

The End of British Era and the Beginning of the New Indian Legal System [Replacement of CRPC, IPC, and Evidence Law]

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Abstract: This paper explains the new legislations proposed by Amit shah in order to end the era of British law and rules and introducing new rules according to Indian legal system which will eliminate all the false loopholes and rules which causes problem in providing justice to the citizens. The new laws have been proposed to replace the major Indian criminal laws as follows:

BHARTIYA NYAYA SANHITA 2023 WILL REPLACE IPC

BHARTIYA NAGRIK SURAKSHA SANHITA BILL2023 WILL REPLACE CrPC

BHARTIYA SAKSHYA BILL 2023 WILL REPLACE THE INDIAN EVIDENCE ACT

- “The Bharatiya Nyaya Sanhita, 2023 (to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto)
- The Bharatiya Nagarik Suraksha Sanhita, 2023 (to consolidate and amend the law relating to Criminal Procedure and for matters connected therewith or incidental thereto)
- The Bharatiya Sakshya Bill, 2023 (to consolidate and to provide for general rules and principles of evidence for fair trial).”

The proposal seeks to replace the existing laws of the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Evidence Law with a comprehensive, modern, and unified legislation. The aim is to address the shortcomings of the current legal framework, streamline legal processes, and enhance the fairness and efficiency of the criminal justice system in India.

This paper discusses that The proposed changes focus on several key areas. First, they aim to provide clarity and eliminate ambiguities in the law, ensuring consistent interpretation and application across different cases and jurisdictions. Second, the reforms seek to simplify the laws and make them more accessible, enabling better understanding for all stakeholders involved.

Furthermore, this research explains the proposed legislation integrates modern principles, international standards, and best practices from other countries,

aligning India's criminal justice system with global standards. This includes the incorporation of technology in various aspects of legal proceedings, such as electronic filing, recording of statements, and utilization of digital evidence, bringing greater efficiency, accuracy, and transparency to the system.

The replacement of IPC, CrPC, and Evidence Law will also establish a more uniform approach to criminal justice by consolidating the laws into a single comprehensive legislation. This move will reduce inconsistencies and ensure consistency in the interpretation and application of criminal laws throughout the country.

Importantly, the proposed changes emphasize a balanced approach, aiming to strike a fair and impartial balance between the rights of the accused and the interests of justice. The new laws will enable effective investigation and prosecution of crimes while upholding the principles of due process and safeguarding individual liberties.

Implementing the proposed changes will require careful planning, extensive consultation with legal experts and stakeholders, and effective communication to ensure their successful integration into the criminal justice system. The replacement of IPC, CrPC, and Evidence Law holds the potential to revolutionize the Indian criminal justice system and establish a modern, efficient, and fair legal framework that serves the interests of justice and upholds the rule of law.

1. INTRODUCTION

On August 11, the Canter introduced three fresh bills in the Lok Sabha to modernize the 1860-era British-enacted criminal justice system in India. The criminal justice system as a whole needed to be completely overhauled because it was antiquated and out of date. The Indian Penal Code, 1860, the Indian Evidence Act, 1972, and the Code of Criminal Procedure, 1973 will be replaced by the three laws, the Bharatiya Nyaya Sanhita Bill, 2023, the Bharatiya Sakshya Bill, 2023,

and the Bharatiya Nagrik Suraksha Sanhita Bill, 2023. The bills were created with the intention of bringing about a paradigm shift to guarantee swift justice, integrity of the evidence for greater conviction, and shorter incarceration times. The Parliamentary Standing Committee has been tasked with additional consideration of the measures, and it is possible that the report will be presented during the ensuing session of Parliament.

The Bhartiya Nyaya Sanhita (BNS) makes revisions to 175 existing laws, repeals 22 IPC provisions, and adds nine new sections. There are 356 provisions in all.

According to Shah, 313 amendments to the three criminal laws have been recommended with the goal of ensuring that litigants receive justice in a timely manner. The rules that are being replaced, according to Shah, "were essentially designed to ensure the survival of the British administration and their goal was to punish, not deliver justice."

The new laws will uphold constitutional rights and uphold the rule of law. The treasury benches thudded their desks as he declared, "These laws shall be infused with the Indian soul."

1. BASIC STRUCTURE OF REPLACEMENT PROPOSED FOR INDIAN LAWS

The Bharatiya Sakshya Bill (BSB) repeals five of the Evidence Act's current provisions, suggests amending 23 others, and adds one new provision. There are 170 sections altogether. The proposed law allows for electronic appearances by witnesses, defendants, experts, and victims.

Additionally, it accords paperwork and electronic evidence equal legal weight.

The Bharatiya Nagrik Suraksha Sanhita (BNSS) proposes revisions to 107 CrPC provisions, repeals nine of them, and adds nine new ones. There are 533 sections in all in the law. The advent of these new statutes has surprised the legal community as a whole. There are differing opinions, but a recurring theme is that outmoded colonial-period rules cannot be applied in the present era because crime, criminal psychology, and technology have all significantly altered.

Given the staleness of several criminal statutes, the idea is a positive step. Trials will move quickly thanks to provisions like "zero FIR" and "Deemed sanction." Although the courts have dealt with socioeconomic and cultural components of crime in a progressive manner, the administration and legislature needed to

catch up. Over the past few decades, the world and society have changed. With these ideas, the executive seems to finally be paying attention to the improvements that are desperately needed.

The deletion of Section 124A, which deals with sedition, and the addition of a new section outlining the penalties for secession, armed rebellion, subversive activities, separatist activities, or actions endangering the sovereignty, unity, or integrity of India are two of the BNS Bill's significant amendments.

Shah stated that the bill's proposal for mob lynching punishment, which can include the death penalty, was made after carefully examining numerous such cases. Ten years in prison have been added as a new penalty for having sex with women under false pretenses of marriage. However, the measure stipulates that "sexual conduct by a man with his own wife, where the wife is not under the age of eighteen, is not rape."

The testimony of survivors of crimes against women must now be recorded on camera. According to Shah, the police must give the victim or complainant a 90-day update on the status of the complaint. The police are required to consult the victim before withdrawing any charges carrying a sentence of seven years or more. For minor offenses, community service is also suggested.

There is a 180-day time restriction for filing charge sheets. A competent court may grant an additional 90 days to the police after they have submitted their charge sheet, but this time limit cannot be exceeded, the minister added. In regards to prosecuting government employees, the law suggests making a decision regarding the punishment within 120 days; otherwise, it will be assumed that the prosecution was authorized. He asserted that a charge sheet won't be accepted without video documentation of the search and seizure.

1.1 NEED FOR THE PROPOSAL OF NEW LEGISLATIVE LAWS GOVERNING PEOPLE AND COURTS

The hallmark of the legislation is that they will ensure that justice is served within a three-year maximum time frame while bringing the urgently needed improvements to the criminal justice system. The proposed statute includes new offenses that were not included in the Indian Penal Code, including as organized crime, terrorism offenses, threatening

sovereignty, mob lynching, engaging in sexual activity by means of deception, and making a false commitment to marry. The new measure calls for harsher penalties for crimes against women and children, tries to relieve jail overcrowding by releasing prisoners who have completed half of their sentences, and establishes police officers' responsibility for arrests. High points of the laws include the requirement for time-bound trials, the addition of summary trials for minor offenses and community service, and the provision for a woman magistrate to record a victim of sexual assault's statement at her home.

The changes pertaining to main acts were eagerly anticipated. The availability of video-graphing at the moment of raids and during the course of investigations is one of the bill's major aspects that I found to be impressive. As a result, fewer false accusations against innocent people will be made. It is also a good thing that the Evidence Act was changed to include electronic evidence. Stronger penalties for sexual abuse against minors are another excellent change. The number of unauthorized detentions, unauthorized arrests, and false accusations in criminal cases will also decline. Cops who engage in such actions will now bear the brunt of the consequences, according to Siji Malayil, a criminal law specialist for the High Court of Karnataka.

The crime of sedition is totally eliminated by the BNS Bill. However, the Bill's Section 150 has provisions for "Offenses against the State." Acts undermining India's sovereignty, unity, and integrity are addressed in Section 150 of the bill, and they are punishable by imprisonment for a period of time ranging from seven years to life. In actuality, "financial transactions" and "electronic communication" are now included in the scope of the offense under Section 150 of the BNS. "The creation of the offense of 'acts jeopardizing sovereignty, unity, and integrity of India' is draconian since it will give the police broad, unrestrained authority. However, the addition of the phrase "purposefully or knowingly," which calls for mens rea or criminal intent, is a positive development.

The inclusion of community service as one of the penalties for minor offenses is a crucial but imperative change to the BNS. Community service orders had previously been made at the discretion of the courts, but going forward, this will be a written law.

Trials may continue even if the accused is not present, according to Section 356 of the proposed BNSS. This will facilitate the prosecution of criminals in absentia, particularly well-known runaways like Dawood Ibrahim, Vijay Mallya, and Nirav Modi, to name a few. Another murky area is Section 187 of the BNSS, which extends the time a person who has been arrested may be held in police custody. Depending on the offense, the police detention may last for up to 60 or even 90 days. Prakash Kumar continues, "Increasing the maximum length for which the accused may be kept in police custody will render the accused vulnerable and place them at the officers' mercy.

It is crucial for the proper operation of our democracy that critical evaluations of the proposals continue both in the public sphere and on the floor of parliament. Ultimately, the plan to modernize the criminal justice system is an important change.

The government proposed to replace the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act with new legislation to modernize and streamline the criminal justice system in India. The main reasons for this proposal are as follows:

1. Simplification:

Over the years, the IPC, CrPC, and Evidence Act have become complex and difficult to understand. The proposed replacement legislation aims to simplify and update the laws to make them more accessible and user-friendly.

2. Consolidation:

The current laws are scattered across various acts and regulations, making it challenging for law enforcement agencies, lawyers, and judges to refer to them. The government believes that consolidating these laws into a single comprehensive legislation will improve efficiency and reduce confusion.

3. Incorporating Global Best Practices:

The existing laws were formulated during the British colonial era and have not been significantly revised since then. The new legislation seeks to incorporate modern principles, international standards, and best practices from other countries to ensure a more robust and effective criminal justice system.

4. Addressing Legal Loopholes:

The current laws have been criticized for containing certain loopholes and ambiguities that can be exploited by criminals or obstruct the administration of justice.

The proposed legislation aims to address these issues and provide greater clarity and certainty in the legal framework.

5. Technology Integration:

The new legislation intends to leverage technology advancements to improve processes related to investigation, trial, and evidence collection. This

includes provisions for electronic filing, recording of statements, and use of digital evidence, which were not adequately addressed in the existing laws.

It is important to note that these proposals are still under consideration, and any changes would require approval from the relevant authorities and stakeholders.

THE BHARTIYA NYAY SANHITA 2023	Priority has been given to crimes against women and children, murder, and offenses against the state. The Declaration of Objectives and Reasons of the Bill said that the various offenses have been rendered gender neutral. Marital rape is not stated in the Bill, although it explicitly defines rape and the idea of consent. If a 12-year-old is raped, the offender might receive a minimum of 20 years in prison and a maximum of the death sentence. If a girl under the age of 16 is raped, the minimum sentence for conviction is 20 years.
THE BHARTIYA SANHITA BILL 2023	Both major and minor organized crimes are defined in the proposed penal law. Organised crime is described as any "continuing unlawful activity" carried out by a group of people employing force or threat, such as trafficking, kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, and economic crimes.
THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023	Similarly, small organized crime is described as any activity that raises concerns among the public about theft from or theft from vehicles, trick theft, cargo crime, theft, organized pick-pocketing, snatching, shoplifting, card skimming, and ATM thefts by organized groups. The Bharatiya Nagarik Suraksha Sanhita Law enables people who have fled to be tried and sentenced. It also outlines how technology and forensic sciences can be used to investigate crimes, as well as how information can be provided and filed electronically and how summonses can be served, among other things. "Special deadlines have been established for cases that require prompt investigation, prosecution, and decision-making. For the distribution of a copy of the initial information, a citizen-centric method has been employed.

MAJOR FEATURES OF THE NEW PROPOSED BILLS

A. Bharatiya Nyay Sanhita Bill, 2023

- 1.The bill specifies terrorism as well as crimes like separatist, armed rebellion against the government, and undermining national sovereignty that were previously specified under separate legal rules.
2. It does away with the crime of sedition, which was widely decried as a remnant of colonial times that stifled criticism and free speech.
3. The maximum sentence for mob lynching, which has become a serious problem recently, is set at the death penalt.
4. It suggests a 10year sentence for engaging in sexual activity with a woman under false pretenses of marriage, which is a frequent type of fraud and exploitation.
5. The measure establishes community service as a form of punishment for particular offenses, which can aid in prisoners' rehabilitation and lessen prison congestion.

6. The law establishes a maximum deadline of 180 days for the filing of a charge sheet, which might hasten the trial process and avoid protracted delays.

B. Bhartiya Nagrik Suraksha Sanhita Bill, 2023

- 1.It encourages the use of technology in trials, appeals, and the recording of depositions, enabling hearings to be conducted via video conferencing.
- 2.The measure requires survivors of sexual assault to have their statements videotaped, which can assist preserve evidence and prevent coercion or manipulation.
- 3.According to the bill, police must notify a complainant of the status of their complaint within 90 days. This requirement can increase accountability and openness.
4. The CrPC's Section 41A shall henceforth be known as Section 35. With this amendment, a new safety measure is included, stating that no arrests may be made without prior approval from an officer with at least the rank of Deputy Superintendent of Police (DSP), especially in cases where the maximum

sentence is less than three years or where the suspect is older than 60.

5.To guarantee that justice is not tainted or withheld, the measure mandates that police contact the victim before dropping a case that carries a sentence of seven years or more.

6.It enables judges to try and sentence fugitives in absentia, which can discourage them from evading justice.

7. It gives magistrates the authority to consider violations based on electronic records like emails, SMSs, WhatsApp communications, etc., which can make gathering and examining evidence easier.

8.The

Governor must receive mercy requests in cases involving death sentences within 30 days, and the President must receive them within 60 days.

The President's decision cannot be appealed in any court.

C. Bharatiya Sakshya Bill, 2023

1. According to the bill, electronic evidence is any data produced or sent by a system or device that can be kept or accessed in any way.

2. In order to avoid the misuse or alteration of digital data, it lays down requirements for the admissibility of electronic evidence, such as authenticity, integrity, and reliability.

3.It includes unique guidelines for DNA evidence admissibility, including consent and custody chain requirements, which can improve the precision and dependability of biological evidence.

4. It acknowledges expert testimony as a type of evidence, alongside things like medical advice, handwriting analysis, etc., that can help establish facts or circumstances important to a case.

5.It establishes the presumption of innocence as a cornerstone of the criminal justice system, which states that everyone accused of a crime is deemed innocent until proven guilty beyond a reasonable doubt.

CONCLUSION

This paper shows that the replacement of IPC (Indian Penal Code), CrPC (Code of Criminal Procedure), and Evidence Law with new laws would have significant implications for the legal system in India. The conclusion on whether this change is beneficial or not would depend on the specifics of the new laws, their

objectives, and their impact on justice, efficiency, and fairness within the legal system.

In any case, such a transition would require careful consideration, thorough legal drafting, and comprehensive evaluation to ensure that the new laws address the evolving needs of society while upholding the principles of justice and the rule of law.

It's essential to engage legal experts, scholars, and stakeholders in the process to make an informed conclusion about the potential benefits or drawbacks of such a major legal reform. Ultimately, the effectiveness of any legal system depends on its ability to protect rights, maintain order, and deliver justice.

In conclusion, the replacement of the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Evidence Law with a comprehensive and unified legislation is a necessary step towards modernizing and improving the criminal justice system in India. The proposed changes aim to address existing shortcomings, simplify legal processes, enhance clarity and consistency, and align the system with international standards and best practices.

By integrating technology, streamlining procedures, and ensuring a balanced approach that respects the rights of the accused while upholding the principles of justice, the proposed replacement holds the potential to revolutionize the Indian criminal justice system. It will bring about greater efficiency, transparency, and fairness, ultimately strengthening the rule of law and instilling trust in the system among both the public and stakeholders.

However, implementing these changes will require careful planning, extensive consultation, and effective communication with all relevant parties. It is crucial to involve legal experts, practitioners, policymakers, and the public in the process to ensure that the new legislation adequately addresses the needs and concerns of all stakeholders.

In conclusion, the replacement of IPC, CrPC, and Evidence Law with a modern and unified legislation is a significant undertaking but one that holds great promise for transforming the criminal justice system of India into a model that is efficient, fair, and accessible to all.

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