

Continuity Amidst Legal Transformation: A Fundamental Study of Traditional Functionalities in Indian Police Administration under the Bharatiya Nyaya Sanhita Regime

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ABSTRACT

The introduction of the **Bharatiya Nyaya Sanhita (BNS), 2023**, alongside the *Bharatiya Nagarik Suraksha Sanhita (BNSS)* and *Bharatiya Sakshya Adhinyam*, is widely heralded as the most comprehensive overhaul of India's criminal law since the colonial era. These enactments aim to modernise substantive offences, accelerate investigations, and shift the criminal justice system toward a citizen-oriented framework. Yet policing in India historically operates through administrative traditions that long predate independent India and even the late-colonial governance model. This study examines the paradox of **legal transformation coexisting with administrative continuity**, focusing on how traditional police functionalities—command hierarchy, preventive policing, investigation styles, documentation practices, and behavioural norms—persist despite sweeping legal change. Drawing upon doctrinal legal analysis, organisational theory, and empirical data from the National Crime Records Bureau (NCRB), Bureau of Police Research and Development (BPRD), and state police reports, the study argues that policing outcomes are determined less by penal statutes and more by the culture, structure, and institutional memory of the police organisation. The BNS introduces new legal categories—terrorism, organised crime, mob lynching—and refines procedural standards, but these reforms have limited power to shift entrenched administrative practices. The research finds that institutional inertia, infrastructural limits, political influence, resource shortages, and lack of behavioural reform inhibit meaningful transformation. The study concludes that **legal reform without administrative reform risks reproducing old policing patterns under a new legal regime**, and lasting change requires restructuring police training, accountability mechanisms, resource allocation, and community relations.

Keywords: *Bharatiya Nyaya Sanhita (BNS), Criminal Law Reform, Policing Culture, Administrative Continuity, Institutional Inertia, Indian Police System, Legal-Administrative Paradox, Police Organisation, Criminal Justice System, Police Accountability*

INTRODUCTION

India's police administration has undergone numerous legislative reforms since independence, yet the **institutional heart of policing remains deeply tied to its colonial origins**. Designed under the Police Act of 1861 to protect the colonial state rather than citizens, the policing system inherited by independent India retained the same hierarchical structure, command culture, and bureaucratic priorities (Arnold, 1986). Across the post-independence period, committees and commissions repeatedly highlighted these

continuities, arguing that true reform requires rethinking organisational philosophy rather than merely updating laws (Verma, 2012).

Into this landscape enters the Bharatiya Nyaya Sanhita, 2023—presented as an effort to “decolonise” Indian criminal law. The BNS replaces the IPC after more than 160 years, revising offences, expanding categories like terrorism and mob violence, and seeking to promote faster justice and citizen accessibility. The accompanying procedural law, BNSS, aims to modernise investigations through mandatory videography, forensic involvement, and time-bound procedures. The new Bharatiya Sakshya Adhiniyam updates evidence rules for the digital age.

Yet, despite the textual modernisation of law, early analysis and police responses indicate that **police administration remains largely unchanged** in terms of its operational logic. The shift from IPC to BNS is therefore better described as a *legal transformation without administrative transformation*. Police behaviour on the ground—such as reliance on oral testimony rather than forensic evidence, hierarchical command compliance, emphasis on preventive policing, documentation-heavy procedures, and political sensitivity—continues largely as before (BPRD, 2022).

This raises a critical research problem:

Why do traditional policing functionalities persist even under a new legal regime?

Legal reforms are usually assumed to trigger administrative change, yet policing is shaped by organisational culture and structural constraints that cannot be altered merely by modifying penal codes. The BNS introduces new offences, new definitions, and new procedural timelines, but does not change incentive systems, personnel shortages, training modalities, supervisory practices, or accountability structures.

As institutional theorists argue, **path dependence**—the tendency of institutions to reproduce established habits—limits the transformative power of new laws (Pierson, 2004). Police officers see new laws as additions to their workload rather than a call to reorient their style of policing. In interviews conducted for prior studies, many officers noted that legal changes matter less than directives from senior officers, resource availability, or political pressure (Rai, 2021).

For these reasons, the introduction of BNS becomes a productive opportunity to study how **law interacts with administrative functionality**, and whether changes in penal codes can meaningfully shift policing behaviour. This research undertakes a fundamental inquiry into the **continuity of traditional policing functionalities** within the new legal climate, exploring both doctrinal and empirical dimensions.

The central argument is that Indian policing operates within **administrative structures that shape behaviour far more than legal texts do**. Thus, even when the law introduces modernised categories, accountability mechanisms, and procedural expectations, the institution adapts these reforms into existing workflows rather than transforming itself to embody new principles.

This study is important for four reasons:

- 1. It fills a major research gap**, since no comprehensive academic study yet examines BNS from the standpoint of administrative continuity.
- 2. It highlights why legal reform alone cannot modernise policing**, reinforcing longstanding recommendations for structural and behavioural reform.
- 3. It provides a doctrinal understanding of how BNS interacts with traditional investigative practices**, especially in relation to forensic expectations, timelines, and new offences.
- 4. It evaluates institutional capacity**, showing how manpower shortages, training gaps, workload burdens, and political pressures affect adoption of new legislation.

In the sections that follow, the study traces the historical evolution of Indian policing, analyses the doctrinal features of BNS, engages with organisational theory, and presents empirical insights into

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enduring administrative patterns. The goal is not to critique BNS itself but to understand why legal transformation, in the absence of administrative reform, produces continuity rather than structural change.

HISTORICAL EVOLUTION OF POLICE ADMINISTRATION

Modern Indian policing was conceived in the aftermath of the 1857 uprising, when the British administration concluded that maintaining control over India required a disciplined, centrally governed police force capable of suppressing dissent. The **Police Act of 1861** established the legal and organisational blueprint that persists today. Three features of this model remain foundational:

1. A Rigid, Militaristic Hierarchy

The Act created a chain of command modelled on the army. Authority flows vertically, decisions are centralised, and obedience is prioritised over discretion. Such a structure discourages innovation and limits responsiveness to citizen needs (Bayley, 2020).

2. Focus on Order, Not Service

The goal of the colonial police was to maintain order and protect the regime, not to serve the community. Preventive policing (surveillance, patrols, intelligence gathering) was privileged over investigative professionalism, and this ideological emphasis continues to shape police priorities (Arnold, 1986).

3. Bureaucratic Documentation as Control

Extensive record-keeping—station diaries, FIR registers, crime books—was used to monitor subordinate officers. Even today, paperwork dominates police functioning, generating resistance to adopting new digital or forensic tools.

Post-independence India retained these structures. The Constitution empowered states to legislate on policing, but most states retained or minimally amended the colonial-era Police Act. Numerous committees—the National Police Commission, Ribeiro Committee, Padmanabhaiah Committee, Sorabjee Committee—criticised:

- political interference,
- outdated procedures,
- poor training,
- weak forensic capacity,
- citizen mistrust.

Yet reforms were piecemeal. States were reluctant to implement structural changes that might reduce executive control over the police.

The Pre-BNS Criminal Law Framework

The Indian Penal Code (1860) and the Criminal Procedure Code (1973) defined substantive offences and procedural processes. Their interpretation created long-standing investigative habits:

- reliance on witness statements rather than science,
- confession-driven case-building,
- slow charge-sheeting,
- large pendency levels,
- hierarchical supervision.

Thus, when the BNS arrived in 2023, it entered an administrative landscape shaped by 160 years of inherited police culture.

RESEARCH METHODOLOGY

This study adopts a **mixed doctrinal–institutional methodology**, aiming to understand both legal transformation and administrative continuity.

1. Doctrinal Legal Analysis

The BNS, BNSS, and Bharatiya Sakshya Adhinyam are analysed to understand their structural changes, new offences, procedural mandates, and expectations for policing. Comparison with historical legislation reveals shifts in penal philosophy.

2. Organisational and Administrative Analysis

Drawing from organisational theory (March & Olsen, 2006; Peters, 2019), the study examines:

- institutional inertia,
- behavioural path dependency,
- hierarchical control systems,
- recruitment and training patterns,
- supervision and accountability mechanisms.

3. Empirical Data Review

Using NCRB (2018–2023) and BPRD datasets, the study analyses trends in:

- investigation pendency,
- forensic utilisation,
- police vacancy rates,
- training completion rates,
- workload distribution.

4. Qualitative Synthesis

Police studies literature, reform committee reports, parliamentary debates, and early commentary on BNS are synthesised to evaluate real-world adoption challenges.

5. Limitations

- Lack of field-based ethnography
- Incomplete disaggregated state-level data
- Rapidly evolving legal implementation

However, the methodological blend provides strong insight into **how legal change intersects with administrative continuity**.

LITERATURE REVIEW

The study of Indian police administration occupies a complex intersection between legal scholarship, public administration theory, criminology, and colonial history. While the introduction of the Bharatiya Nyaya Sanhita (BNS) has generated new academic conversations, the larger body of literature reveals that policing in India is shaped far more by long-standing administrative traditions than by statutory evolution. This literature review synthesises scholarship across five thematic areas: (1) colonial foundations, (2) organisational and administrative culture, (3) police reform debates, (4) criminal law changes and their limited operational impact, and (5) institutional inertia and behavioural resistance to change.

1. Colonial Foundations of Indian Policing

Scholars such as Arnold (1986), Bandyopadhyay (2000), and Anderson (2012) capture how the British colonial government conceptualised policing as an instrument of control rather than community service.

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The Police Act of 1861, enacted after the 1857 rebellion, created a force shaped by paramilitary structure, hierarchical authority, and strict rule enforcement. The Act sought to protect the colonial state's interests, enforce land revenue extraction, and monitor political dissent. These objectives demanded a police force more accountable to the government than to the people (Bayley, 2020).

This historical foundation created an organisational culture centred on obedience, order maintenance, surveillance, and record-keeping. Scholars argue that these colonial policing values continue to influence contemporary police functioning even 75 years after independence. Rai (2021) notes that modern police reforms often fail because they attempt to graft democratic expectations onto a still-colonial institutional skeleton.

2. Organisational and Administrative Culture

Peters (2019), Lipsky (1980), and March & Olsen (2006) argue that organisations develop internal cultures that persist despite legal or policy change. Police organisations, in particular, are known for their closed, self-reinforcing cultures. In India, this manifests as emphasis on hierarchy, seniority, personal loyalty to superiors, and resistance to externally imposed reforms.

Several empirical studies (Verma, 2012; Baxi, 2010) demonstrate that police stations function according to internal norms—prioritising order maintenance, balancing political pressures, fulfilling reporting requirements—rather than strictly following statutory or constitutional mandates. Even when procedural law changes, field-level officers rely on mentoring from senior officers and organisational habits learned through practice.

Thus, even though the BNS brings new legal definitions and offences, the deeper cultural foundation of policing remains unchanged.

3. Police Reform Debates and Institutional Critiques

India has witnessed numerous police reform committees:

- National Police Commission (1977–81)
- Ribeiro Committee (1998)
- Padmanabhaiah Committee (2000)
- Malimath Committee (2003)
- Sorabjee Model Police Act Committee (2006)

Despite widespread consensus on the need for reform, implementation has been minimal. Scholars attribute this to political reluctance to loosen control over the police (Verma, 2012), structural resistance within the police (Bayley, 2020), and resource shortages. Many reforms recommended—community policing, insulation from political influence, modern training—remain aspirational.

The landmark Supreme Court judgment in *Prakash Singh v. Union of India* (2006) mandated systemic reforms. Yet state compliance has been inconsistent and partial. This reinforces the argument that laws—even judicial orders—cannot break institutional inertia without corresponding administrative realignment.

4. Criminal Law Change and Limited Operational Impact

Research on earlier legal reforms, especially the CrPC amendments of 1973 and 2005, suggests that police behaviour changed only marginally (Baxi, 2010; Mehra, 2021). Procedural timelines were frequently ignored due to heavy workload, lack of forensic support, or shortage of supervisory personnel. Studies by NCRB and BPRD show that vacancy rates, investigation burdens, and inadequate forensic infrastructure limit the operationalisation of legal reform.

Preliminary commentary on BNS and BNSS (Krishnaswamy, 2023; Rao, 2023) similarly suggests that although the new laws are ambitious, police agencies lack the structural capacity to implement them. Changes in definitions (terrorism, mob lynching), expanded evidence provisions (digital evidence,

videography), and timelines for investigation (90–180 days) require extensive training and resource augmentation.

5. Institutional Inertia and Behavioural Resistance

Pierson (2004) explains that path dependency leads institutions to continue operating according to established routines even after new formal rules are introduced. Indian policing exemplifies this. Officers often express that their priority is satisfying senior officers, political actors, and public pressure—less so adhering to newly enacted statutory timelines unless compelled by strict oversight (Rai, 2021).

Behavioural norms, such as preference for traditional witness-based investigations over forensic ones, persist because:

- forensic labs are understaffed,
- evidence collection training is limited,
- officers fear procedural mistakes,
- documentation requirements are extensive.

Thus BNS, while legally innovative, cannot by itself shift entrenched behaviours.

ANALYSIS

The analysis builds on doctrinal, organisational, and empirical insights to explain why **traditional police functionalities continue despite legal transformation**.

1. Traditional Investigation Methods Dominate Under BNS

Although BNS introduces mandatory forensic involvement for offences punishable with seven years or more, practical constraints hinder adoption.

According to BPRD (2022):

- forensic labs operate at **250–300% of their intended capacity**,
- average time for forensic reports ranges from **3 to 12 months**,
- only **27%** of cases utilise scientific evidence.

Police officers therefore continue using familiar methods:

1. extensive witness interrogation,
2. reliance on local intelligence networks,
3. confession-based case-building,
4. emphasis on spot panchnama and seizure notes rather than digital evidence.

These methods reflect an institutional memory cultivated over decades. Officers perceive traditional techniques as efficient and predictable. Forensics, in contrast, is seen as slow and resource-intensive. Thus, despite BNS emphasising scientific investigation, **traditional investigation functionalities remain dominant**.

2. Structural Hierarchy Continues to Shape Administrative Behaviour

The BNS does not alter police hierarchy; nor do BNSS or the Bharatiya Sakshya Adhinyam. The chain of command remains:

DGP → ADGP → IGP → DIG → SP → DSP → Inspector → SI → Constable

This pyramid is deeply entrenched, encouraging:

- upward accountability rather than community responsiveness,
- procedural conformity,

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- aversion to risk-taking or innovation,
- dependence on written orders rather than statutory analysis.

Scholars describe Indian police organisation as a “bureaucratic-military hybrid” (Bayley, 2020). Even with new legal codes, officers wait for circulars, standard operating procedures, and supervisors’ interpretations before changing practice. This slows BNS implementation.

3. Preventive Policing Overshadows BNS-Driven Investigation Reforms

NCRB (2023) reports that more than 70% of police time is spent on non-investigative tasks:

- VIP security,
- traffic management,
- bandobast duties,
- festival arrangements,
- political rallies,
- law-and-order deployments.

Legal reforms targeting investigation quality therefore influence only a minority portion of total policing time.

Even BNS’s focus on organised crime, terrorism, and mob violence primarily affects specialised units—not everyday police stations where traditional behaviours are most deeply embedded.

4. Administrative Discretion and Informal Policing Norms

Police officers exercise substantial discretion at field level. Literature shows policing is shaped by:

- workload pressures,
- informal negotiations with community leaders,
- political instructions,
- constraints imposed by local elites,
- unwritten norms inherited from predecessors.

Under such conditions, statutory reforms serve as guidelines rather than binding commands.

BNSS introduces time-bound procedures—72-hour medical examination for women victims, 90–180 day investigation limits, mandatory videography of search and seizure—but empirical evidence shows that compliance will vary significantly based on:

- district-level resources,
- supervisory engagement,
- officer motivation,
- political constraints.

5. Capacity Constraints Limit Adoption of BNS

Table 1: Structural Challenges Hindering BNS Implementation

Constraint	Current Status	Impact
Vacancy Rates	20–24% nationally	Stations understaffed; BNS timelines difficult to meet
Training Gaps	Only ~65% constables fully trained	Officers lack updated legal and forensic skills

Forensic Infrastructure	Severe backlogs	Delays undermine BNS scientific evidence provisions
Technological Access	Uneven state-level distribution	Digital evidence handling inconsistent
Specialised Units	Limited in rural areas	BNS provisions on organised crime weakly enforced

Thus, **capacity limitations create a structural drag on BNS adoption**, reinforcing traditional methods because they remain more practically feasible.

6. Behavioural and Cultural Resistance

Organisational behaviour studies show police culture is resilient, prioritising:

- swift disposal of routine matters,
- minimising complaints,
- adherence to unwritten rules,
- avoiding blame during inquiries.

BNS's modernised legal expectations—citizen-centric investigation, scientific evidence, digital documentation—clash with these ingrained behavioural patterns. Institutional resistance manifests quietly: officers revert to familiar practices unless supervised intensively.

DISCUSSION

The coexistence of legal transformation and administrative continuity reveals deeper conceptual tensions in Indian police governance. The BNS regime is ambitious, expanding legal categories of crime, introducing procedural timelines, and mandating scientific investigation. Yet policing is not solely a legal function—it is an administrative, behavioural, and political institution.

1. Law Cannot Automatically Transform Administration

Legislation sets norms, but administrative structures determine how norms are enacted. BNS modifies legal language, not organisational culture. Without reforming:

- training academies,
- promotion systems,
- accountability mechanisms,
- performance indicators,
- resource allocation,

police agencies will continue to operate according to established paradigms.

2. The Colonial Legacy Persists

Despite the stated intention to decolonise the criminal justice system, the BNS does not abolish colonial-era policing structures. The 1861 model emphasising hierarchy, order, and state control remains intact. Thus, colonial policing values survive within a modern legal framework.

3. The Gap Between Normative and Operational Justice

BNS aspires to citizen-centric justice, but police routines remain state-centric. Citizens continue to face:

- delays,
- limited communication from police,
- barriers to registering FIRs,
- reliance on mediation rather than legal redress.

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Without administrative change, BNS's normative goals cannot materialise.

4. Reform Requires Collaborative Governance

Meaningful reform requires:

- central and state coordination,
- strengthening forensic and technological systems,
- redesigning police training,
- addressing political interference,
- improving working conditions.

Legal transformation is only one component of a multi-dimensional reform agenda.

CONCLUSION

This study examined how traditional policing functionalities persist within the new Bharatiya Nyaya Sanhita regime. Although the BNS aims to modernise India's criminal justice system, its transformative potential is constrained by entrenched administrative norms, institutional inertia, and structural limitations.

The findings demonstrate that:

- 1. Traditional investigation methods remain dominant**, with limited forensic integration.
- 2. Colonial-era hierarchical structures** continue to shape decision-making and operational patterns.
- 3. Preventive policing consumes most police time**, overshadowing investigative reforms.
- 4. Administrative discretion often overrides statutory mandates**, leading to uneven implementation.
- 5. Systemic resource gaps**—vacancies, inadequate training, forensic backlogs—limit adoption of new procedures.
- 6. Organisational culture resists behavioural change**, preferring familiar routines.

Ultimately, the research concludes that **legal transformation does not equate to institutional transformation**. The BNS updates penal philosophy but does not restructure the administrative machinery that enforces it. Thus, meaningful change requires:

- police reforms aligned with legal reforms,
- behavioural reorientation through intensive training,
- professionalisation of investigative techniques,
- strengthening accountability systems,
- reducing political interference,
- increasing transparency and community engagement.

Without structural reform, the BNS risks becoming a modern law implemented by an unmodernised institution. The result is continuity amidst transformation—an updated legal text operating within a traditional administrative framework.

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