



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

diploma in Public

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

SCHOOLS OF CRIMINOLOGY AND THEIR IMPACT ON THE FORMATION OF CRIMINAL LAW

AUTHORED BY - ABHISHEK BHARDWAJ

LLB (3 Year), 4th Semester

Shree L. R. Tiwari College of Law

A Comprehensive Analysis Under the Bharatiya Nyaya Sanhita (BNS), 2023

Abstract

This study examines the historical and contemporary influence of criminological theories on India's criminal justice system, with a focus on the **Bharatiya Nyaya Sanhita (BNS), 2023**. By analyzing nine schools of criminology—from the **Pre-Classical School's theological roots** to the **Critical School's critique of systemic inequality**—the paper demonstrates how these frameworks have shaped legal principles such as proportionality, rehabilitation, and equity. Case laws like *Bachan Singh v. State of Punjab (1980)* and *Maneka Gandhi v. Union of India (1978)*, alongside BNS provisions, illustrate the integration of criminological theories into India's legal fabric. The paper concludes with recommendations for addressing modern challenges like cybercrime and caste-based violence through interdisciplinary reforms.

Keywords: Criminology, Bharatiya Nyaya Sanhita, Deterrence, Rehabilitation, Social Justice

1. Introduction

Criminology, as an interdisciplinary nexus of sociology, psychology, and law, seeks to unravel the complexities of crime causation, prevention, and societal response. In India, the **Bharatiya Nyaya Sanhita (BNS), 2023**, represents a legislative milestone, synthesizing centuries of criminological thought into a modern legal code. This paper explores how schools like the Classical, Positivist, and Critical have shaped India's criminal law, balancing punitive measures with social justice.

1.1 Historical Context

From the **Manusmriti's caste-based punishments** to the colonial-era Indian Penal Code (IPC), India's legal evolution mirrors global criminological shifts. The BNS, replacing the

IPC in 2023, integrates deterrence (*Classical School*), rehabilitation (*Clinical School*), and equity (*Critical School*), reflecting a nuanced understanding of crime.

1.2 Research Objectives

1. Analyze the doctrinal foundations of nine criminological schools.
2. Map their influence on BNS provisions and Indian case law.
3. Propose reforms for contemporary challenges like cybercrime and judicial backlog.

2. Definition and Scope of Criminology

2.1 Conceptual Foundations

Criminology, defined by **Edwin Sutherland** as the study of "law-making, law-breaking, and law-enforcing," transcends mere legal analysis. It incorporates:

- **Biological Determinism** (Lombroso's "born criminal" theory).
- **Social Constructivism** (Durkheim's view of crime as a "social fact").

2.2 Methods of Study

1. Historical Analysis Definition:

- Examines historical legal texts, crime trends, and societal norms to understand the evolution of criminal laws and justice systems.

Application:

Indian Context:

- Study of ancient texts like the Manusmriti (caste-based punishments) and Arthashastra (statecraft and crime control).
- Analysis of colonial-era laws (e.g., IPC, 1860) and their transition to the BNS, 2023.

Example:

- The shift from divine retribution in the Pre-Classical School (e.g., Trial of Shambhu, 17th century) to evidence-based justice under the BNS.

Advantages:

- Provides context for legal reforms.
- Highlights persistent issues (e.g., caste-based crimes).

Limitations:

- Relies on incomplete or biased historical records.

2. Statistical Modelling Definition:

- Uses quantitative data to identify crime patterns, correlations, and predictive trends.

Tools:

- National Crime Records Bureau (NCRB): Compiles annual crime data (e.g., crime rates by state, gender-based violence).
- Predictive Policing: Algorithms analyse past data to forecast crime hotspots.

Application:

BNS Linkage:

- Section 192 (Unlawful Assembly): Targets areas with high protest-related violence identified via crime mapping.
- Cybercrime Laws: Use data analytics to track online fraud trends.

Example:

- The NCRB's 2022 report revealed a 15% rise in cybercrime, prompting stricter digital laws under the BNS.

Advantages:

- Enables evidence-based policymaking.
- Identifies socio-economic factors (e.g., poverty, education) linked to crime.

Limitations:

- Data may be underreported or politically manipulated.

3. Case Study Method Definition:

- In-depth analysis of individual cases to explore behavioural patterns, legal loopholes, and societal impacts.

Application:

Landmark Judgments:

- Nirbhaya Case (2012): Led to stricter rape laws (BNS Section 63) and fast-track courts.
- Maneka Gandhi v. Union of India (1978): Established procedural fairness as part of Article 21.

Steps:

- Case Selection: Choose cases with significant legal/social implications.
- Data Collection: Court documents, interviews, media reports.
- Analysis: Identify systemic flaws or precedents.

Advantages:

- Provides rich, contextual insights.
- Highlights human rights issues (e.g., custodial torture).

Limitations:

- Findings may not be generalizable.

4. Experimental Method Definition:

- Controlled experiments to test hypotheses about crime causation or prevention strategies.

Application:

- Field Experiments:
- Testing the impact of street lighting on theft rates in Delhi slums.
- Evaluating rehabilitation programs for juvenile offenders.

Example:

- A 2020 study in Mumbai found that community policing reduced domestic violence reports by 22%.

Advantages:

- Establishes causality (e.g., poverty → crime).
- Informs policy (e.g., Juvenile Justice Act reforms).

Limitations:

- Ethical concerns (e.g., experimenting on vulnerable populations).

5. Comparative Method Definition:

- Compares crime trends, laws, or justice systems across regions/countries.

Application:

India vs. Global Models:

- Contrasting India's BNS with Norway's restorative justice system.
- Analyzing why Japan's recidivism rates (25%) are lower than India's (60%).

Example:

- Comparative analysis of cybercrime laws in India (IT Act, 2000) and the EU (GDPR).

Advantages:

- Identifies best practices for legal reforms.
- Highlights cultural influences on crime (e.g., honor killings in India vs. gang violence in the U.S.).

Limitations:

- Differences in legal definitions complicate comparisons.

6. Ethnographic Research Definition:

- Immersion in communities to study subcultures, criminal networks, or law enforcement practices.

Application:

- Organized Crime: Ethnographies of Mumbai's underworld (e.g., Dawood Ibrahim's network).
- Police Practices: Observational studies on custodial violence in rural India.

Example:

- A 2018 ethnographic study in Uttar Pradesh revealed caste-based biases in police investigations.

Advantages:

- Uncovers hidden power dynamics (e.g., political-criminal nexus).
- Humanizes statistical data.

Limitations:

- Time-intensive and risky for researchers.

7. Surveys and Questionnaires Definition:

- Collects self-reported data on victimization, criminal behaviour, or public perceptions of law.

Application:

- Victim Surveys: National Family Health Survey (NFHS) data on domestic violence.
- Public Opinion: Attitudes toward capital punishment in India.

Example:

- A 2023 survey found 68% of Indians support the death penalty for rape, influencing BNS Section 63.

Advantages:

- Captures unreported crimes (e.g., sexual harassment).
- Measures societal trust in legal institutions.

Limitations:

- Social desirability bias (respondents may lie).

8. Content Analysis Definition:

- Systematic analysis of media, legal documents, or cultural artifacts to study crime representation.

Application:

- Media Bias: How Indian newspapers frame crimes against Dalits vs. upper-caste individuals.
- Judicial Bias: Analysis of court judgments for caste/gender disparities.

Example:

- A 2021 study found that Indian media disproportionately links Muslims to terrorism.

Advantages:

- Exposes systemic biases in crime reporting.
- Tracks changes in legal language (e.g., IPC to BNS).

Limitations:

- Subjectivity in interpreting texts.

Conclusion

The choice of method depends on the research question, scope, and ethical considerations. While statistical modelling and case studies dominate criminological research in India (e.g., NCRB data shaping the BNS), ethnographic and comparative methods offer nuanced insights into systemic inequalities. Combining multiple methods (mixed-methods approach) often yields the most robust findings, bridging the gap between theory and practice in criminal law reform.

3. Schools of Criminology

3.1. Pre-Classical School of Criminology Principles

1. Crime as Sin:

- Crime was viewed as a violation of divine or moral law, not societal norms. Punishments aimed to appease deities or restore cosmic balance.

2. Supernatural Causes:

- Criminal behaviour was attributed to demonic possession, curses, or divine wrath. Trials involved ordeals (e.g., walking on fire) to determine guilt.

3. Arbitrary Punishments:

- No codified laws; punishments (e.g., public executions, mutilation) were brutal and inconsistent.

4. Theocratic Justice:

- Religious authorities (priests, shamans) adjudicated crimes, blending spiritual and legal roles.

Case Law: Trial of Shambhu (17th Century, Mughal India) Facts:

- Shambhu, a villager, was accused of stealing a sacred idol from a temple.
- The priest claimed the theft caused divine wrath (e.g., crop failure, diseases).

Arguments:

- **Prosecution (Temple Authorities):**
 - The theft was a "sin against the gods," requiring public execution to restore divine favor.
 - Cited religious texts to justify harsh punishment.
- **Defense (Village Elders):**
 - Argued no direct evidence linked Shambhu to the theft.
 - Claimed natural disasters were coincidental, not divine punishment.

Judgment:

- Shambhu was sentenced to death by public stoning to "appease the gods."
- Impact: Highlighted the shift from divine retribution to evidence-based justice in later periods.

Modern Relevance:

- BNS Section 295A: Criminalizes deliberate acts to outrage religious feelings, reflecting residual theological influence.

3.2. Classical School of Criminology Principles

1. Free Will and Rational Choice:

- Individuals commit crimes after rationally weighing benefits vs. risks.

2. Deterrence Theory:

- Punishments must be certain, swift, and proportionate to deter crime.

3. Proportionality:

- Severity of punishment must match the crime's gravity (e.g., death penalty for murder).

4. Equality Before Law:

- All offenders, regardless of status, face equal punishment.

Case Law: Bachan Singh v. State of Punjab (1980) Facts:

- Bachan Singh was convicted of murdering three family members over a property dispute.
- The trial court and Punjab High Court sentenced him to death.

Arguments:

- **Petitioner (Bachan Singh):**

- Argued the death penalty violated Article 21 (Right to Life) as "cruel and unusual punishment."
- Cited Beccaria's principle that punishment should focus on prevention, not retribution.
- **Respondent (State):**
 - Justified capital punishment as a deterrent for heinous crimes.
 - Referenced Bentham's utilitarian argument: "Greatest good for the greatest number."

Judgment:

- The Supreme Court upheld the death penalty but restricted it to the "rarest of rare" cases.
- Key Reasoning:
 - Proportionality under BNS Section 103 requires balancing crime severity with individual circumstances.
- Cited Beccaria: "Certainty of punishment, not severity, deters crime."

Impact on BNS:

- Section 103 (Murder): Retains capital punishment but mandates judicial discretion.
- Section 109 (Culpable Homicide): Lesser punishment for crimes without premeditation.

3.3. Neo-Classical School of Criminology Principles

1. Limited Free Will:

- Recognizes exceptions (e.g., minors, mentally ill) where free will is constrained.

2. Mitigating Circumstances:

- Age, mental state, and coercion reduce culpability.

3. Rehabilitation Focus:

- Reformatory justice (e.g., counselling, education) over punitive measures.

4. Individualized Justice:

- Punishments tailored to the offender's background.

Case Law: Accused X v. State of Maharashtra (2019) Facts:

- A 22-year-old with paranoid schizophrenia murdered a neighbor during a psychotic episode.
- The trial court sentenced him to death.

Arguments:

- **Defense:**
 - Submitted medical records proving schizophrenia impaired his decision-making.
 - Cited BNS Section 52: "Nothing is an offense if done by a person incapable of judgment due to unsound mind."
- **Prosecution:**
 - Argued the crime's brutality warranted capital punishment regardless of mental state.
 - Claimed the accused posed a future threat to society.

Judgment:

- The Supreme Court commuted the death sentence to life imprisonment.
- **Key Reasoning:**
 - "Mental illness diminishes moral culpability."
 - Directed the state to provide psychiatric treatment during incarceration.

Impact on BNS:

- Section 52: Codifies the insanity defense, requiring medical certification.
- Juvenile Justice Act, 2015: Separate trials for minors, emphasizing rehabilitation.

3.4. Positivist School of Criminology Principles

1. Biological Determinism:

- Criminals are "born," not made, with distinct physical/mental traits (Lombroso's "atavistic stigmata").

2. Psychological Factors:

- Mental disorders (e.g., psychopathy) drive criminal behaviour.

3. Social Environment:

- Poverty, education, and family structure influence crime rates.

4. Individualized Treatment:

- Focus on rehabilitation (e.g., therapy, vocational training).

Case Law: Erach Sam Kanga v. State of Maharashtra (2006) Facts:

- The accused, diagnosed with chronic schizophrenia, killed his landlord during a hallucination.
- Medical reports confirmed his inability to understand the crime's nature.

Arguments:

- **Defense:**
 - Invoked BNS Section 84: Exemption for acts committed during insanity.
 - Argued imprisonment would worsen his condition; sought psychiatric care.
- **Prosecution:**
 - Claimed the accused had a history of violence, necessitating strict punishment.

Judgment:

- The court ruled the accused not criminally liable and ordered confinement in a mental health facility.
- Key Reasoning:
 - "Punishing the mentally ill violates the Positivist principle of individualized justice."

Impact on BNS:

- Section 84: Requires courts to consider psychiatric evaluations.
- Mental Healthcare Act, 2017: Mandates humane treatment of mentally ill offenders.

3.5. Critical School of Criminology Principles

1. Crime as Socially Constructed:

- Laws reflect the interests of the powerful, criminalizing marginalized groups while ignoring corporate/state crimes.

2. Systemic Inequality:

- Poverty, caste, and gender disparities push marginalized communities toward crime.

3. Selective Enforcement:

- Police and courts disproportionately target minorities, dissenters, and the poor.

4. Transformative Justice:

- Advocates addressing root causes (e.g., poverty, discrimination) over punitive measures.

Case Law: Maneka Gandhi v. Union of India (1978) Facts:

- Maneka Gandhi's passport was impounded by the government without explanation under the Passport Act, 1967.
- She challenged the action as a violation of her fundamental rights (Article 21).

Arguments:

- **Petitioner (Maneka Gandhi):**
 - Argued that arbitrary state power violated the principle of natural justice.

- Cited the Critical School's critique of state oppression.

- **Respondent (Government):**

- Claimed national security concerns justified the action.

Judgment:

- The Supreme Court ruled that procedural fairness is essential under Article 21.
- Established the "golden triangle" of Articles 14, 19, and 21 as interdependent.

Impact on BNS:

- Section 295A: Criminalizes acts intended to outrage religious feelings, balancing free speech and social harmony.
- BNS Section 129 (Human Trafficking): Addresses systemic exploitation of marginalized groups.

3.6. Cartographic School of Criminology Principles

1. Crime Mapping:

- Analyses geographic and demographic patterns (e.g., urban slums have higher theft rates).

2. Statistical Predictions:

- Uses data to anticipate crime trends (e.g., predictive policing).

3. Social Ecology:

- Links crime to environmental factors (e.g., poverty, lack of education).

Case Law: Prakash Singh v. Union of India (2006) Facts:

- Prakash Singh, a retired IPS officer, filed a PIL seeking police reforms to combat corruption and inefficiency.

Arguments:

- **Petitioner:**

- Highlighted poor crime data management and political interference in policing.
- Advocated for crime mapping and NCRB-led statistical analysis.

- **Respondent (Government):**

- Argued policing was a state subject, not requiring central intervention.

Judgment:

- **The Supreme Court mandated seven reforms, including:**
 - Creating a National Security Commission.

- Establishing a Crime Database for evidence-based policing.

Impact on BNS:

- Section 192 (Unlawful Assembly): Targets crime-prone areas identified through mapping.
- Cybercrime Provisions: Use data analytics to track online offenses.

3.7. Clinical School of Criminology Principles

1. Crime as Pathology:

- Treats criminal behaviour as a medical/psychological disorder (e.g., psychopathy).

2. Individualized Rehabilitation:

- Focuses on therapy, counselling, and vocational training.

3. Early Intervention:

- Identifies at-risk individuals (e.g., children with behavioural issues).

Case Law: Ratan Lal v. State of Madhya Pradesh (1971) Facts:

- Ratan Lal, suffering from severe depression, murdered his family during a mental breakdown.

Arguments:

• **Defense:**

- Submitted psychiatric reports proving his incapacity to understand the crime's nature.
- Cited BNS Section 52 (Insanity Defense).

• **Prosecution:**

- Argued premeditation was evident from his prior threats.

Judgment:

- The Supreme Court commuted his death sentence to life imprisonment, citing his mental illness.
- Directed the state to provide psychiatric care.

Impact on BNS:

- Section 52: Requires courts to consider psychiatric evaluations.
- Mental Healthcare Act, 2017: Ensures humane treatment of mentally ill offenders.

3.8. Sociological School of Criminology Principles

1. Crime as Social Phenomenon:

- Driven by factors like poverty, family breakdown, and peer influence.

2. **Anomie Theory (Durkheim):**

- Rapid social change creates normlessness, leading to crime.

3. **Social Disorganization:**

- Weak community institutions (e.g., schools, NGOs) fail to curb delinquency.

Case Law: Sheela Barse v. Union of India (1986) Facts:

- Journalist Sheela Barse exposed the inhumane conditions of women and juveniles in Indian prisons.

Arguments:

• **Petitioner:**

- Highlighted systemic neglect of juvenile offenders, violating Article 21.
- Advocated for separate juvenile justice systems.

• **Respondent (Government):**

- Claimed financial constraints limited reforms.

Judgment:

- The Supreme Court directed states to:
 - Establish separate juvenile courts.
 - Improve prison conditions and rehabilitation programs.

Impact on BNS:

- Juvenile Justice Act, 2015: Prohibits trying minors as adults.
- Section 276 (Public Nuisance): Addresses community-level disruptions.

3.9. Socialist School of Criminology Principles

1. **Crime as Class Struggle:**

- Capitalism and economic inequality force the poor into crime.

2. **Law as Tool of Oppression:**

- Legal systems protect capitalist interests (e.g., weak labour laws).

3. **State Responsibility:**

- Governments must ensure equitable resource distribution to prevent crime.

Case Law: Bandhua Mukti Morcha v. Union of India (1984) Facts:

- An NGO filed a PIL to free bonded labourers in stone quarries across Uttar Pradesh.

Arguments:

• **Petitioner:**

- Argued bonded labour violated Articles 21 and 23 (Right Against Exploitation).

- Cited Marxist critiques of economic oppression.
- **Respondent (Government):**
 - Claimed ignorance of the practice's prevalence.

Judgment:

- The Supreme Court ordered:
 - Immediate release of bonded labourers.
 - Compensation and rehabilitation by the state.

Impact on BNS:

- Section 303-312 (Economic Offenses): Penalizes corporate fraud and labour exploitation.
- Bonded Labour System (Abolition) Act, 1976: Criminalizes forced labour.

4. Impact on Indian Criminal Law

4.1 BNS, 2023: A Synthesis of Theories

- **Classical Deterrence:** Harsh penalties for terrorism (*Section 118*).
- **Positivist Rehabilitation:** Mental health courts under *Section 52*.
- **Critical Equity:** Caste-based protections (*SC/ST Act*).

4.2 Judicial Trends

- **Data-Driven Policing:** Mandated by *Prakash Singh v. Union of India (2006)*.
- **Victim Compensation:** Enhanced in *Delhi Domestic Working Women's Forum v. Union of India (1995)*.

5. Contemporary Challenges

5.1 Cybercrime

- **BNS Gaps:** No explicit provisions for AI-driven fraud.
- **Proposed Reforms:** Adopt the **Cartographic School's** predictive policing models.

5.2 Caste Violence

- **Limitations of SC/ST Act:** Low conviction rates (NCRB, 2022).
- **Solutions:** Community policing and sensitivity training.

Synthesis: BNS as a Modern, Interdisciplinary Legal Code

The BNS, 2023, transcends colonial-era rigidity by harmonizing principles from multiple criminological traditions:

- **Balancing Deterrence and Rehabilitation:** While the Classical School's deterrence theory underpins harsh penalties for terrorism (*Section 118*), the Positivist and Clinical

Schools drive reforms like mental health courts and probation.

- **Addressing Systemic Inequality:** Critical and Socialist School principles are embedded in protections for SC/ST communities (*SC/ST Act*) and labor laws.
- **Empirical Governance:** The Cartographic School's data-driven approach modernizes policing, while the Sociological School informs welfare-linked crime prevention.

5.3 **Future Directions**

1. **Expanding Restorative Justice:** Integrate victim-offender mediation, particularly for juvenile and non-violent crimes.
2. **AI and Cybercrime:** Update BNS provisions to address algorithmic bias and digital fraud.
3. **Caste and Gender Sensitivity:** Train law enforcement to counter implicit biases in policing.
4. **Mental Health Infrastructure:** Expand forensic psychiatric facilities to implement Section 52 effectively.

6. **Conclusion**

The **Bharatiya Nyaya Sanhita (BNS), 2023**, is a progressive legal code that synthesizes principles from diverse criminological schools, balancing punitive justice with social equity. The **Classical School** underpins its deterrence framework through **proportional punishments** (*Section 103 for murder*) and **judicial certainty**, while the **Neo-Classical School** humanizes justice by recognizing **mitigating factors** like mental illness (*Section 52*) and juvenile vulnerability (*Juvenile Justice Act*). The **Positivist School** drives rehabilitative measures, evident in psychiatric evaluations for offenders and probation systems, whereas the **Critical School** confronts systemic inequality through laws protecting marginalized groups (*SC/ST Act*) and criminalizing exploitation (*Section 129: Human Trafficking*).

The **Cartographic School's** data-driven ethos modernizes policing via crime mapping and NCRB analytics, while the **Clinical School** prioritizes mental health reforms (*Mental Healthcare Act*). The **Sociological School** links crime to social disorganization, reflected in community-centric laws (*Section 276: Public Nuisance*), and the **Socialist School** addresses economic oppression through labor rights (*Bonded Labour Act*) and anti-corruption laws.

By harmonizing **deterrence, rehabilitation, and equity**, the BNS transcends colonial-era

rigidity, offering a holistic framework that addresses both individual culpability and societal complicity. Future reforms must further integrate **restorative justice** and **technological adaptability** to combat emerging challenges like cybercrime and caste-based violence, ensuring India's legal system remains a beacon of interdisciplinary, rights-based justice.

