

REVIEWER'S REPORT

Manuscript No.: IJAR- 55289

Title: Retrospective Effect of Bharatiya Nyaya Sanhita, 2023: A Boon or Bane-With Specific reference to Organised Crimes

Recommendation:
Accept after minor revision

Rating	Excel.	Good	Fair	Poor
Originality		✓,		
Techn. Quality		✓,		
Clarity	✓,			
Significance	✓,			

Reviewer Name: Dr Abdul Haseeb Mir

Detailed Reviewer's Report

The article "*Retrospective Effect of Bharatiya Nyaya Sanhita, 2023: A Boon or Bane – With Specific Reference to Organised Crimes*" undertakes a rigorous doctrinal and comparative examination of one of the most controversial provisions of India's new criminal law framework, namely the retrospective application of the offence of organised crime under Section 111 of the Bharatiya Nyaya Sanhita, 2023. The study is timely, relevant, and intellectually ambitious, particularly in light of ongoing debates surrounding penal reform, constitutional guarantees, and the limits of state power in criminalisation.

A major strength of the article lies in its strong conceptual grounding in the principle of legality (*nullum crimen sine lege* and *nullum poena sine lege*). The author effectively situates the discussion within constitutional law by engaging with Article 20(1) of the Indian Constitution and convincingly argues that retrospective criminal liability strikes at the heart of fundamental rights. The doctrinal analysis is robust and well supported by Indian judicial precedents, including decisions under IPC, POCSO, and constitutional jurisprudence, which strengthens the internal coherence of the argument.

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The comparative engagement with international criminal law is another notable contribution. By examining the jurisprudence of the Nuremberg and Tokyo Tribunals, ICTY, ICTR, and the International Criminal Court—particularly the *Ali Kushayb* decision—the article demonstrates that even in exceptional international contexts, departures from non-retroactivity are narrowly justified and cautiously applied. This comparison effectively highlights the tension between India's domestic penal reform and international human rights standards.

The core analytical contribution lies in the critique of Section 111 of the BNS, 2023. The author persuasively demonstrates how the explanation permitting reliance on charge-sheets filed within the preceding ten years amounts to de facto retrospective criminalisation. The discussion on potential violations of Article 20(1), Section 6 of the General Clauses Act, and principles of legal certainty is well reasoned and raises serious constitutional concerns. The identification of definitional ambiguities surrounding “organised crime” and “economic offences” further strengthens the argument that the provision risks over-criminalisation and misuse.

That said, the article would benefit from **minor revisions**. The manuscript is lengthy and at times overly descriptive, particularly in sections discussing international case law. Condensation and tighter synthesis would improve readability and sharpen the analytical focus. Some repetition and language inconsistencies are present and require editorial refinement. The article would also benefit from briefly engaging with counter-arguments based on state interest in combating organised crime to enhance analytical balance.

Overall, the article makes a significant scholarly contribution to the emerging discourse on the Bharatiya Nyaya Sanhita, 2023. Its constitutional sensitivity, comparative depth, and doctrinal clarity make it highly valuable for academics, practitioners, and policymakers.

Recommendation:

Accepted for publication after minor revision.