

Colonial Shadows: The Persistence of Hierarchical Structures in India's Post-Independence Criminal Justice System

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Abstract

This article provides a critical analysis of the evolution of India's criminal justice system 78 years post-independence, emphasizing the persistence of colonial hierarchies within law enforcement, the judiciary, and penal practices. Despite numerous reform initiatives, significant features of the system continue to echo colonial influences, especially in their hierarchical and authoritarian frameworks. Although key colonial statutes, like the Indian Penal Code (IPC) and Criminal Procedure Code (CrPC), have been recently succeeded by the Bhartiya Nyaya Sanhita (BNS) and Bhartiya Nagrik Suraksha Sanhita (BNSS), it is essential to evaluate whether these changes signify a true departure from colonial legacies or merely reinforce existing power structures.

The discussion delves into the lasting impact of colonial-era practices on contemporary policing, judicial shortcomings, and incarceration methods, particularly highlighting their disproportionate effects on marginalized groups. The article also draws comparative lessons from other post-colonial countries, including South Africa, Kenya, and Malaysia, to guide India's journey toward decolonization.

In conclusion, the study advocates for a comprehensive approach to decolonizing India's criminal justice system that extends beyond mere legal reforms. It calls for structural transformations in law enforcement, improved judicial accountability, and community-oriented policing strategies. The research stresses the necessity of establishing a justice system that genuinely embodies India's democratic principles of equity, transparency, and fairness.

Keywords: Colonial influences, criminal justice reform, decolonization, Bhartiya Nyaya Sanhita, Bhartiya Nagrik Suraksha Sanhita, law enforcement transformation, judicial responsibility, post-colonial India.

Introduction

A. Background and Context

India's criminal justice system is heavily influenced by its colonial history, with many of its foundational laws established during British rule. Key legislations such as the Indian Penal Code (IPC) of 1860¹, the Code of Criminal Procedure (CrPC) of 1861², and the Indian Evidence Act³ were created primarily to

¹ *Indian Penal Code 1860, Act No. 45 of 1860.*

² *Code of Criminal Procedure 1861, Act No. 25 of 1861.*

³ *Indian Evidence Act 1872, Act No. 1 of 1872.*

maintain control over the Indian populace and to uphold British interests. The Indian Police Act of 1861⁴ further entrenched a policing system focused on oppression rather than public safety, reflecting the colonial agenda.

Nearly eight decades after independence, the vestiges of this colonial legacy remain, prompting an examination of the progress made in reforming the justice system and the degree to which colonial hierarchies still permeate legal institutions, law enforcement, and the judiciary.

B. Research Objective and Scope

This article seeks to critically evaluate the persistence of colonial hierarchies within India's criminal justice system. Despite numerous attempts at reform, the system retains an authoritarian and hierarchical structure, a remnant of its colonial roots. This research will analyze systemic frameworks, legal structures, and the power dynamics present in law enforcement, the judiciary, and the penal system. By exploring both historical influences and modern practices, the article aims to reveal the ongoing relevance of colonial mechanisms in contemporary India.

Additionally, this study will assess the recent legislative efforts to replace the IPC, CrPC, and Indian Evidence Act with the Bhartiya Nyaya Sanhita (BNS)⁵, Bhartiya Nagrik Suraksha Sanhita (BNSS)⁶, and Bhartiya Sakshya Adhinyam (BSA)⁷, evaluating whether these reforms signify a true departure from colonial legacies or if they merely replicate them in new forms.

Research Questions:

1. In what ways do colonial hierarchies and structures persist in Indian criminal justice system after independence?
2. How effectively have recent legal reforms, including the BNS, BNSS, and BSA, addressed the remnants of colonial influence?
3. What obstacles exist in the full decolonization of India's law enforcement and judiciary?

C. Significance of the Study

Comprehending the lasting impact of colonialism on contemporary legal practices is vital for shaping meaningful reforms in India's criminal justice system. This research is particularly important for social justice, as marginalized groups often face the brunt of colonial legacies in policing and judicial procedures. By illustrating how colonial power dynamics continue to influence law enforcement and legal practices, this study aims to enrich the conversation surrounding legal reform in India. Tackling these issues is essential for creating a more equitable society and ensuring that the justice system aligns with democratic ideals.

Ultimately, this study aspires to inform and shape policy reforms that can genuinely decolonize India's criminal justice system, fostering transparency, accountability, and fairness for all citizens.

Overview of India's Criminal Justice System

A. Influence of Colonial Rule on Legal Framework

India's criminal justice system finds its roots in the era of British governance, during which the colonial authorities aimed to create a regulated legal environment to uphold order and control opposition. The British implemented several pivotal laws and established institutions that have had a lasting impact on

⁴ *Indian Police Act 1861, Act No. 5 of 1861*

⁵ *Bhartiya Nyaya Sahinta 2023, Act No. 45 of 2023.*

⁶ *Bhartiya Nagrik Suraksha Sahinta 2023, Act No. 46 of 2023.*

⁷ *Bhartiya Sakshya Adhinyam 2023, Act no. 47 of 2023.*

India's current legal and enforcement mechanisms.

Among the most notable developments was the establishment of the Indian Penal Code (IPC) in 1860, which standardized offenses and their corresponding penalties, thereby creating a cohesive criminal justice framework throughout British India. Additionally, the introduction of the Code of Criminal Procedure (CrPC) in 1861 set forth the guidelines for conducting criminal investigations, trials, and appeals, laying the groundwork for the procedural aspects of India's justice system that persist today. Both of these laws were implemented not just to uphold order but also to reinforce British dominance over the local population, highlighting the power dynamics of the imperial era.

The organization of law enforcement and the judicial system was also a product of colonial rule. Established under the Indian Police Act of 1861, the police force functioned as a centralized, militarized entity primarily focused on quelling any dissent against British authority, frequently employing severe tactics. Similarly, the judiciary was structured in layers; lower courts acted as direct extensions of the colonial administration, while higher courts, staffed by British judges, managed more significant legal matters. This layered framework created a distinct divide between the colonizers and the colonized, ensuring that ultimate control remained in British hands.

B. Developments After Independence

Following India's independence in 1947, there was a clear recognition of the urgent need to reform the criminal justice system inherited from British rule. However, despite the desire for transformation, much of the colonial legal framework remained in place. Key laws such as the Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Indian Police Act were largely unchanged, with only minor modifications. Early reform efforts sought to adapt these laws to better align with the principles of a democratic society, yet the underlying colonial characteristics persisted.

In the years since independence, a delicate balance has emerged between maintaining certain historical practices and pursuing meaningful reform. The structures governing policing, prosecution, and the judiciary continue to reflect a hierarchical and rigid nature that echoes their colonial origins. While efforts have been made to enhance the system's efficiency and accessibility—such as updates to criminal procedures and the incorporation of human rights protections—the foundational framework still bears many colonial elements.

For instance, the police force retains a militaristic and hierarchical approach reminiscent of the colonial era, often prioritizing state authority over citizen rights. The judiciary, though now presided over by Indian judges, still operates within a tiered structure, with ongoing procedural inefficiencies and delays indicative of the bureaucratic legacies of colonial control.

India's path toward reforming its criminal justice system has been gradual, navigating the challenge of modernizing legal practices while contending with the remnants of colonial laws and structures. The ongoing presence of colonial hierarchies within law enforcement and the judiciary, even after decades of independence, prompts important discussions about the extent of true decolonization in India's justice framework. This historical continuity highlights the complexities of governance in a post-colonial context, where the lingering influence of imperialism continues to shape law and order mechanisms.

Revisiting Colonial Hierarchies in Modern India: A Critical Examination

A. Policing and Law Enforcement

India's contemporary policing framework is significantly influenced by its colonial lineage, with methods that prioritize control over community service. Established under the Indian Police Act of 1861 after the

1857 Revolt⁸, this system was designed to secure allegiance to colonial authorities and function as a tool of oppression. Even after independence, many foundational aspects of policing remain unchanged, perpetuating a mindset that values state power more than individual rights.

This colonial legacy is evident in the authoritarian approach to policing, particularly evident during public protests and civil dissent. Issues such as police brutality, excessive force, and custodial violence resonate with the historical patterns of repression. Events like custodial deaths and police encounters illustrate a persistent culture of impunity that traces back to colonial governance, where law enforcement acted without accountability. High-profile case studies from regions like Uttar Pradesh and instances of police handling peaceful protests highlight systemic biases that disproportionately affect marginalized communities and political dissenters. Furthermore, efforts for reform within the police force have faced significant setbacks.

Despite recommendations from various committees, including the Sorabjee Committee (2005)⁹ and the Prakash Singh judgment (2006)¹⁰, calls for modernization and an end to politicization have met with inconsistent implementation. The entrenched colonial mindset perceives the police as enforcers of power rather than as public servants, impeding genuine progress toward reform.

B. Judicial System and Legal Structure

The hierarchical framework of India's judicial system reflects a continuation of its colonial past. Initially structured to differentiate between rulers and subjects, this system has retained its elite status post-independence, often rendering the Supreme Court and High Courts inaccessible to the average individual due to procedural complexities and exorbitant litigation costs.

The reliance on colonial-era statutes exacerbates this hierarchical issue. Laws such as sedition (Section 124A of IPC)¹¹ and preventive detention—originally aimed at stifling nationalist sentiments—remain in effect, often wielded against dissenters and critics. These laws, designed to repress colonial subjects, now serve the modern state in limiting political expression and public discourse, skewing justice delivery particularly for marginalized groups who struggle to navigate these antiquated legal frameworks.

Additionally, the convoluted and bureaucratic judicial process, combined with extreme delays in court proceedings, disproportionately impacts the underprivileged, reinforcing a colonial-like hierarchy where affluent individuals can maneuver the system more adeptly than the average citizen.

C. Prison System and Penal Policies

India's prison system also reflects the colonial ethos, with punitive measures that prioritize retribution over rehabilitation. The harsh conditions implemented during British rule, aimed at breaking the spirit of political dissidents, still characterize many modern Indian prisons.

Overcrowding, poor living conditions, and a lack of rehabilitative focus plague contemporary prisons. Many inmates, particularly those from economically disadvantaged backgrounds, experience prolonged pretrial detention for minor offenses, echoing colonial strategies of control and oppression. The absence of reformatory programs, inadequate mental health care, and deteriorating infrastructure further entrench these issues, turning prisons into spaces of oppression rather than rehabilitation.

⁸ <https://www.britannica.com/event/Indian-Mutiny>

⁹ *Police Act Drafting Committee Report, 2005 (Sorabjee Committee)*

https://www.mha.gov.in/sites/default/files/2022-09/Press_Brief_Oct_30%5B1%5D.pdf

¹⁰ *Prakash Singh v. Union of India (2006) 8 SCC 1*. <https://theleaflet.in/police-reforms-via-prakash-singh-judgment-a-boon-or-a-bane/>

¹¹ *Indian Penal Code 1860, S 124A*.

The socio-economic profiling of incarcerated individuals continues the legacy of colonial categorization. Although the Criminal Tribes Act of 1871¹² has been repealed, its underlying attitudes persist. Today, marginalized groups, including Dalits, Adivasis, and Muslims, are disproportionately represented in prison populations, revealing the enduring impact of caste, class, and colonial biases in penal systems. Despite nearly eight decades of independence, India's criminal justice system reflects colonial-era hierarchies and oppressive practices. From policing to judicial processes and penal practices, the remnants of colonialism stress the urgent necessity for comprehensive structural reforms, aligning the justice system with democratic ideals of equality and fairness.

A Critical Examination of the Movement to Decolonize the Criminal Justice System

A. Legal Reforms and Their Challenges

Following independence, India embarked on a quest to reform its legal system, aiming to sever ties with its colonial legacy. Significant legal amendments were made to the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and various policing laws, all designed to align the system with the democratic principles of the new nation. Committees like the National Police Commission (1977-81)¹³ and the Malimath Committee (2003)¹⁴ sought to modernize criminal law, emphasizing accountability, police independence, and fair trial processes.

Despite these efforts, many reforms have only seen limited success. The Indian Police Act of 1861, a remnant of colonial policing, remains largely intact, defying numerous calls for reform. Colonial laws, including the sedition provision (Section 124A of IPC) and preventive detention laws, continue to be used in ways that undermine civil liberties rather than advance justice.

A major obstacle to decolonization is the entrenched resistance to fundamental changes within law enforcement and political institutions, which often cling to colonial mechanisms that reinforce their authority. Consequently, while certain legal reforms have been enacted, they frequently fail to dismantle the entrenched hierarchical and authoritarian structures within the criminal justice system, perpetuating a colonial mindset that limits their effectiveness.

B. The Judiciary's Role in Confronting the Colonial Legacy

The judiciary has been pivotal in both upholding and challenging colonial practices within India's criminal justice framework. Landmark rulings, such as *K.S. Puttaswamy v. Union of India* (2017)¹⁵, which affirmed the right to privacy, have played a crucial role in safeguarding civil liberties and mitigating the misuse of colonial-era laws. Another significant ruling was in *Navtej Singh Johar v. Union of India* (2018)¹⁶, where the Supreme Court repealed Section 377 of the IPC, a colonial remnant that criminalized homosexuality, marking a step towards a more inclusive legal landscape.

However, the judiciary's efforts to facilitate decolonization are inconsistent. While there are notable instances of judicial activism protecting constitutional rights, numerous cases reveal a troubling inertia.

¹² *Criminal Tribes Act 1871, Act No. 27 of 1871.*

¹³ *National Police Commission Report (1977 – 1981) –*

https://www.humanrightsinitiative.org/publications/police/npc_recommendations.pdf

¹⁴ *Committee on Reforms of Criminal Justice System, 2003 (Malimath Committee) –*

https://www.mha.gov.in/sites/default/files/2022-08/criminal_justice_system%5B1%5D.pdf

¹⁵ *K.S. Puttaswamy v. union of India* (2017) 10 SCC 1.

¹⁶ *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1

For example, preventive detention laws like the National Security Act (NSA)¹⁷ remain upheld despite their colonial roots, reflecting a reluctance to critically assess these laws and their implications for civil liberties. The judiciary thus operates as a double-edged sword in the decolonization process—capable of challenging colonial structures through progressive rulings, yet often deferring to state power, which perpetuates colonial dynamics. This inconsistency hampers the judiciary's potential as a transformative force in the quest for decolonization.

C. The Role of Civil Society in Advocating for Change

Civil society has been instrumental in advocating for the decolonization of India's criminal justice system. NGOs, legal activists, and scholars have persistently pushed for reforms that address the remnants of colonial rule in law enforcement. Organizations like Common Cause and the Human Rights Law Network (HRLN) have initiated public interest litigations (PILs) to hold the government accountable for issues such as police brutality and custodial violence.

Public movements have also been vital in catalyzing legal reforms. Movements like the anti-corruption campaign led by Anna Hazare and the Nirbhaya movement for women's safety have underscored the deficiencies within the criminal justice system and prompted legislative changes, including the Criminal Law (Amendment) Act, 2013¹⁸. These grassroots movements illustrate the potential of civil society to influence state modernization of legal and policing frameworks.

Successful interventions, such as the Prakash Singh v. Union of India (2006) case, demonstrate the effectiveness of civil society advocacy for police reforms, with the Supreme Court issuing guidelines to diminish political interference and enhance accountability. However, the implementation of these recommendations remains a significant challenge.

Despite the advancements made through legal activism, substantial hurdles persist. Resistance from political and law enforcement bodies has stymied major reforms, and the enduring presence of colonial structures in legal practices, prisons, and law enforcement underscores the incomplete journey toward decolonization.

While efforts to decolonize India's criminal justice system have led to incremental progress, they face considerable challenges from entrenched institutional powers. Legal reforms, judicial actions, and civil society activism have all contributed to meaningful strides, yet the persistent existence of colonial hierarchies underscores the necessity for deeper and more comprehensive reforms to transform India's criminal justice system into one that truly embodies democratic and egalitarian ideals.

Comparative Analysis of Post-Colonial Nations' Criminal Justice Reforms

A. Insights from Other Former Colonies

South Africa

South Africa's journey post-apartheid offers a compelling example of criminal justice reform, deeply influenced by its colonial history. The establishment of the Truth and Reconciliation Commission (TRC)¹⁹ in the 1990s was pivotal in confronting past human rights abuses and facilitating national healing. The country has since shifted from a militaristic policing model to a community-focused approach, fostering trust between law enforcement and the public.

¹⁷ *National Security Act 1980, Act No. 65 of 1980.*

¹⁸ *Criminal Law (Amendment) Act 2013, Act No. 13 of 2013.*

¹⁹ *Desmund Tutu, Truth and Reconciliation Committee (TRC), 1996 (South Africa).*

<https://www.britannica.com/topic/Truth-and-Reconciliation-Commission-South-Africa>

However, the ongoing issues of police brutality, systemic corruption, and economic inequality highlight the complex layers of reform. This experience underscores the necessity of addressing the socio-political landscape alongside legal changes.

Kenya

In Kenya, significant reforms have aimed to dismantle the colonial police framework and improve judicial effectiveness. The progressive 2010 Constitution mandated major restructuring of law enforcement and created independent bodies like the Independent Policing Oversight Authority (IPOA)²⁰ to monitor police conduct. Despite these advancements, challenges such as police impunity and corruption persist, revealing the enduring legacy of colonialism.

Kenya's efforts have, however, established a foundation for enhancing public accountability and judicial transparency.

Malaysia

Malaysia's legal landscape still reflects remnants of its colonial past, particularly through preventive detention laws such as the Security Offences (Special Measures) Act (SOSMA)²¹. Although the Internal Security Act was repealed in 2012, SOSMA retains elements of authoritarian control.

While some police reforms have been introduced, public trust remains low due to these outdated practices. This situation highlights the ongoing difficulties in fully overcoming colonial-era legal frameworks.

B. Lessons for India

Confronting Historical Injustices

India can learn from South Africa's TRC model by addressing systemic injustices embedded in its criminal justice system. Although India's context differs from apartheid, issues like the caste system and colonial policing practices warrant a national dialogue to reconcile these injustices.

Enhancing Oversight and Accountability

Drawing from Kenya's experience, India could benefit from establishing a dedicated independent body focused on monitoring police actions and human rights abuses. Strengthening institutions like the National Human Rights Commission (NHRC) would bolster accountability and reduce the impunity that pervades Indian law enforcement.

Repealing Outdated Colonial Laws Malaysia's struggle with preventive detention laws serves as a cautionary tale for India. Although some colonial laws have been repealed, others like sedition remain in force, often suppressing dissent. A thorough review and repeal of such laws are imperative for genuine decolonization.

Adopting Community-Based Policing

Emulating South Africa's community-based policing model could help foster improved relationships between police and communities in India. This approach would prioritize transparency, accountability, and collaboration, moving away from colonial-era policing tactics.

5. Streamlining Judicial Processes
Like Kenya, India needs to simplify its judicial system to enhance access to justice, particularly for marginalized groups. Reducing bureaucratic barriers and increasing the availability of legal aid are crucial steps toward a fairer judiciary.

²⁰ *Independent Policing Oversight Authority Act 2011 (Kenya)* – <https://www.ipoa.go.ke/ipoa/profile>

²¹ *Security Offences (Special Measures) Act 2012 (Malaysia)*.

Strategies for Accelerating Decolonization in India

- **Comprehensive Legal Reforms:** India should initiate a thorough examination of its criminal laws and judicial processes to identify and eliminate colonial elements, engaging a diverse group of stakeholders in the reform process.
- **Independent Oversight Mechanisms:** Establishing robust oversight bodies for law enforcement and corrections could improve transparency and accountability, empowering these institutions to investigate misconduct effectively.
- **Public Engagement Initiatives:** Raising awareness about the colonial legacy of India's criminal justice system through community discussions and civil society involvement will foster a more informed public pushing for reform.

The experiences of South Africa, Kenya, and Malaysia offer valuable insights for India as it navigates its own journey of decolonization. By confronting historical injustices, enhancing institutional oversight, and modernizing its policing and judicial systems, India can create a criminal justice framework that truly reflects its democratic ideals and meets the diverse needs of its society.

Recommendations for Reform

A. Legal and Institutional Reforms

1. Updating or Eliminating Colonial-Era Laws

A crucial step in transforming India's criminal justice system involves revamping outdated colonial laws. Recent legislative changes, such as the introduction of the Bhartiya Nyaya Sanhita (BNS), Bhartiya Nagrik Suraksha Sanhita (BNSS), and Bhartiya Sakshya Adhiniyam (BSA), replace the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act, respectively. These reforms aim to modernize the legal framework, shedding colonial influences to better reflect democratic values.

However, it is vital to evaluate the effectiveness of these new laws in truly dismantling the lingering colonial legacy within the justice system. The BNS, BNSS, and BSA must be scrutinized to ensure they uphold individual rights, procedural justice, and equality, rather than reinforcing authoritarian practices. Further, we must address the outdated policing methods rooted in colonial history. A thorough review of laws like the Police Act of 1861 is necessary to remove remnants of colonial control, paving the way for community-oriented policing that builds trust between law enforcement and the public.

2. Reforming Law Enforcement Agencies

The current hierarchical structure of India's law enforcement mirrors colonial governance, often compromising democratic principles. Reform is needed to flatten this hierarchy by decentralizing authority and adopting community policing practices. Such changes would enhance public accountability in law enforcement.

Establishing independent oversight bodies, such as Police Complaints Authorities at various levels, can help monitor police conduct and improve transparency. Additionally, empowering the National Police Commission to propose further reforms can cultivate a policing system that prioritizes citizen engagement and accountability.

3. Boosting Judicial Accountability and Access

Reforming the judiciary is essential for making it more accessible and accountable to all citizens, particularly marginalized groups. High case backlogs and complex procedures disproportionately impact those with limited resources. Digitizing court processes can streamline proceedings, reduce delays, and enhance access to justice, particularly for rural populations.

Increasing judicial accountability through regular performance assessments, transparent appointment processes, and the creation of a judicial ombudsman will enhance responsiveness and efficiency. Interpreting the new laws in a manner that champions justice and fairness is critical to the decolonization of India's judicial system.

B. Educational and Training Initiatives

1. Integrating Decolonization Perspectives in Legal Education

A vital component of reform involves transforming legal education. Law schools should embed decolonization perspectives into their programs, encouraging students to critically analyze lingering colonial influences in the criminal justice system. Subjects on human rights, constitutional law, and colonial history should be central to the curriculum, creating a generation of legal professionals aware of these issues and committed to reform.

Additionally, courses focusing on the new legal frameworks established by the BNS, BNSS, and BSA will help future lawyers and judges understand the shift from colonial legacies and the ongoing need for legal evolution.

2. Mandatory Training for Law Enforcement and Judiciary

It is essential for law enforcement and judicial members to receive mandatory training on human rights, egalitarian values, and the principles outlined in India's Constitution. These training programs should emphasize de-escalation, community engagement, and conflict resolution, moving away from coercive tactics common in colonial practices.

Training should also include comprehensive studies of the new laws under the BNS, BNSS, and BSA, highlighting their roles in safeguarding individual rights and promoting justice. This shift in training can cultivate a culture of accountability, transparency, and dedicated public service in both the police and judiciary.

Policy Recommendations for Transforming India's Criminal Justice System

1. Holistic Approach to Criminal Justice Reform

The implementation of the Bhartiya Nyaya Sanhita, Bhartiya Nagrik Suraksha Sanhita, and Bhartiya Sakshya Adhinyam signifies a crucial shift in India's legal landscape. Yet, there is an urgent need for a comprehensive reform strategy that encompasses various elements of the criminal justice system, including police practices, court efficiency, and correctional facilities. \

This strategy should clearly outline actionable steps to dismantle lingering colonial structures within law enforcement and judicial proceedings. It should also advocate for the creation of independent oversight entities, enhance access to legal resources for underrepresented groups, and implement initiatives aimed at fostering inclusivity and transparency within the system.

2. Engagement of Varied Stakeholders in the Reform Process

For reforms to be impactful, it is essential to incorporate a broad spectrum of stakeholders, such as legal experts, advocacy groups, community activists, policy makers, and representatives from marginalized sectors. Public forums, grassroots movements, and interdisciplinary partnerships should be pivotal in shaping these reforms, ensuring that the perspectives of those directly influenced by the criminal justice system are prioritized.

Involving NGOs, human rights advocates, and local leaders in both the design and execution of these reforms will help ensure that the proposed changes meet the diverse requirements of India's populace. Additionally, collaboration with specialists in law enforcement, legal studies, and public policy can

provide a data-driven foundation for reforms, aligning them with global best practices and fostering a comprehensive and sustainable decolonization process.

The transition from colonial statutes to the *Bhartiya Nyaya Sanhita*, *Bhartiya Nagrik Suraksha Sanhita*, and *Bhartiya Sakshya Adhiniyam* is a vital milestone towards decolonizing India's criminal justice framework. However, ongoing legal, institutional, and educational initiatives are critical to fully eradicate colonial legacies. A multifaceted approach involving legal adjustments, reforms in law enforcement structures, greater judicial responsibility, and active public participation is fundamental to establishing a justice system that genuinely embodies India's democratic values.

Conclusion

A. Summary of Key Findings

This research reveals that colonial hierarchies and structures continue to be ingrained in India's criminal justice system, even 78 years post-independence. Despite efforts to reform outdated colonial laws, such as the Indian Penal Code (IPC) and Criminal Procedure Code (CrPC), replaced by the *Bhartiya Nyaya Sanhita* (BNS) and *Bhartiya Nagrik Suraksha Sanhita* (BNSS), the system retains its colonial roots. Hierarchical power dynamics, authoritarian policing, and bureaucratic inefficiencies within the judiciary still reflect a colonial legacy that prioritizes state control over individual rights.

While the introduction of new legal frameworks signifies progress, they have not entirely eliminated the colonial remnants. Laws like preventive detention and sedition continue to suppress dissent and curtail civil liberties, especially for marginalized communities.

The research underscores significant challenges toward decolonization, including resistance from law enforcement and political institutions that benefit from these colonial structures. Attempts at reform, such as community policing and judicial transparency, face bureaucratic resistance and reluctance for meaningful change.

B. Future Directions

The findings highlight the necessity of ongoing efforts to achieve a fully decolonized criminal justice system in India:

1. Colonial hierarchies persist in the law enforcement and judiciary, which still operate with colonial-era mindsets focused on control rather than justice. The centralized, authoritarian police force and the judiciary's procedural inefficiencies disproportionately impact marginalized communities.
2. While recent legal reforms, including the BNS, BNSS, and the *Bhartiya Sakshya Adhiniyam*, aim to address colonial influences, they require critical evaluation to prevent the replication of existing power dynamics in new forms. Future amendments should center on democratizing the system and enhancing accountability.
3. Overcoming entrenched resistance from institutional bodies benefiting from colonial practices is vital for effective decolonization. Reforms must transcend mere legal amendments and instigate structural changes in law enforcement, judicial accountability, and access to justice for marginalized communities.

Going forward, sustained research and reform are crucial in transforming India's criminal justice system into one that embodies independence, equity, and justice. A comprehensive approach that flattens hierarchical structures, boosts police and judicial accountability, and incorporates community-based law enforcement models is essential to disengage from the colonial legacy. Engaging diverse stakeholders—including civil society, marginalized communities, and legal experts—in these reforms will ensure the

justice system serves the populace and aligns with India's democratic values.

An authentically decolonized and equitable system must uphold justice, fairness, and transparency, guaranteeing that every citizen, irrespective of their background, has equal access to the legal protections and rights enshrined in the Constitution.

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