Australia:** Strong **victim support services** integrated with prosecution and court processes; standardized **digital evidence disclosure**.

Transplants must be **contextualized** for India's scale, resource profile, and constitutional commitments.

16. Ethical AI and Automation in the CJS

Courts and agencies are experimenting with **transcription**, **cause-list optimization**, and **document classification** using AI. Guardrails should include:

- **Human-in-the-loop** for all decisions affecting liberty.
- **No black-box scoring** for bail/sentencing without transparency, validation, and bias audits.
- **Procurement standards** mandating privacy, security, and explainability.
- **Open benchmarks** and periodic third-party evaluations.

AI is best used for administrative efficiency (transcripts, scheduling, search) rather than liberty-affecting predictions.

17. Persistent Pitfalls and Emerging Risks

1. **Digital Divide:** Virtual justice can exclude those without devices, data, or digital literacy. Hybrid models and assisted-service kiosks are essential.
2. **Forensic Capacity:** Mandates without labs, trained SOCO teams, and turnaround SLAs risk paper compliance and delays.
3. **Arrest Culture:** Despite jurisprudence, unnecessary arrests persist. Supervisory liability and data-led audits are needed.
4. **Undertrial Overhang:** Without aggressive pretrial release and community supervision, prisons will remain congested.



5. **Surveillance Overshoot:** Drones, facial recognition, and bulk data tools without clear legal bases threaten Puttaswamy norms and evidence admissibility.
6. **Fragmented Accountability:** Diffuse responsibility across police, prosecution, and forensics weakens incentive alignment.

18. Recommendations: A Practical Reform Agenda

18.1 Pre-Trial Justice

- **Codify and enforce arrest necessity** checklists at station level; require supervisory sign-off and digital logs.
- **Expand non-monetary bail** (personal bonds, surety waivers for indigent accused), with court reminders via SMS/IVR to cut FTAs (failures to appear).
- **Section 436A-style auto-flags** in e-Prisons for judicial review; mandatory listing within 7–10 days.

18.2 Prosecution and Case Quality

- **Early engagement:** Prosecutors to vet charge-sheets before filing; return for further investigation where weak.
- **Disclosure discipline:** Digital disclosure portals with versioning and timelines; sanctions for late disclosure.
- **Specialized training** in cyber, financial, and sexual offences; standardized SOPs for electronic evidence.

18.3 Forensics and Evidence

- **District SOCO units** with minimum staffing; **turnaround SLAs** for labs, tracked on public dashboards.
- **Chain-of-custody** apps with tamper-evident seals and hash logging; random audits by magistrates.

18.4 Courts and Caseflow

- **Triage lists:** Oldest cases, custody cases, and cases with vulnerable witnesses get priority calendars.
- **Firm trial dates** with protected weeks; limit adjournments except for documented “good cause.”



- **Virtual-by-default** for remands, mentions, and non-evidentiary hearings; **in-person by default** for trials unless consented otherwise.

18.5 Victims and Witnesses

- **One-stop witness support:** travel stipends, scheduling certainty, childcare, and psychosocial services.
- **Witness Protection** budgets as a charged expenditure; annual public report on admissions, measures, and outcomes.
- **Victim compensation:** presumptive minimums for serious bodily harm and sexual violence; direct benefit transfer (DBT) within fixed timelines.

18.6 Prisons and Community Sanctions

- **Community service** frameworks with probation oversight; match tasks to skills to build employability.
- **Open/semi-open expansion** tied to risk/needs assessments; **work-release** MoUs with local industries.
- **Health and MH** screening on admission; continuity of care post-release; linkage to social entitlements.

18.7 Technology with Rights

- **Privacy impact assessments (PIAs)** for new tools; sunset clauses and logging by default.
- **Facial recognition and predictive tools** only under clear statutory basis, necessity tests, and independent audits.
- **Cybersecurity** hardening for e-Courts/ICJS with periodic red-team testing.

18.8 Measurement and Accountability

- **KPIs that matter:** pretrial days averted, adjournments reduced, forensic turnaround, witness attendance, and victim satisfaction.
- **Public dashboards** with granular, anonymized metrics to foster **accountability** and **learning competition** among districts.

19. Case Law Landmarks Framing Modern Trends

- *Hussainara Khatoon v. State of Bihar (1979)* – Speedy trial as a fundamental right.



- ***D.K. Basu v. State of West Bengal (1997)*** – Arrest/detention safeguards.
- ***Shreya Singhal v. Union of India (2015)*** – Speech and limits on penalizing online expression.
- ***Arnesh Kumar v. State of Bihar (2014)*** – Non-routine arrests; S. 41A compliance.
- ***Siddharth v. State of U.P. (2021)*** – No automatic arrest with chargesheet.
- ***Satender Kumar Antil v. CBI (2022)*** – Structured bail jurisprudence.
- ***Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)*** – Privacy as fundamental right; proportionality in surveillance.
- ***Swapnil Tripathi v. Supreme Court of India (2018)*** – Live streaming in constitutional cases (transparency trend).
- ***Zahira Habibullah Sheikh v. State of Gujarat (2004)*** – Fair trial, witness protection context.
- ***Arnab Manoranjan Goswami v. State of Maharashtra (2020)*** – Liberty and bail principles reiterated.

20. Conclusion

India's criminal justice system is at a decisive juncture. The BNS–BNSS–BSA triad, combined with e-Courts, ICJS/CCTNS, and a maturing rights jurisprudence, offers a credible pathway to justice that is faster, fairer, and more transparent. But statutes and software alone will not deliver transformation. The difference will be made by institutional incentives (arrest restraint, disclosure discipline), capacities (forensics, prosecution, defense, and judiciary), and culture (a turn toward problem-solving and service to litigants). If reformers hold together the triad of liberty, dignity, and accountability, modernization can finally mean what it promises: timely, proportionate, and humane justice for all.

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