

NEXT IAS

GIST OF YOJNA [OUR CONSTITUTION AND LEGAL REFORMS]

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NEXT IAS (CORPORATE TOWER)

27-B, Pusa Road, Metro Pillar no. 118, Near Karol Bagh Metro, New Delhi-110060

Ph.: 8081300200 | E-mail: info@nextias.com | www.nextias.com

CHAPTER 1: EVOLUTION OF INDIAN CONSTITUTION: CONSTITUTIONAL AMENDMENTS

The Constitution of India is the supreme law that governs the functioning of the Indian state. Its evolution reflects the dynamic socio-political, cultural, and economic landscape of the nation.

- ❑ The process of constitutional amendments plays a crucial role in adapting the Constitution to the changing needs of society while ensuring that it remains relevant and responsive.

EVOLUTION OF THE CONSTITUTION DURING BRITISH RULE

The roots of the Indian Constitution can be traced back to the British colonial period, marked by a series of constitutional developments that laid the groundwork for the eventual formation of an independent Indian state. The key milestones include:

- ❑ **The Government of India Act 1858:** Established direct British control over India, marking the end of the East India Company's rule and the beginning of British imperial governance.
- ❑ **The Indian Councils Act 1861 and 1892:** Introduced the concept of limited representative governance, allowing Indians a voice in legislative processes through appointed councils.
- ❑ **The Government of India Act 1909 (Morley-Minto Reforms):** Expanded the legislative councils and introduced separate electorates for Muslims, setting the stage for the evolution of communal representation.
- ❑ **The Government of India Act 1919 (Montagu-Chelmsford Reforms):** Introduced a dyarchy system of governance, separating provincial and central functions. It also provided for limited self-governance through legislative councils.
- ❑ **The Government of India Act 1935:** Considered the most important precursor to the Indian Constitution, it introduced the federal structure, the establishment of a bicameral legislature, and reserved seats for minorities and other marginalized groups.

These Acts, although limited in scope and power, laid the foundation for self-governance and the later drafting of the Indian Constitution post-independence.

CONSTITUTIONAL AMENDMENT OF A FEDERAL CONSTITUTION

- ❑ A federal constitution, by its nature, requires flexibility to accommodate changes in the political, economic, and social landscape.
- ❑ The Indian Constitution is designed as a **federal structure**, though it has a strong unitary bias. Constitutional amendments in a federal setup are essential for maintaining the balance of power between the central government and the states.
- ❑ This is evident in the Indian Constitution, where amendments have been used to redefine the distribution of powers and responsibilities between the Union and States, especially in the context of national integration and socio-economic justice.

NEED FOR CONSTITUTIONAL AMENDMENT

- ❑ **Changing Social Norms:** Over time, social practices evolve, and the Constitution must reflect these changes to address issues such as caste-based discrimination, gender equality, and minority rights.
- ❑ **Political Realities:** The political structure and dynamics change with time, requiring constitutional adjustments to accommodate new realities, such as the introduction of new states or changes in the electoral process.
- ❑ **Judicial Interpretations:** As the judiciary interprets the Constitution, new meanings and applications emerge that may necessitate formal amendments to clarify or expand constitutional provisions.

- ❑ **Technological and Global Developments:** Advancements in technology, economy, and global relations can create new challenges, requiring constitutional reforms, particularly in areas like digital governance, economic policies, and international cooperation.

PROCEDURE FOR AMENDING THE CONSTITUTION

The Constitution of India provides a detailed procedure for amendments under **Article 368**. The procedure is divided into three categories:

- ❑ **Amendments by Parliament:** Certain provisions can be amended by a simple majority in both Houses of Parliament (e.g., changes to the name of a state).
- ❑ **Amendments requiring a special majority:** Some provisions, such as the distribution of powers between the Union and States (Article 368), require a special majority of both Houses of Parliament.
- ❑ **Amendments with State Consent:** Some provisions, such as the representation of states in Parliament, require not only the approval of Parliament but also the consent of at least half of the states.

POWER OF PARLIAMENT TO AMEND THE CONSTITUTION

- ❑ Article 368 grants Parliament the power to amend the Constitution. However, this power is **not absolute**.
- ❑ While Parliament can amend most provisions of the Constitution, certain basic features, such as the federal structure and fundamental rights, cannot be altered through ordinary amendments.
- ❑ The **Kesavananda Bharati case** of 1973 established the doctrine of the **basic structure**, which limits Parliament's power to amend essential aspects of the Constitution.

KESAVANANDA BHARATI CASE, 1973 AND THE DOCTRINE OF BASIC STRUCTURE

- ❑ The **Kesavananda Bharati case** (1973) is one of the most significant judgments in the history of the Indian Constitution. The Supreme Court ruled that while Parliament has the authority to amend the Constitution, it cannot alter its "basic structure."
- ❑ The basic structure doctrine ensures that key elements such as democracy, republicanism, separation of powers, the rule of law, and individual freedoms remain intact.
- ❑ This judgment has acted as a safeguard against arbitrary amendments and preserved the fundamental principles of the Constitution.

LANDMARK CONSTITUTIONAL AMENDMENTS SINCE 1950

- ❑ **First Amendment (1951):** The First Amendment imposed reasonable restrictions on the freedom of speech and expression, allowed laws against untouchability, and enabled the state to limit the right to property for social justice. It balanced individual freedoms with national security and social harmony, shaping India's democratic framework.
- ❑ **Seventh Amendment (1956):** This amendment **reorganized Indian states based on linguistic and administrative factors**, creating states like Andhra Pradesh and Tamil Nadu. It also updated the Union List to include new subjects for legislation, addressing the need for linguistic identity and administrative reforms.
- ❑ **Forty-Second Amendment (1976):** Known as the "**Mini-Constitution**," this amendment added "**Socialist**," "**Secular**," and "**Democratic**" to the Preamble, curtailed judicial review, expanded the Directive Principles of State Policy, and centralized power in the Union, significantly reshaping India's constitutional structure during the Emergency.
- ❑ **Forty-Fourth Amendment (1978):** The Forty-Fourth Amendment reversed undemocratic changes made during the Emergency, restored the right to property as a legal right (under **Article 300A**), and limited the power of the state to suspend fundamental rights, reinforcing democratic principles.

- ❑ **Fifty-Second Amendment (1985):** Introduced the anti-defection law to prevent elected representatives from switching parties, disqualifying those who defected or voted against party directives. It aimed at ensuring political stability and party discipline.
- ❑ **Sixty-First Amendment (1988):** This amendment **lowered the voting age** for general elections from **21 to 18**, enhancing youth participation in the democratic process and aligning with global trends towards inclusive voting rights.
- ❑ **Seventy-Third and Seventy-Fourth Amendments (1992):** These amendments mandated the creation of elected local governments (**Panchayats** in rural areas and **Municipalities** in urban areas), devolved powers to local bodies, and provided reservations for women and marginalized communities, strengthening local governance and decentralization.
- ❑ **Ninety-Ninth Amendment (2014):** The amendment introduced the **National Judicial Appointments Commission (NJAC)** to replace the **Collegium system** for judicial appointments. Although aimed at increasing transparency, it was struck down by the Supreme Court in 2015 for violating judicial independence.
- ❑ **Hundred and First Amendment (2016):** This amendment implemented the **Goods and Services Tax (GST)**, creating a unified tax structure across India to replace multiple indirect taxes, streamline the tax system, and promote economic integration and transparency.

CONCLUSION

The Indian Constitution is a living document that evolves with time, driven by the needs of society and the nation. Constitutional amendments play a vital role in ensuring that the Constitution remains relevant and effective in addressing contemporary challenges. While the power to amend the Constitution rests with Parliament, it is balanced by judicial oversight to safeguard the fundamental principles of the Constitution. Landmark amendments have not only addressed immediate political and social issues but have also contributed to India's democratic and federal structure. The evolution of the Indian Constitution through these amendments stands as a testament to India's commitment to democracy, justice, and social welfare.

CHAPTER 2: ROLE OF INDIAN CONSTITUTION IN PROMOTING SOCIAL JUSTICE

The **Indian Constitution**, adopted on **26th January 1950**, is a foundational document that not only established a democratic and republican government but also laid down a framework for **social justice**.

- ❑ Social justice, in the context of the Indian Constitution, refers to the **fair and equitable distribution of benefits and opportunities for all**, particularly for those historically marginalized and disadvantaged groups.
- ❑ The Constitution of India has played a crucial role in promoting social justice through its provisions, directives, and judicial interpretations.

Preamble: A Commitment to Social Justice

- ❑ The Preamble of the Indian Constitution envisions an egalitarian society, stating the goals of **Justice, Liberty, Equality, and Fraternity**.
- ❑ It explicitly mentions social justice as one of the core objectives by promising to secure social, economic, and political justice for all citizens.
- ❑ This foundational vision lays the groundwork for ensuring that the government acts to reduce inequalities and protect the rights of all sections of society, particularly the marginalized and vulnerable.

FUNDAMENTAL RIGHTS:

The **Fundamental Rights** (Articles 12-35) in the Constitution provide a strong framework for promoting social justice by guaranteeing individual freedoms, equality before the law, and protection against discrimination.

- ❑ **Article 14:** Guarantees **equality before the law** and equal protection of the laws to all citizens, ensuring that the law treats everyone with fairness, irrespective of their social, economic, or political status.
- ❑ **Article 15:** Prohibits **discrimination** on the grounds of religion, race, caste, sex, or place of birth. This is one of the most important tools in promoting social justice, especially for historically disadvantaged communities like Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).
- ❑ **Article 16:** Provides **equality of opportunity** in matters of public employment and ensures that no person is discriminated against on the basis of caste, religion, or sex.
- ❑ **Article 17:** Abolishes **untouchability**, a practice that was deeply ingrained in Indian society, ensuring that individuals cannot be treated as “untouchables” and denying them basic human dignity.
- ❑ **Article 46:** Directs the state to promote the educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections.

These provisions are crucial in laying the foundation for a just and equal society, where individuals are treated with respect and dignity, regardless of their background.

DIRECTIVE PRINCIPLES OF STATE POLICY

The **Directive Principles of State Policy (DPSPs)**, enshrined in **Part IV** of the **Constitution (Articles 36-51)**, provide guidelines to the government for promoting social justice through welfare measures. While these principles are not justiciable (i.e., they are not enforceable by courts), they serve as a moral obligation for the state to enact policies that ensure social welfare and justice. Key DPSPs that focus on social justice include:

- ❑ **Article 38:** Directs the state to **promote the welfare of the people** by securing a social order based on justice, including the reduction of inequalities in income and wealth.
- ❑ **Article 39:** Ensures that the state makes provisions for securing adequate means of livelihood for all citizens, equal pay for equal work for both men and women, and protection from economic exploitation.
- ❑ **Article 41:** Guarantees the right to work, education, and public assistance in case of unemployment, old age, sickness, and disablement.
- ❑ **Article 42:** Directs the state to make provisions for securing **just and humane conditions of work** and for maternity relief.

The DPSPs guide the government in formulating laws and policies that aim to uplift the underprivileged, reduce social and economic inequalities, and promote overall welfare.

RESERVATION AND AFFIRMATIVE ACTION

One of the most important tools for achieving social justice in India is the provision for **reservations** or affirmative action. The Constitution recognizes the need to uplift marginalized communities and provide them with access to opportunities in education, employment, and political representation.

- ❑ **Article 15(4) and 16(4):** Empower the state to make special provisions for the advancement of any socially and educationally backward classes, including **Scheduled Castes (SCs)**, **Scheduled Tribes (STs)**, and **Other Backward Classes (OBCs)**. This has led to the establishment of reservation policies in educational institutions and government jobs to ensure that these communities are represented and can access opportunities they were historically denied.
- ❑ **Article 46:** Provides for the promotion of the educational and economic interests of the SCs, STs, and other weaker sections of society.
- ❑ **Article 330 and 332:** Reserve seats for SCs and STs in the Lok Sabha (House of the People) and State Legislative Assemblies, ensuring political representation for these groups.

Through such provisions, the Constitution aims to level the playing field and provide equal opportunities to groups that have been historically excluded or discriminated against.

JUDICIAL INTERPRETATION AND ACTIVISM

The role of the judiciary in promoting social justice cannot be overstated. The Indian judiciary has been instrumental in interpreting constitutional provisions in ways that ensure social justice, often expanding the scope of rights and protecting vulnerable communities.

- ❑ **Right to Life and Personal Liberty (Article 21):** The Supreme Court has expanded the scope of **Article 21** beyond mere protection from physical harm to include rights related to health, education, shelter, and environmental justice. This progressive interpretation has significantly contributed to enhancing the quality of life for marginalized sections of society.
- ❑ **Public Interest Litigation (PIL):** The judiciary has used PIL to allow social justice for marginalized groups, such as addressing the rights of prisoners, women, children, and persons with disabilities.
- ❑ **Judgments on Fundamental Rights:** Cases like **Vishaka v. State of Rajasthan (1997)**, which laid down guidelines for the prevention of sexual harassment at the workplace, and **National Legal Services Authority v. Union of India (2014)**, which recognized the rights of transgender persons, reflect the judiciary's role in upholding social justice.

Through judicial activism, the courts have been able to address issues that directly impact the socio-economic rights of the poor, marginalized, and vulnerable communities.

SOCIAL JUSTICE THROUGH LEGISLATION

Beyond the Constitution, several laws have been enacted by Parliament to further the cause of social justice. These laws have sought to eradicate discrimination, provide welfare benefits, and protect the rights of vulnerable groups. Some of the significant legislations include:

- ❑ **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** This law protects SCs and STs from atrocities and discrimination.
- ❑ **The Right to Education Act, 2009:** Provides free and compulsory education to children aged 6-14 years, with a focus on socially disadvantaged children.
- ❑ **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007:** Ensures that parents and senior citizens are provided for and not neglected by their families.
- ❑ **The Protection of Women from Domestic Violence Act, 2005:** Provides protection and legal recourse for women who face domestic violence.

CHALLENGES AND THE WAY FORWARD

While the Indian Constitution and subsequent laws have provided a robust framework for promoting social justice, challenges remain. These include:

- ❑ **Caste-based Discrimination:** Despite the abolition of untouchability, caste-based discrimination persists in many parts of India.
- ❑ **Gender Inequality:** Women, particularly in rural areas, continue to face discrimination in various forms.
- ❑ **Economic Inequality:** Large disparities exist in wealth distribution, and many citizens still live below the poverty line.
- ❑ **Access to Justice:** Legal and procedural hurdles, as well as the cost of litigation, often prevent marginalized communities from accessing justice.

CONCLUSION

The Indian Constitution, through its vision of justice enshrined in the Preamble, its guarantee of fundamental rights, and its guiding directives, has laid a strong foundation for promoting social justice. It provides a comprehensive framework for addressing inequalities and safeguarding the rights of marginalized communities.

However, achieving true social justice requires continuous efforts in lawmaking, judicial activism, and the active participation of all sectors of society. By addressing the challenges and expanding the scope of social justice, India can move closer to realizing the inclusive and equitable society envisioned by the Constitution.

CHAPTER 3: THE FUTURE OF AI IN INDIA: PROFILING CONCERNS AND CRIMINAL INVESTIGATIONS

The integration of **Artificial Intelligence (AI)** in India is revolutionizing sectors like commerce, governance, and law enforcement. However, this rapid technological evolution poses significant challenges in balancing innovation with privacy and ethical concerns.

- Key legislations like the **Digital Personal Data Protection Act (DPDP Act) 2023** and **Bharatiya Nyaya Sanhita (BNS) 2023** are shaping the regulatory landscape to address these issues.

AI AND PROFILING

- Profiling, a core AI function, involves **analyzing behavioral data to predict outcomes**. While it enhances user experiences in personalized services, it raises privacy concerns.
- The **DPDP Act 2023** recognizes behavioral data as personal data, empowering users with rights to access, correct, or erase their data.
- This disrupts traditional AI models dependent on continuous data aggregation for services like recommendation engines, financial risk assessments, and targeted advertising.

To comply with these stringent data protection laws, businesses must transition to privacy-first AI models that respect user consent while maintaining functionality.

GLOBAL CONTEXT

- India's approach aligns with global regulations like the **EU's General Data Protection Regulation (GDPR)**, which mandates explicit consent for data collection and emphasizes privacy-centric AI systems.
- These global and domestic shifts illustrate a collective move toward safeguarding user rights without stifling technological innovation.

BALANCING INNOVATION AND ETHICS

- As AI becomes integral to criminal investigations and predictive policing, the **BNS 2023** and **DPDP Act** ensure **ethical AI deployment** in law enforcement while addressing concerns of bias, data misuse, and surveillance. This balance is critical to fostering trust in AI while leveraging its potential for societal benefit.

AI IN PREDICTIVE POLICING AND CRIMINAL INVESTIGATIONS

- **Artificial Intelligence (AI)** is emerging as a pivotal tool in law enforcement, particularly in predictive policing and criminal investigations.
- The **Bharatiya Nyaya Sanhita (BNS) 2023** recognizes the potential of electronic evidence and AI in analyzing digital data, paving the way for advanced crime prevention and investigation techniques.

APPLICATIONS IN LAW ENFORCEMENT

- **Predictive Policing:** AI algorithms analyze data to forecast potential criminal activity, aiding in crime prevention. For example, the UK's **National Crime Agency** uses AI to track online behavior and combat child exploitation by identifying at-risk individuals and potential perpetrators.

- ❑ **Crime Investigations in India:** AI systems can analyze large datasets, including social media activity and location history, to detect fraud, **cybercrime**, and terrorist activities.
- ❑ The BNS 2023 allows law enforcement agencies to seize digital devices and access personal data for investigations, enhancing digital forensics capabilities.

CHALLENGES AND ETHICAL CONCERNS

- ❑ **Privacy Risks:** Expansive powers to access personal data may lead to unlawful surveillance and privacy violations without robust oversight mechanisms.
- ❑ **Bias in Algorithms:** AI systems can perpetuate discrimination if trained on biased data, disproportionately impacting marginalized communities based on race, gender, or socio-economic status.
- ❑ **Accountability:** Ensuring algorithmic transparency and judicial oversight is crucial to prevent misuse and safeguard individual rights.

POWER OF AI IN PREDICTIVE POLICING

- ❑ AI's predictive capabilities, widely used in **e-commerce** for personalized recommendations, are now being harnessed in law enforcement through predictive policing.
- ❑ By analyzing human behavior and patterns, AI can forecast potential crimes and enable preemptive interventions, showcasing its transformative potential for public safety.
- ❑ However, predictive policing requires high accuracy, as false predictions could harm individuals' rights and freedoms.
- ❑ To ensure **fairness, transparency, and accountability**, law enforcement must adopt robust AI systems, invest in training, and establish safeguards to prevent misuse while leveraging AI's potential for societal benefit.

AI IN ACTION: NATIONAL CRIME AGENCY (UK)

- ❑ The UK's National Crime Agency (NCA) exemplifies ethical AI use in law enforcement. Since 2019, it has employed AI to combat child exploitation by monitoring online behavior and proactively identifying risks. This approach highlights AI's potential for crime prevention, offering lessons for India to tackle cyberbullying, online harassment, and terrorist recruitment.
- ❑ The NCA's success underscores the need for ethical AI frameworks, emphasizing transparency, human oversight, and public trust to ensure AI systems are both effective and fair in their application.

CHALLENGES AND ROAD AHEAD FOR AI IN INDIA

The integration of AI in India faces challenges in balancing innovation with privacy and fairness. The **DPDP Act 2023** safeguards personal data but raises questions about enabling innovation, while the **BNS 2023** supports AI-based policing, necessitating ethical use and training for law enforcement.

Key priorities include auditing predictive tools to prevent biases, ensuring transparency, and implementing user safeguards like data correction and erasure. Lessons from global frameworks like the EU's GDPR and the UK's NCA offer guidance for building an AI ecosystem that respects individual rights and enhances societal benefits.

India's future in AI requires evolving legal frameworks, collaboration among stakeholders, and a focus on accountability to harness AI's potential responsibly while safeguarding privacy and fairness.

CHAPTER 4: CRIMINAL JUSTICE SYSTEM REFORMS: EVALUATING THE IMPACT OF BNS

The **Bharatiya Nyaya Sanhita (BNS) 2023**, replacing the **Indian Penal Code (IPC) 1860**, represents a shift from punitive justice (“Dand”) to restorative justice (“Nyaya”).

- Along with the **Bharatiya Nagarik Suraksha Sanhita (BNSS) 2024** and **Bharatiya Sakshya Adhinyam (BSA) 2023**, these laws aim to decolonize India’s legal system and address contemporary challenges from 1 July 2024 onwards.

KEY FEATURES AND CHANGES:

Philosophical Shift: Unlike the colonial IPC focused on punishment, BNS emphasizes protection of vulnerable groups and justice delivery.



- **Protection for Women and Children:** BNS introduces stricter penalties and new provisions for crimes against women and children, prioritizing their protection in Sections 63–99.
- **National Security Provisions:** New offences target emerging threats, aligning with India’s sovereignty and constitutional principles.

KEY ADDITIONS IN BHARATIYA NYAYA SANHITA (BNS): NEED OF THE HOUR

The **BNS 2023** introduces critical provisions to address emerging challenges and bridge legal gaps in India’s justice system.

A. New Offences Against Women and Children

- **Deceptive Relationships (Section 69):** Criminalizes sexual intercourse through deceit or identity suppression, imposing up to 10 years’ imprisonment. This resolves ambiguities in past legal interpretations and strengthens protections for victims.
- **Exploitation of Children (Section 95):** Penalizes hiring or engaging children to commit offences, particularly for sexual exploitation or pornography, with a minimum 3-year imprisonment. This addresses misuse of minors by hardened criminals.

B. New Offences Against Human Body

- **Mob Lynching (Section 103(2)):** Punishes murders by groups (5+ people) on discriminatory grounds with death or life imprisonment, implementing the Supreme Court’s **2018 Tehseen Poonawalla** guidelines.
- **Organized Crime (Section 111):** Defines and criminalizes syndicate-based crimes like land grabbing, cybercrimes, and trafficking.

- ❑ **Petty Organized Crime (Section 112(1)):** Introduces penalties for minor syndicate crimes such as snatching, gambling, and unauthorized betting.
- ❑ **Grievous Hurt and Hate Crimes (Section 117):**
 - Addresses grievous hurt causing permanent disability or vegetative states (e.g., Aruna Shanbaug case), with punishments up to life imprisonment.
 - Penalizes grievous hurt by hate-motivated groups with up to 7 years' imprisonment.



C. Offences Against the Nation

- ❑ **Defining Terrorism (Section 113)** Defines terrorism as acts intended to threaten India's unity, sovereignty, or security, or to incite terror domestically or internationally. This is India's first detailed legal definition of terrorism, enhancing the nation's ability to combat anti-national activities.
- ❑ **Acts Endangering Sovereignty and Integrity (Section 152)**
 - **Rashtra Droh:** Replaces the sedition law (Section 124A of IPC) with provisions targeting actions jeopardizing India's unity and integrity.
 - **Punishment:** Life imprisonment or up to 7 years with a fine, focusing on secessionist or separatist activities.
- ❑ **Protection of Public Servants (Section 195(2))**
 - Penalizes threats or use of criminal force against public servants during riot control or dispersing unlawful assemblies, with up to 1 year of imprisonment or fines.
- ❑ **Tackling Misinformation (Section 197(1)(d))**
 - It criminalizes false or misleading information that jeopardizes national security, unity, or integrity, with imprisonment up to 3 years or fines.
 - It provides legal tools to counter fake news and propaganda across media platforms while balancing free speech under Article 19(1)(a).
- ❑ **Extraterritorial Abetment (Section 48)**
 - It penalizes individuals outside India who abet offences committed within the country.
 - It allows trials against absconding abettors under the Bharatiya Sakshya Adhinyam, bypassing extradition hurdles.

D. Offences Against Property

- **Snatching (Section 304(1)):** Theft involving sudden, quick, or forcible seizure of movable property is classified as snatching.

- It addresses prevalent crimes like chain and mobile snatching, especially targeting vulnerable groups like women and the elderly, with a dedicated provision absent in the IPC.

E. Expanded Definitions

- ❑ **Child (Section 2(3)):** Defined as anyone below 18 years of age.
- ❑ **Gender (Section 2(10)):** Includes males, females, and transgenders.
 - **Impact:** In line with the Supreme Court's (2014) judgment, ensures equal legal protection for transgender individuals.



F. New Punishment Provision

- ❑ **Community Service (Section 4(f)):**
 - Inspired by the Indian philosophy of , this penalty is introduced for first-time petty offenders.
 - **Purpose:** Aims to reform and rehabilitate offenders through constructive societal contributions.

CHAPTER 5: IMPACT OF THE BNS ON LABOUR DISPUTE RESOLUTION

The enactment of the **Bharatiya Nyaya Sanhita (BNS)** introduces significant changes to labour dispute resolution in India, shifting from the colonial-era **Indian Penal Code (IPC)** to a more contemporary framework.

- ❑ This shift aligns with global standards, supporting India's industrial development and addressing emerging labour challenges.

BACKGROUND OF LABOUR DISPUTE RESOLUTION IN INDIA

Labour disputes in India have traditionally been governed by acts like the **Industrial Disputes Act (IDA) of 1947**, the **Trade Unions Act of 1926**, and the **Industrial Employment (Standing Orders) Act of 1946**, which were later consolidated into the **Industrial Relations Code (IRC) of 2020**. These statutes focused on conciliatory mechanisms like conciliation, arbitration, and adjudication to resolve industrial disputes.

KEY PROVISIONS IN BNS IMPACTING LABOUR DISPUTES

- ❑ **Shift from Conciliation to Penal Measures:** The BNS introduces strict penal provisions for labour conflicts, moving away from the earlier focus on amicable dispute resolution. This approach may affect how disputes between employers and employees, especially in the formal sector, are handled.

- ❑ **Regulation of Worker Protests and Employer Liabilities:** The BNS outlines provisions related to protests, employer liabilities, and strikes, significantly altering the dispute resolution landscape. This could lead to more stringent penalties for unlawful strikes or protests.

DISPUTE RESOLUTION: LABOUR ISSUES IN INDIA:

Labour disputes in India have historically been governed by key acts such as the **Industrial Disputes Act (IDA) of 1947**, the **Trade Unions Act of 1926**, and the **Industrial Employment (Standing Orders) Act of 1946**.

- ❑ These laws were later subsumed into the **Industrial Relations Code (IRC) of 2020**, which sought to simplify and modernize India's labour law framework.

The infographic features the following text and elements:

- Header:** श्रम एवं रोजगार मंत्रालय (Ministry of Labour & Employment), भारत सरकार (Government of India). Logos for G20 and 75th anniversary (आजादी का अमृत महोत्सव).
- Portal Name:** Samadhan Portal
- Function:** facilitates workmen, management, trade union and other stakeholders to resolve their grievances.
- File any complaint about:**
 - Illegal termination/ Dismissal
 - Non-payment of gratuity
 - Other issues related to payment
 - Non-payment of maternity benefits
 - Non-payment of minimum wage
 - Any other issues related to employment & service condition.
- Illustration:** A person sitting at a desk with a laptop.
- Contact Info:** To know more, visit: samadhan.labour.gov.in
- Footer:** www.labour.gov.in, @labourministry, LabourMinistry

- ❑ The IRC retained a focus on amicable dispute resolution through mechanisms such as **conciliation**, **arbitration**, and **adjudication**. However, the **Bharatiya Nyaya Sanhita (BNS)** introduces a departure from this conciliatory approach, bringing stricter penalties and a more adversarial framework for resolving labour disputes.

LABOUR DISPUTE MECHANISMS UNDER THE IRC

Under the IRC, labour dispute resolution is primarily organized into three categories:

1. **Bi-partite forums** like Grievance Redressal Committees to mediate between workers and employers.
2. **Conciliation**, where a neutral third party mediates the conflict between workers and employers.
3. **Court adjudication** for disputes that remain unresolved through conciliation.

The IRC aims to maintain social harmony and economic stability by resolving industrial disputes quickly and efficiently. The **International Labour Organization (ILO)** also endorses voluntary conciliation and arbitration, aligning the IRC with international standards.

However, challenges persist, especially concerning the exclusion of workers in the **informal sector** (including gig workers) from these dispute resolution mechanisms. Additionally, the **conciliation process** often gets manipulated in favour of employers, undermining its effectiveness.

THE BNS: A SHIFT TOWARDS PENAL PROVISIONS

The **Bharatiya Nyaya Sanhita (BNS)** represents a significant shift from the IRC's conciliatory approach, emphasizing **penal measures** to resolve labour conflicts.

- ❑ The BNS introduces stringent penalties for unlawful industrial actions, such as strikes and protests, which are traditionally seen as vital tools for workers in asserting their demands. This shift marks a departure from the **Industrial Relations Code's** provisions, which granted **immunity to trade union members** for actions taken in the course of industrial disputes.
- ❑ For example, **Section 194** of the BNS criminalizes violent behaviour during strikes or protests (such as affray), imposing penalties that could potentially restrict legitimate forms of collective bargaining.
- ❑ While the IRC protected workers' rights to strike, the BNS reclassifies labour-related offences as criminal, imposing a deterrent effect on disruptive actions.
- ❑ This shift could lead to a **chilling effect** on worker protests, especially in cases where these actions are non-violent but disruptive to business operations.

PRACTICAL CHALLENGES AND FUTURE OUTLOOK

- ❑ The introduction of criminal penalties for labour-related offences under the BNS raises concerns regarding its **implementation**.
- ❑ The **criminalisation** of labour disputes may burden the already strained judicial system, leading to case backlogs. Employers, particularly smaller enterprises, may face challenges in navigating the more stringent legal requirements.
- ❑ Furthermore, the new legal framework could intensify **adversarial relationships** between workers and employers, potentially undermining the spirit of cooperation that earlier laws, such as the IDA and IRC, aimed to foster. While this may enhance accountability, it risks alienating workers and intensifying conflicts in the workplace.

BNS AND THE INFORMAL SECTOR

- ❑ A significant issue that remains unresolved is the application of the BNS to the **informal sector**, which constitutes a large part of India's workforce.
- ❑ Recent judicial rulings, such as in **Ms X v. ICC, ANI Technologies Ltd**, where platform workers were recognized as employees, indicate that the BNS could eventually extend to **gig workers** and other informal workers, opening avenues for labour dispute resolution. However, the full scope of these provisions and their impact on informal sector workers is yet to be determined.

CONCLUSION

The **Bharatiya Nyaya Sanhita (BNS)** represents a fundamental shift in India's approach to labour dispute resolution, moving from a conciliatory framework under the **Industrial Relations Code** to a more adversarial, penal framework. This shift aims to strengthen compliance with labour laws but may also create new challenges, including potential suppression of legitimate worker protests and increased adversarial relations between employers and employees.

The effectiveness of the BNS in transforming the labour landscape will depend on **judicial interpretation** and how both employers and workers adapt to the new legal framework. Whether the BNS succeeds in modernizing India's labour relations or requires further refinement will depend largely on its application, especially with regard to informal workers. The role of the judiciary will be crucial in striking a balance between protecting workers' rights and maintaining industrial harmony in an evolving economic environment.

CHAPTER 6: REDEFINING LAW IN A CYBER AGE: INDIA'S LEGISLATIVE SHIFT AGAINST MODERN CRIME

The advent of the digital age has transformed not just how people interact, but also the nature of crime itself. India, as one of the fastest-growing digital economies, is facing a dramatic surge in cybercrime, including online fraud, data breaches, and cyber espionage.

- ❑ In response to this modern threat, India has introduced a series of legislative reforms: the **Bharatiya Nyaya Sanhita (BNS)**, **Bharatiya Nagrik Suraksha Sanhita (BNSS)**, and **Bharatiya Sakshya Adhiniyam (BSA)**.
- ❑ These laws are designed to address the complexities of cybercrime, modernize the criminal justice system, and secure India's digital future.

THE EVOLUTION OF CYBERCRIME AND ITS CHALLENGES

- ❑ Historically, India's criminal justice system was designed to handle physical crimes, which had clear jurisdictions and concrete evidence.
- ❑ In cases such as dacoity or theft, law enforcement could easily collect physical evidence—fingerprints, footprints, and testimonies—and prosecute offenders within the geographical confines of their locality. However, in the digital world, crime has evolved beyond these physical boundaries.
- ❑ Cybercriminals now operate from anywhere in the world, manipulating global networks and exploiting vulnerabilities in digital infrastructure.
- ❑ They are often able to breach security systems, access sensitive data, and commit financial fraud without leaving any tangible traces.
- ❑ The evidence, in the form of digital data, can be easily concealed or erased, making investigations and prosecutions more challenging.
- ❑ The **BNS**, **BNSS**, and **BSA** address these challenges by redefining the framework for investigating and prosecuting modern crimes. These laws acknowledge the borderless nature of cybercrime and empower law enforcement agencies to respond more effectively to digital threats.



BNS: A MODERN APPROACH TO CRIME JURISDICTION

- ❑ The **Bharatiya Nyaya Sanhita (BNS)** is a critical part of India's efforts to tackle the complexities of cybercrime.
- ❑ It shifts the focus from physical jurisdiction to **virtual jurisdiction**, where crimes can occur across multiple locations, both within and outside India.
- ❑ For example, in the case of a cyberattack on a bank, the victim may be located in one state, the server in another, and the criminal in a third state or country. This geographical fragmentation necessitates a unified approach to law enforcement.

- ❑ The **BNS** streamlines the investigative process, ensuring that law enforcement agencies have the authority to pursue criminals across jurisdictions, both within India and globally.
- ❑ By adapting the legal framework to the digital age, the BNS empowers authorities to investigate and prosecute crimes without being limited by traditional territorial boundaries.

BNSS: ENHANCING SECURITY IN THE DIGITAL AGE

- ❑ The **Bharatiya Nagrik Suraksha Sanhita (BNSS)** complements the BNS by focusing on the protection of citizens in an increasingly digitized world.
- ❑ As cybercrime grows in scale and sophistication, the BNSS aims to equip law enforcement agencies with the tools and knowledge necessary to combat digital threats effectively.
- ❑ One of the key provisions of the BNSS is **Section 176(3)**, which mandates **forensic audits for cases involving cybercrime**, particularly those that lead to financial fraud or data theft. The law recognizes that digital evidence is often hidden behind encryption, spread across multiple servers, or intentionally destroyed by cybercriminals.
- ❑ To combat this, the BNSS strengthens the role of **digital forensics**, empowering investigators to analyze large volumes of data, trace encrypted communications, and track digital footprints across various platforms.
- ❑ By standardizing forensic investigations and ensuring that digital evidence is preserved and analyzed meticulously, the BNSS creates a robust framework for investigating modern crimes.



BSA: REVOLUTIONIZING DIGITAL EVIDENCE HANDLING

- ❑ The **Bharatiya Sakshya Adhinyam (BSA)** plays a pivotal role in the legal process by establishing clear guidelines for the collection, preservation, and presentation of digital evidence.
- ❑ Unlike physical evidence, digital data can be easily modified or deleted, making it crucial to follow strict protocols to maintain its integrity.
- ❑ The BSA ensures that digital evidence is handled with the same rigor as physical evidence. For example, in cybercrimes such as **identity theft** or **online fraud**, evidence might include email records, transaction histories, or social media activity.
- ❑ The BSA provides a framework for collecting and presenting this evidence in a manner that makes it admissible in court, strengthening the prosecution's case.
- ❑ By standardizing the handling of digital evidence, the BSA ensures that justice is not delayed or denied due to procedural issues, while also protecting individuals from cybercriminals who seek to manipulate or destroy evidence.

THE NEED FOR SPECIALIZED CYBERCRIME UNITS AND DIGITAL FORENSICS

- ❑ While these legislative reforms are a significant step forward, they are only as effective as the infrastructure supporting them.
- ❑ Cybercrime investigations are highly complex and require specialized expertise in digital forensics. The **BNS**, **BNSS**, and **BSA** recognize this need and emphasize the importance of equipping law enforcement with the necessary tools, technology, and training to investigate cybercrime.

- ❑ India already has specialized cybercrime units in several states. However, as the scope and scale of cybercrime continue to grow, these units must be further strengthened.
- ❑ This requires **investment in digital forensic laboratories**, advanced **training programs for police officers**, and **upgrading existing infrastructure** to keep pace with the ever-evolving landscape of cybercrime.

LOOKING AHEAD: FUTURE-PROOFING INDIA'S LEGAL SYSTEM

- ❑ The introduction of the BNS, BNSS, and BSA marks a critical juncture in India's efforts to modernize its criminal justice system in response to the challenges posed by cybercrime.
- ❑ These laws provide a comprehensive framework for addressing the rising threats in the digital realm, but their success will depend on continuous investment in **cybersecurity**, **digital forensics**, and **law enforcement training**.
- ❑ As technologies such as **artificial intelligence**, **blockchain**, and **quantum computing** evolve, new forms of cybercrime will emerge. To remain effective, India's legal system must be agile and adaptable, continuously updating its frameworks to address these emerging threats.

CONCLUSION:

The BNS, BNSS, and BSA represent a forward-thinking approach to **digital security**. By strengthening cybercrime units, enhancing digital forensic capabilities, and equipping law enforcement with the necessary tools and knowledge, India is laying the foundation for a safer digital future. However, these legislative reforms must be supported by robust infrastructure, continuous training, and a commitment to addressing the evolving nature of cybercrime in the years to come.

UPSC MAINS PRACTICE QUESTIONS-(AROUND 250 WORDS)

- Q1. Critically evaluate the role of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagrik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) in addressing the challenges of cybercrime in India.
- Q2. Discuss the evolution of the Constitution of India from its inception to the present day. Highlight key amendments and judicial interpretations that have significantly shaped its current framework.