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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

A CRITICAL STUDY ON OVERVIEW OF THE NEW CRIMINAL LAWS IN INDIA

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Abstract

The original versions of the bills, which had been filed in August of last year, were withdrawn and Union Home Minister Amit Shah tabled three amended Bills in the Lok Sabha on December 12 to replace the current criminal statutes from the British era. The Indian Evidence Act of 1872, the Code of Criminal Procedure (CrPC), 1973, and the Indian Penal Code (IPC), 1860 are due to be replaced by the three bills. For many years, the Indian Legal System has been significantly influenced by the Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure. The judicial system in India has been built upon these statutes. The society has undergone significant change over time, and this has also added complexity to our legal system in several areas. The intricacies of contemporary India have proven difficult for these rules to handle. India has introduced new criminal laws in this modern era, marking a stride towards legal growth. Prof. (Dr.) Ranbir Singh became the chair of the newly formed Committee for Reforms in Criminal Laws (CRCL) in 2020. Bharatiya Nyaya Sanhita (BNS), Bhartiya Sakshya Adhinyam (BSA), and Bharatiya Nagarik Suraksha Sanhita (BNSS) are the names of the three new legislations. By substituting these outdated laws with new ones that are especially tailored to the demands of contemporary India, the intention is to usher in a new era of legal reform. This paper will cover a number of topics, including the historical background of these criminal laws, a detailed overview of the new laws, a reform of new laws, an analysis of the new laws, and the motivations behind the reforms.

Key Words: Criminal Statutes, Judicial System, Contemporary, Bharatiya Nyaya Sanhita, Bhartiya Sakshya Adhinyam and Bharatiya Nagarik Suraksha Sanhita.

I. INTRODUCTION

Three crucial legislations, the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA), have been introduced into India, which has embarked on a comprehensive reform of its criminal justice system. These laws are set to take effect on July 1, 2024. With the intention of modernising and simplifying the nation's legal system, these new laws will replace the colonial-era Indian Penal Code of 1860, the Criminal Procedure Code of 1898, and the Indian Evidence Act of 1872. These changes represent a thorough overhaul of India's criminal code to better reflect modern society, not merely a surface-level update. The long-standing shortcomings and inefficiencies of the current statutes which have drawn criticism for being antiquated and inattentive to the demands of contemporary society are the focus of the new legislation. The need to improve legal processes, incorporate technological innovations, and provide a stronger defence of individuals' rights propelled these reforms.

II. BHARATIYA NYAYA SANHITA

The Bharatiya Nyaya Sanhita represents a radical change in India's fundamental criminal law philosophy. The Indian Penal Code of 1860, which had essentially been modified since its creation during the British colonial era, is replaced with this comprehensive law. The new code aims to rationalise and improve the legal system to properly handle concerns of the present day.

- **Indian Penal Code is being replaced:** A notable reduction and simplification of legal provisions characterises the shift from the IPC to the Bharatiya Nyaya Sanhita. The 511 sections of the IPC have been reduced in length and made easier to understand, with an emphasis on readability and applicability. With the help of this restructure, the previous system's ambiguities and redundancies should be eliminated, making the law easier to understand and more accessible to both the general public and legal professionals.
- **Simplifying and Cutting Down on Sections:** Many of the IPC's out-of-date and superfluous portions have been removed from the new code and replaced with more exact and pertinent regulations. Older definitions and terminology that were no longer applicable or antiquated, for example, have been modified to match the legal and social settings of today. The goal of this action is to simplify the legal wording and remove any complications that might be misunderstood or misused.

- **Increased Attention on Offences Against Women and Children:** The protection of women and children are one of the Bharatiya Nyaya Sanhita's major focuses, reflecting the growing attention that society is paying to these vulnerable populations. Stricter procedures are included under the new law to address crimes including domestic abuse, human trafficking, and sexual exploitation. For instance, the penalty for rape has been increased in severity, with possibilities for life in prison and, in certain situations, the death sentence for instances involving extreme violence or juveniles. To fully handle stalking, acid assaults, and other types of gender-based violence, additional sections have also been included.

III. BHARATIYA NYAYA SANHITA: NEW CLAUSES AND MODIFICATIONS

- **Presenting New Offences:** Certain newly developing kinds of crime that the IPC could not sufficiently cover are addressed in the Bharatiya Nyaya Sanhita. For example, cybercrime has drawn a lot of attention. Crimes include identity theft, cyber harassment, and hacking now have their own sections. These rules are essential for safeguarding people and organisations from cyber risks, especially in light of the sharp rise in digital transactions and internet usage. Another area of concentration has been financial crimes. Strict restrictions against financial crimes such as insider trading, Ponzi schemes, and large-scale financial scams are included in the new legislation. This is especially crucial in a time when financial crimes are becoming more complex and international. Finally, its addition is offences related to the environment. The code imposes fines on actions that seriously damage the environment, such as pollution, deforestation, and illicit mining. These clauses seek to bring India's legal system into compliance with international environmental agreements and norms.
- **Deleted and Rearranged Sections:** A number of IPC provisions have been eliminated or significantly changed to better conform to modern law and social norms. For instance, the contentious sedition statute has been reinterpreted to guard against abuse while maintaining its efficacy in preserving national security. Narrowing its meaning and avoiding arbitrary applications, the new definition concentrates on actions that directly encourage violence or offer a clear and present risk to public order. There have also been substantial modifications for property violations. In order to account for evolving types of theft, burglary, and fraud, the definitions and associated punishments have been updated. For example, safeguards have

been included to ensure that the law keeps up with technological changes by accounting for identity fraud and digital theft.

IV. BHARATIYA NAGARIK SURAKSHA SANHITA

The Criminal Procedure Code (CrPC) of 1973 is being replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023, which includes major changes meant to improve the procedural features of the criminal justice system. The primary objectives of this new legislation are to expedite the administration of justice, enhance the effectiveness and transparency of law enforcement, and modernise the investigation and judicial procedures.

- **Criminal Procedure Code's replacement:** The necessity to modernise procedural regulations to keep up with changing social requirements and technology breakthroughs was the driving force for the redesign of the CrPC. The Bharatiya Nagarik Suraksha Sanhita seeks to bring in more efficient techniques for criminal investigation and prosecution while also doing away with bureaucratic roadblocks and procedural delays.
- **Modernization and Digitization:** The new code's broad use of digital technology is one of its most notable aspects. To expedite the documenting and tracking of cases, the Bharatiya Nagarik Suraksha Sanhita requires the use of digital records and e-governance systems. This action is anticipated to drastically cut down on paperwork, minimise mistakes, and improve case information accessibility for all parties involved.

With the advent of e-FIR (First Information Report), for example, anyone may now file complaints online, streamlining and improving accessibility. In isolated and rural locations with restricted access to police stations, this is especially helpful. Furthermore, more accountability and openness are offered by digital platforms for monitoring the progress of complaints and investigations.

- **Introduction of e-FIR and Zero FIR:** The new code formalises and expands upon the Zero FIR notion. No matter which police station has jurisdiction, a complaint can be filed under Zero FIR, and it will be forwarded to the relevant station after that. In circumstances of major offences, especially those involving women and children, this provision is essential to ensure prompt action. This is further improved by the e-FIR system, which allows FIRs to be filed online. In addition to making the procedure easier for residents, this also contributes to the creation of an easily auditable and monitored digital trail, which lowers the number of cases of carelessness and corruption.

- **Using video in search and seizure procedures:** The Bharatiya Nagarik Suraksha Sanhita requires that search and seizure activities be videotaped in order to improve the integrity of these processes. The purpose of this step is to guard against manipulation and guarantee that all of the acts that law enforcement does are transparently recorded. It is anticipated that the deployment of body cams and other recording equipment would boost police accountability and foster public confidence in the force.
- **Features to Enable Quick Trials:** The new rule has many measures aimed at accelerating trials, acknowledging the persistent problem of delayed justice. Fast-track courts are being established to handle cases involving significant offences, and there will be stiffer deadlines for the conclusion of investigations and trials. In order to prevent court system bottlenecks and to ensure prompt delivery of justice, the legislation also allows for summary trials in situations involving minor infractions.

V. BHARATIYA SAKSHYA ADHINIYAM

The Indian Evidence Act of 1872 is replaced by the Bharatiya Sakshya Adhinyam, 2023, which is a substantial reform to the laws of evidence. By incorporating current standards and resolving the issues raised by digital and electronic documents, this new legislation seeks to improve the evidential framework.

- **Indian Evidence Act Replacement:** The necessity to bring legal procedures up to date with contemporary technical developments and societal shifts is what motivated the Indian Evidence Act revision. In addition to adding new definitions and broadening the definition of admissible evidence, the Bharatiya Sakshya Adhinyam makes sure that the legal system keeps up with the advancements of technology.
- **Expansion of the Meaning of Proof:** The scope of evidence is expanded by the new statute to specifically encompass digital and electronic documents. This shift is essential in a time when digital transactions and communication are commonplace. Due to obsolete definitions and unclear standards under the prior legislation, the admissibility of such evidence frequently encountered difficulties. For example, texts, emails, and digital documents are now officially acknowledged as acceptable types of evidence, given that they satisfy specific requirements for authenticity. This extension guarantees that cases involving financial fraud, cybercrimes,

and other offences that significantly depend on digital evidence can be handled by the judicial system.

- **Including Electronic and Digital Records:** In order to tackle the intricacies of digital evidence, the Bharatiya Sakshya Adhiniyam incorporates comprehensive guidelines for the acquisition, conservation, and exhibition of electronic documents. By following these rules, digital evidence is treated with the same care and dependability as conventional types of evidence. In order to confirm the accuracy of electronic records, the legislation requires the use of secure authentication techniques and verified digital signatures. Furthermore, precise rules on the admissibility of digital photos, videos, and other multimedia evidence are supplied, guaranteeing that this type of evidence cannot be readily falsified or challenged.
- **National Forensic Science University was established, and forensic science was integrated:** One of the primary achievements of the Bharatiya Sakshya Adhiniyam is the National Forensic Science University. This institute offers advanced training, research, and development in forensic science with the goal of improving the forensic skills of the Indian criminal justice system. With its specific courses and certification programmes for law enforcement, legal professionals, and forensic scientists, the institution will act as a major focus for forensic knowledge. It is anticipated that this programme would enhance the calibre and dependability of forensic evidence produced in legal proceedings.
- **Required Visits by Forensic Teams for Serious Offences:** The new law requires forensic teams to be included in instances involving major crimes in order to guarantee a comprehensive and objective inquiry. In order to reduce the possibility of tampering and guarantee that investigations are carried out properly, this criterion attempts to standardise the gathering and processing of forensic evidence.
Forensic specialists are asked to visit the crime site, gather evidence, and write comprehensive reports in instances involving, among other things, homicide, sexual assault, and significant financial fraud. This procedure improves the credibility of the inquiry process in addition to strengthening the evidential foundation.

Changes proposed in criminal laws

Union home minister Amit Shah has introduced three key bills in the Lok Sabha that, if approved, will overhaul India's criminal justice system. A look at key aspects of the bills



**THE BHARATIYA NYAYA
SANHITA (BNS) BILL, 2023**
Proposed to replace **Indian
Penal Code (IPC), 1860**

The IPC, which was framed by the British, is the official criminal code of India that lists various crimes and its punishments

KEY TAKEAWAYS

- Sedition deleted, but another provision **penalising secessionism**, separatism, rebellion and acts against sovereignty, unity and integrity of India brought in
- Provision of **death penalty** for gang rape of minors and for mob lynching
- **Community service introduced** as one of the punishments for the first time



**THE BHARATIYA NAGARIK
SURAKSHA SANHITA, 2023**
Proposed to replace **Code of
Criminal Procedure (CrPC), 1973**

The CrPC lays down the procedure for investigation, arrest, court hearing, bail and punishment in criminal cases

KEY TAKEAWAYS

- **Time-bound investigation**, trial and judgment within 30 days of the completion of arguments
- **Video-recording** of the statement of sexual assault victims to be made mandatory
- New provision for **attachment of property and proceeds** of crime



**THE BHARATIYA
SAKSHYA BILL, 2023**
Proposed to replace the
Indian Evidence Act, 1872

The IEA applies to all judicial proceedings in the country and defines the particulars of evidence produced and admissible in courts

KEY TAKEAWAYS

- **Documents to also include** electronic or digital records, e-mails, server logs, computers, smart phones, laptops, SMS, websites, locational evidence, mails, messages on devices
- **Digitisation of all records** including case diary, FIR, charge sheet and judgement
- Electronic or digital record shall have the same legal effect, validity and enforceability as paper records

VI. EFFECTS ON THE CRIMINAL JUSTICE SYSTEM

India's criminal justice system is anticipated to be significantly impacted by the implementation of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam in 2023. The goals of these measures are to guarantee the preservation of people's rights, increase efficiency, and increase conviction rates.

- **Increasing Conviction Rates:** One of the main objectives of the new regulations is to increase conviction rates through more dependable and efficient judicial procedures. In this sense, the combination of digital and forensic evidence is essential. The new regulations guarantee the

admissibility and credibility of electronic documents as evidence in court by establishing precise criteria for their gathering and presentation. This is especially crucial in situations involving financial fraud and cybercrimes, as digital proof is frequently essential.

- **Use of Scientific and Forensic Evidence:** The necessary inclusion of forensic teams in important crimes, as stated by the Bharatiya Sakshya Adhiniyam, is intended to considerably boost the quality of investigations. In order to establish the facts of a case, minimise the possibility of erroneous convictions, and guarantee that justice is done, forensic specialists can offer crucial insights. For instance, as demonstrated in countless cases throughout the globe, the use of DNA evidence has proven crucial in cracking cases that have remained unsolved and clearing innocent parties.
- **Quick Analysis and Mobile Forensic Labs:** In an effort to promote the use of forensic evidence, the government has deployed mobile forensic labs that can promptly arrive at crime scenes and offer prompt analysis. With the newest technology available, these laboratories can conduct testing and analysis immediately, cutting down on the time needed to process evidence and enhancing the criminal justice system's overall effectiveness. Several states have successfully adopted this programme, which has increased conviction rates and sped up the case settlement process.
- **Using The New Criminal Laws To Protect The Rights Of Citizens:** The protection of citizens' rights, especially those of crime victims, is another major focus of the new legislation. In order to guarantee that victims receive the help and justice they need, the Bharatiya Nyaya Sanhita contains provisions for victim compensation and support. Furthermore, via the use of tools like computerised case monitoring and video recording of search and seizure operations, the rules require accountability and openness in law enforcement.
- **Rights of Victims and Safety Measures:** The new laws compensation measures aim to give victims of major crimes both financial help and rehabilitation. This is a big step towards acknowledging the effects of crime on victims and making sure they get the help they need to start again. The law also has safeguards for witnesses, like protection programmes and anonymity, so they may testify without worrying about facing reprisals.
- **Accountability and Transparency in Law Enforcement:** The new legislation also include an important provision regarding the use of body cameras and videography in police operations. The aforementioned steps aim to enhance openness and accountability, hence mitigating instances of misbehaviour and power abuse by law enforcement personnel. Studies

conducted in nations that have adopted body cameras, for instance, have revealed a decline in complaints made against police personnel and a rise in public confidence.

- **Maintaining Tradition while Modernising:** The new rules use current legal principles and technology innovations in an attempt to reform India's criminal justice system. However, the deep-rooted traditional values and customs of Indian culture must be respected in order to maintain a balance with this modernization.

Reforms in Indian Criminal Law



Provisions	Bhartiya Nyaya Sanhita Bill 2023	Bharatiya Nagarik Suraksha Sanhita Bill 2023	Bharatiya Sakshya Bill 2023
Replaces	Indian Penal Code, 1860	Criminal Procedure Code, 1898	Indian Evidence Act, 1872
Focus	Reflects Indian ethos, justice-oriented	Enhances citizens' protection	Modernizes evidence presentation
Sections	356 sections (replacing 511)	533 sections (160 changed)	170 sections (23 changed)
Women and Children	A separate chapter dedicated to them; New offence: false promise of marriage, Employment etc.; Initiating children into crime made punishable.	Sexual intercourse on false promise of marriage, employment, etc., is a new offence.	
Digital Integration	Expanded definition of documents; Address newer crimes, cyber offences	Digitization of processes	Accepted documents include electronic and digital records, video recordings, emails, etc.
Speedy Trials	Summary trials, time limits	Trial expedited; 90-day window for investigation after chargesheet filing; Witness protection scheme to be made by states; Bail after serving 1/3rd of the maximum sentence for first-time offenders.	Video recording of search and seizure operations by the police
Victim Support	Compulsory status updates of victim support	Protection, timely information	Video recording of search and seizure operations by the police
Terrorism and Organized Crime	New definitions of Terrorism for 1 st time; Armed rebellion, separatist activities, organized crimes, etc.; Mob lynching made an offence explicitly	Harsher provisions against gangs	Define and address organized crimes
Fugitive		Trials for fugitives in absentia	
FIR	Zero FIR, e-FIR introduced	Zero FIR, e-FIR introduced; community service as punishment	Mandatory digitization of FIR, chargesheets; Mandatory use of Forensic services for offences punishable with 7 or more years
Sedition Law	Repealed		

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VII. HOW THE ADMINISTRATION IS GETTING READY TO IMPLEMENT A NEW CRIMINAL CODE

TRAINEES IN OPERATIONS

- The new rules must be included in university and Centres of Legal Education curricula starting with the 2024–2025 academic year, per a directive from the Bar Council of India. Special modules for Classes 6 and higher will be available from October through March through the Department of School Education.
- A five-day training course for IAS, IPS, judicial officers, and personnel from criminal records bureaus, forensic labs, etc. was held at the Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie.
- On June 21, the Ministries of WCD, Rural Development, and Panchayati Raj hosted a webinar in Hindi for about 40 lakh grassroots workers regarding the new rules; almost 50 lakh people attended the English version of the same session on June 25.

AWARENESS AND PUBLICITY

- The Inter-Ministerial Group's coordinated media campaign is being organised by the Bureau of Police Research and Development. All departments have received fliers and posters with themes. The new rules will have a lot of exposure on social media through news releases, infographics, warnings, etc.
- In 20 state capitals, the Press Information Bureau has held vartalap (conversations) and seminars on the new criminal legislation for regional media representatives. A government official said that the vartalaps have gained a lot of momentum and that the local media has been heavily involved. "More vartalaps will take place in other capital cities as well," the spokesperson declared.

TECHNOLOGICAL MODERNIZATION

To make the Crime and Criminal Tracking Network and Systems (CCTNS) application more tech-friendly, the National Crime Records Bureau has implemented 23 functional changes, including ones that affect FIR filing. States and UTs are receiving technical help, and support teams and a contact centre are being established for evaluation and assistance. NCRB Sankalan of Criminal Laws, a mobile web application, was released on March 14. Applications like e-Sakshya, Nyay Shruti, and e-

Summon were created by the National Informatics Centre to make it easier to record and take pictures of crime scenes, conduct court proceedings, and electronically send summonses. According to an official, states and UTs have received access to the applications.

POWER OF POLICE

In order to increase the ability of central police organisations, prosecutors, judges, prosecutors' offices, police departments, and forensic specialists, the Bureau of Police Research and Development has created thirteen training modules. To spread instruction and expertise later on, a corps of master trainers is being developed. BPR&D has previously taught over 40,000 officers and staff members through 250 training sessions, webinars, and seminars. Many officials from the police, prisons, forensics, prosecution, and other departments have had their capacities built by states and unions, according to an official. To respond to inquiries from field workers, a control room staffed by law enforcement and police officials has been established.

OFFICE OF LEGAL AFFAIRS

The Chief Justice of India, judges of the Supreme Court and High Courts, top police officers, and subject matter experts have all attended four seminars hosted by the Department of Legal Affairs, an official said. On June 30, a fifth conference is planned to take place in Mumbai. On the iGOT Karma yogi online platform, each civil service official will receive thorough advice. Since February 21st, iGOT has been offering three training courses on the new criminal legislation as part of a tailored programme, and around 2,18,000 officials have enrolled.

VIII. CONCLUSION

India's resolve to overhauling its legal and investigative frameworks are demonstrated by the legislative measures contained in the three Acts. A prominent emphasis on technology and forensic science situates the judicial system in the contemporary period. The Acts show a dedication to giving marginalised and vulnerable groups in society better protection, bringing the criminal justice system into line with contemporary requirements and principles. With a focus on hash algorithms and expert certification for the safe use of electronic media, the Bharatiya Sakshya Adhiniyam clarifies the meaning and admissibility of electronic documents. Cyber laboratories may have difficulties as a result, though, as a significant rise in workload is anticipated. The Bharatiya Nyaya Sanhita removed section 377 of the IPC, which created a void in the law by not include any particular legislation dealing

with the rape of an adult man. The proposed legislation includes crimes with language that specifically relates to the security of the state. It is imperative that law enforcement organisations ensure the infrastructure is in place and spread knowledge about encryption techniques prior to the legislation taking effect. Overall, these modifications show that India is committed to updating its criminal code to meet new issues that arise in the digital era.

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