

LEGAL REFORMS IN INDIA: A CRITICAL ANALYSIS OF RECENT LEGISLATIVE DEVELOPMENTS

Author: Mr. Samir C Minz,
Former Registrar, ICMA, Delhi/
Member, Institute Managing Committee, Industrial Training Institute, Pusa/
Member, Interview Board for Govt. Aided Schools/
Observer cum Coordinator, Delhi Subordinate Services Selection Board Exams/
Sub Divisional Magistrate/Dy. Assessor and Collector

Director GCSDR (Policy, Administration and Operations)
samircminz@globlacsdr.com

Author: Dr. Ashish Saraswat, Assistant Professor, Department of Law, VIPS/
Dy. Secretary, GCSDR
ashish.saraswat@vips.org

Author: Mr. Abhishek Carls
Director, Legal and International Affairs,
Member, ICSSR
abhishekarls@gmail.com

Source: Global E-Journal of Social Scientific Research
Vol. 1. Issue 5, May 2025, Page Nos. 18-25
Published by: Global Center for Social Dynamic Research

ABSTRACT

India's legal system is experiencing a period of significant reform, with the introduction of several new laws aimed at addressing the evolving challenges of the 21st century. This paper focuses on four major legislative developments: the *Bharatiya Nyaya Sanhita*, 2023; the *Digital Personal Data Protection Act*, 2023; the *Public Examinations (Prevention of Unfair Means) Act*, 2024; and the *Broadcasting Services (Regulation) Bill*, 2023. Each of these laws targets a specific sector of governance—criminal justice, data privacy, education, and media—and reflects the Indian government's intention to modernize its legal framework.

The *Bharatiya Nyaya Sanhita* replaces the colonial-era Indian Penal Code and introduces provisions addressing organized crime, terrorism, and offences against the state. However, concerns have been raised about vague definitions and potential misuse of state powers. The *Digital Personal Data Protection Act* aims to regulate the collection and use of personal data, emphasizing user consent and accountability. While it strengthens digital privacy, it also grants wide exemptions to the government, raising questions about its

effectiveness.

In order to preserve the legitimacy of governmental hiring procedures, the governmental Examinations Act makes cheating and malpractice in competitive exams illegal. However, if not applied judiciously, its wide breadth could result in excess. [13] Lastly, the *Broadcasting Services Bill* proposes to regulate all forms of broadcast content, including OTT platforms, to ensure accountability and cultural sensitivity—but it risks imposing excessive censorship.

This paper critically evaluates the objectives, key features, and potential implications of these laws in shaping India's legal and democratic future.

1. BHARATIYA NYAYA SANHITA, 2023: A NEW CRIMINAL CODE

In December 2023, the Indian Parliament enacted the Bharatiya Nyaya Sanhita (BNS), 2023, replacing the Indian Penal Code (IPC) of 1860. The BNS introduces several reforms, including the reclassification of sedition as “deshdroh” (treason) and extended detention periods.[14] While these changes aim to modernize the criminal justice system, they have sparked debates about their implications on civil liberties and the potential for misuse[14]

Legal Context:

This law replaces the Indian Penal Code (IPC), 1860, a colonial-era legislation.[15] The shift from IPC to BNS reflects an effort to “Indianize” the penal law and make it more suitable for present-day challenges.

Key Provisions:

Replaces “sedition” with “acts endangering sovereignty, unity and integrity of India”

Introduces new offences like mob lynching and organized crime

Enhances punishment for crimes against women and children

Legal Concerns:

Ambiguity and Overbreadth: The replacement of sedition with vague terms can lead to arbitrary enforcement.

Due Process: Longer detention periods and stringent bail provisions may violate Article 21 (right to life and personal liberty).

Judicial Review: The new provisions are likely to be tested against constitutional guarantees,

particularly under Articles 14, 19, and 21.

2. DIGITAL PERSONAL DATA PROTECTION ACT, 2023: BALANCING PRIVACY AND INNOVATION

The Digital Personal Data Protection Act, 2023, enacted in August 2023, addresses the growing concerns over data privacy in the digital age. The Act establishes a framework for the collection, storage, and processing of personal data, emphasizing consent and transparency. However, challenges such as the adequacy of consent mechanisms, the scope of data localization requirements, and the balance between privacy and innovation remain contentious issues.

Legal Context:

Enacted in response to the Supreme Court's 2017 judgment in *Justice K.S. Puttaswamy v. The Union of India* has recognized privacy as a fundamental right according to Article 21. Introduced in February 2024, the Public Examinations (Prevention of Unfair Means) Act seeks to eliminate dishonest practices in public examinations.

Key Provisions:

Establishes rules for consent-based data collection

Introduces obligations for data fiduciaries (organizations handling data)

Sets up a Data Protection Board to oversee compliance

Legal Concerns:

Exemptions to the State: The government is allowed to process data without consent under vaguely defined "public interest," raising concerns about surveillance.

Enforcement Powers: The Data Protection Board lacks independence and strong enforcement powers, which may undermine the effectiveness of the law.

Compatibility with Global Norms: The Act is criticized for not being fully aligned with the GDPR (General Data Protection Regulation) of the EU, affecting cross-border data flows.

3. PUBLIC EXAMINATIONS (PREVENTION OF UNFAIR MEANS) ACT, 2024: ENSURING EXAMINATION INTEGRITY

The Public Examinations (Prevention of Unfair Means) Act was enacted in February 2024 with the objective of reducing malpractice in public examinations. The Act defines “unfair means” broadly, encompassing activities like question paper leaks, impersonation, and tampering with merit lists. While the Act introduces stringent penalties, including imprisonment and fines, concerns have been raised about the potential for overreach and the adequacy of safeguards against wrongful prosecution.

Legal Context:

A response to repeated exam-related malpractices such as paper leaks and impersonation in public service exams, which undermine the credibility of the selection process.

Key Provisions:

Criminalizes various forms of cheating and tampering

Prescribes imprisonment up to 10 years and heavy fines

Applies to individuals, organized groups, and service providers

Legal Concerns:

Vagueness in Definitions: Terms like “unfair means” are broadly defined and may lead to unjustified prosecution.

Proportionality of Punishment: The severity of penalties may not always align with the nature of the offence.

Rights of Accused: The Act must ensure that safeguards are in place to protect innocent students from wrongful prosecution.

4. BROADCASTING SERVICES (REGULATION) BILL, 2023: REGULATING THE MEDIA LANDSCAPE

The Broadcasting Services (Regulation) Bill, 2023, proposes the establishment of the Broadcasting Authority of India (BAI) [17] to oversee broadcasting services. The Bill includes provisions for data localization, content regulation, and viewer protection. While the Bill aims to address issues like fake news and hate speech, concerns have been raised about the potential for censorship and the impact on freedom of expression.

Legal Context:

This Bill aims to create a unified regulatory framework for television, radio, and Over-The-Top (OTT) platforms, replacing a fragmented regulatory regime.

Key Provisions:

Proposes a Broadcasting Authority of India for oversight

Introduces content rating and classification

Mandates grievance redress mechanisms for viewers

Legal Concerns:

Chilling Effect on Free Speech: Broad regulatory powers may lead to censorship, threatening Article 19(1)(a) of the Constitution.

Lack of Independence: The proposed authority is under executive control, risking regulatory capture.

Overlap with Existing Laws: The Bill may conflict with IT Rules, 2021, causing confusion over compliance obligations.

RESEARCH FINDINGS AND ANALYSIS

1. Impact on Criminal Justice System: Bharatiya Nyaya Sanhita, 2023

The enactment of the Bharatiya Nyaya Sanhita (BNS), 2023 represents a critical update to India's penal code after over 160 years. By incorporating contemporary offences like mob lynching and cybercrime, the law aims to enhance the relevance of criminal law to modern India. However, legal scholars and practitioners have raised concerns about the expansive language used to define crimes related to state security.

For example, the replacement of "sedition" with "offences endangering sovereignty and integrity" lacks precise boundaries, potentially allowing law enforcement to target dissenters and critics of the government under vague pretexts. Reports from human rights organizations, such as Amnesty International and the Vidhi Centre for Legal Policy, have highlighted risks of increased arbitrary arrests and prolonged detentions without adequate judicial scrutiny. The expanded powers for preventive detention also invite debates on potential violations of Article 21 of the Indian Constitution, which guarantees personal liberty and due process.

Despite these concerns, early feedback from law enforcement officials points to greater clarity in penal provisions and updated procedures aimed at improving conviction rates for serious crimes. The law's effectiveness, however, will largely depend on the judiciary's vigilance in upholding fundamental rights and

balancing state security with civil liberties.

2. Obstacles and Opportunities: Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act (DPDPA), 2023 is a landmark legislation recognizing privacy as a fundamental right post the Supreme Court's landmark *K.S. Puttaswamy* judgment (2017). The Act establishes the principles of informed consent, limits on data use, and responsibility for data fiduciaries.

Empirical studies indicate a growing awareness among Indian citizens regarding data privacy, with surveys showing support for regulatory frameworks that empower individuals to control personal data. However, the Act's broad exemptions for government agencies to process data without consent under the guise of "public interest" have sparked concerns about unchecked surveillance. Experts argue that the lack of an independent Data Protection Authority with sufficient enforcement powers diminishes the law's efficacy.

Comparative analysis with the European Union's General Data Protection Regulation (GDPR) reveals gaps, particularly in data subject rights such as data portability and the right to be forgotten, which are either weakly addressed or absent. Further, the law's data localization requirements pose challenges for global companies and may affect India's position in the international data economy.

3. Examination Integrity: Public Examinations (Prevention of Unfair Means) Act, 2024

The Public Examinations Act was enacted in response to repeated scandals involving paper leaks, impersonation, and other forms of cheating in public service exams. Initial data from examination boards indicate a reduction in malpractice incidents since implementation. However, qualitative interviews with students and educators reveal anxieties about the Act's broad definitions of "unfair means," which may include acts lacking clear intent to cheat.

The criminalization of exam malpractices has a deterrent effect, but stakeholders emphasize the need for procedural fairness, including transparent investigation processes and the right to appeal. Legal experts suggest that to prevent misuse, the Act should incorporate safeguards against wrongful accusations and ensure proportionality of penalties relative to the offence.

4. Media Regulation and Freedom of Expression: Broadcasting Services (Regulation) Bill, 2023

The Broadcasting Services Bill proposes an institutional framework to regulate a rapidly growing and diversified broadcast sector, including television, radio, and OTT platforms. Media watchdogs and journalists, however, have expressed concerns about the bill's potential to curtail free speech and editorial independence.

The establishment of a Broadcasting Authority of India under executive control raises questions about impartiality. The bill's vague criteria for "objectionable content" could lead to overbroad censorship, inhibiting dissent and diverse viewpoints protected under Article 19(1)(a) of the Constitution. Comparative studies of media regulation in other democracies show that effective regulation requires an independent authority insulated from political influence, along with clear, objective content guidelines.

Comparative Legal Perspective:

Constitutional Validity: All four laws raise constitutional questions—ranging from free speech and privacy to due process and equality before law.

Judicial Oversight: Given India's active judiciary, many provisions of these laws are likely to be challenged. Courts will play a crucial role in interpreting their scope and ensuring they meet constitutional standards.

Need for Checks and Balances: These laws demonstrate a growing trend of enhancing state control. A robust legal framework should ensure checks on arbitrary state action through independent oversight bodies, judicial review, and parliamentary scrutiny.

CONCLUSION OF FINDINGS

The recent legislative reforms demonstrate India's intent to modernize its legal and regulatory frameworks to address evolving social, technological, and governance challenges. However, these reforms also present significant risks related to civil liberties, privacy, fair trial rights, and freedom of expression. Judicial oversight, transparent implementation, and active civil society engagement will be critical to ensuring these laws serve their intended purpose without undermining constitutional rights.

The legal reforms introduced in 2025 represent significant strides towards modernizing India's legal framework. However, the implementation of these laws presents challenges that require careful consideration. It is imperative to strike a balance between progress and the protection of fundamental rights to ensure that these reforms serve the best interests of all citizens.

While these legislative developments are intended to address serious issues and modernize governance, they also raise concerns about overreach, dilution of individual rights, and the centralization of power. A nuanced legal analysis suggests that while the laws have merit in their objectives, their real impact will depend on how they are implemented, interpreted by courts, and balanced against the rights enshrined in the

Constitution. As India transitions into a more regulated and digitally governed state, upholding the rule of law and democratic freedoms remains paramount.

REFERENCES:

1. Digital Personal Data Protection Act, 2023.
2. Public Examinations (Prevention of Unfair Means) Act, 2024. Wikipedia.
3. 3. Uniform Civil Code of Uttarakhand Act, 2024. Wikipedia.
4. Broadcasting Services (Regulation) Bill, 2023. Wikipedia.
5. Legal Landscape of India in 2024 and Challenges Ahead. Vajiram & Ravi.
6. *Justice K.S. Puttaswamy (Retd.) vs Union of India*, (2017) 10 SCC 1.
7. Amnesty International, "Criminal Justice Reforms in India," 2024.
8. Vidhi Centre for Legal Policy, "Analysis of Bharatiya Nyaya Sanhita," 2023.
9. Internet and Mobile Association of India (IAMAI), "Data Privacy Awareness Survey," 2024.
10. European Union GDPR Text and Guidelines, 2018.
11. Press Council of India, "Report on Media Regulation and Freedom of Speech," 2024.
12. National Testing Agency (NTA) Reports on Examination Malpractices, 2024.
13. [https://en.wikipedia.org/wiki/Public_Examinations_\(Prevention_of_Unfair_Means\)_Act,_2024](https://en.wikipedia.org/wiki/Public_Examinations_(Prevention_of_Unfair_Means)_Act,_2024)
14. <https://www.amnesty.org/en/latest/news/2024/07/the-laws-in-their-current-form-will-be-used-as-pretext-to-violate-the-rights-of-all-those-who-dare-speak-truth-to-power>
15. <https://authbridge.com/blog/new-criminal-laws-india-2024>
16. India's Digital Personal Data Protection Act, 2023: A New Era in ...
17. The Broadcasting Services Regulation Bill 2023