

Vintage Revived: Unpacking three Criminal Law Bills Through a Critical Lens

Aishwarya Sinha^{1,*}

Abstract

The Indian criminal legal system, established many years ago, faces challenges in adapting to the evolving needs of a fast-changing society and the intricacies of contemporary criminal activity. Its outdated colonial procedures hinder efficient investigation, trial, and fair dispensation of justice. It has been drafted in a complex way, knowingly in order to complicate procedures. On August 11, 2023, the Union government presented three criminal law bills in the Lok Sabha with the resolution to fortify the entire legal framework within the country. These bills have since been referred to the Parliamentary Standing Committee for a comprehensive examination and assessment. The proposed changes within these new bills signify a substantial transformation, promising a complete overhaul of the existing criminal justice system. This transformation is envisioned to expedite the judicial process, ensuring that justice is dispensed within a span of no more than three years. This article undertakes a comprehensive critical analysis of the proposed bills in comparison to prior legislation.

Keywords: Criminal justice system, new bill, digitalization, crime, imprisonment, justice

INTRODUCTION

The evolution of criminal laws in India reflects a complex tapestry woven with cultural, historical, and colonial influences. The roots of these laws can be traced back to ancient texts such as the Manusmriti, which prescribed punishments for various offenses based on societal norms and dharma. During ancient times in India, laws were not documented but rather inscribed onto stones, which were then displayed in public areas. Over the centuries, dynasties like the Mauryas and Guptas contributed to the development of legal codes that addressed criminal conduct within their realms. The Mughal period saw the synthesis of Islamic legal principles with indigenous customs, further shaping the landscape of criminal justice. However, a significant shift occurred during British colonial rule with the introduction of the Indian Penal Code in 1860, the pre-independence era, which was drafted by the first Law Commission of India. Outlined by Chairman Thomas Babington Macaulay, along with members J.M. Macleod, G.W. Anderson, and F. Millet [1].

The Code came into effect on January 1, 1862, and extended across the entire British India at the time, except for the princely states. Following independence, the Government of India adopted it as the foundational criminal code for the Republic of India [2] (Table 1).

*Author for Correspondence

Aishwarya Sinha
E-mail: sinhaaishwarya87@gmail.com

Advocate, Legal Officer, Prayas Juvenile Aid Centre Society, New Delhi, India

Received Date: September 12, 2022
Accepted Date: September 17, 2023
Published Date: October 04, 2023

Citation: Homa Bansal. Dowry: A Tradition that Killed Thousands. National Journal of Criminal Law. 2024; 7(1): 1–11p.

Table 1. Outlined below are the key modifications incorporated within these legislative changes.

Criteria of division	IPC 1860	CrPC 1973	Evidence Act 1872
No. of repeal	22	9	5
Changes to existing provision/amendment	175	160	23
No. of new sections introduced	8	9	1
Number of section & chapters in the bill	356 Sections divided into 19 Chapters	533 Sections divided into 38 Chapters	170 Sections divided into 11 Chapters
Number of section & chapters in the old act	511 Sections divided into 23 Chapters	484 Sections divided into 37 Chapters	167 Sections divided into 11 Chapters

Indian Penal Code, 1860—Bharatiya Nyaya Sanhita Bill, 2023

1. **Section 150—acts endangering sovereignty unity and integrity of India [3]:** Sec 124 A of IPC which elucidates sedition is repealed in the new bill. Sec 150 of the Bharatiya Nyaya Sanhita Bill, 2023 has been added in its place covering a wider definition which asserts, *“Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or with imprisonment which may extend to seven years and shall also be liable to fine, [4]”* Without specifying what constitutes subversive, secessionist, or separatist activity, the bill continues to punish actions of “encouraging separatist feelings,” “exciting armed rebellion,” “exciting secession,” and “exciting subversive activities.”
2. **Section 302 of new bill—snatching:** The punishment for murder is enumerated in Section 302 IPC and the current bill, Section 302 deals with “snatching.” It says: *“Theft is “snatching” if, in order to commit theft, the offender suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or his possession any moveable property [5].”* Murder is defined in Sec 99 & its punishment is defined under Sec 101 of the new bill. Overhaul in the major provisions of the Criminal Justice System, as stated above will cause lots of confusion, inconvenience and complexity to the persons who are practicing law for a long time.
3. **Section 316—cheating:** There is no Section 420 in the bill as the bill comprises 356 Sections in all. Cheating is enumerated under section 316 of the new bill which reads as follows:
 - 1) *Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat.”*
 - “Explanation: A dishonest concealment of facts is a deception within the meaning of this section.”*
 - 2) *“Whoever cheats shall be punished with imprisonment of either description for a term, which may extend to three years, or with fine, or with both.”*
 - 3) *“Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law or by a legal contract, to protect, shall be punished with imprisonment of either description for a term, which may extend to five years, or with a fine, or with both.”*
 - 4) *“Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine [5].”*
4. **Section 101(2) of the bill defines mob lynching:** As *“When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief, or any other ground each member of such group shall be punished with death or with imprisonment for life or imprisonment for a term, which shall not be less than seven years, and shall also be liable to fine [5].”* There is a separate provision introduced in the bill for mob lynching which was not there in the IPC.
5. **Section 69, sexual intercourse by employing deceitful means, and so on:** Section 69 of the bill lays down a new provision of Imprisonment for False Promise to Marry which reads as follows:
 69. *“Whoever, by deceitful means or making by promise to marry to a woman without any intention of fulfilling the same, and has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term, which may extend to ten years and shall also be liable to fine.*

Explanation: “deceitful means” shall include the false promise of employment or promotion, inducement or marrying after suppressing identity [5].”

The offence of sexual intercourse by employing deceitful means is considered within the meaning of ‘misconception of fact’ under Section 90, IPC. This provision is not part of IPC.

6. **Section 70, death penalty for rape of minor:** Under Section 70 of the bill a separate provision for gang rape on woman under 18 years has been introduced which was not part of Indian penal code.

70. “(1) Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years but which may extend to life, which shall mean imprisonment for the remainder of that person’s natural life, and with a fine:”

“Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.”

(2) “Where a woman under eighteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with a fine, or with death.”

“Provided that such a fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim [5].”

“376D IPC. Gang rape—Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim [5].”

7. **Defamation can also be punished with community service:** Defamation is punishable by law under Section 500 IPC, which states the following: *“Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both [6].”* The new bill excludes Section 499, given that the Bharatiya Nyaya Sanhita encompasses a total of 356 sections. The new bill also punishes defamation with community services under Section 354 (1) & (2). *“Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both or with community service [7].”*

The new bill lists six offenses for which community service is designated as a penalty. However, the bill does not provide any provision regarding the nature of tasks that would qualify as community service. This absence of clarity could result in the imposition of arbitrary and unsuitable penalties. The six offenses outlined in the bill include the following:

- “Section 200: Public servant unlawfully engaging in trade.
 - Section 207: Non-appearance in response to a proclamation under section 82 of Act ___ of 2023.
 - Section 224: Attempt to commit suicide to compel or restraint exercise of lawful power.
 - Section 301: Theft where value of stolen property is less than Rs5000/-
 - Section 353: Misconduct in public by a drunken person.
 - Section 354: Defamation”
8. **Offences made gender neutral:** The new bill has made “Voyeurism” and “Assault to disrobe a woman” offenses gender-neutral, meaning that anyone can now be charged with these offenses regardless of their gender. It is important to clarify that the offenses of rape, sexual harassment, and stalking still apply the same way as in IPC. It should be emphasized there that the changes have been made only in terms of the gender of the offender, while the victim in all cases remains a woman.

Section 8 IPC defines “Gender” which states that the word “he” & its derivatives are used for any person including male or female [5]. A mirroring provision to it is mentioned under “Section 2(9) of the Bharatiya Nyaya Sanhita bill which states that “gender” means the pronoun “he” and its derivatives which can be used for any person including male, female, or transgender.”

“The word ‘transgender’ shall have the same meaning as assigned under Sec 2(k) of the Transgender Persons (Protection of Rights) Act, 2019” [8].

9. **Section 377 IPC omitted:** Section 377 IPC has been omitted in the new bill, which is in line with the Supreme Court judgment of Navtej Singh Johar vs UOI (2018) [5], with regards to struck down of certain part of Sec 377 IPC, that decriminalized the same-sex relation between consenting adults. Unnatural sex is set forth in two other sections in the IPC, which has been retained unchanged in the bill.

“Section 100 of the IPC affirms the right to private defense, which allows a person who is being subjected to unnatural sex to inflict injury or cause death of the assailant and that he would not be liable to be punished for such an act to save himself from being sodomized” [9]. An identical section that mirrors Section 100 of the IPC is mentioned under Section 38 of the 2023 Bill.

“Section 367(4) of IPC affirms that a person, who kidnaps someone to quench his ‘unnatural lust,’ would be liable to be punished with a 10-year imprisonment” [10]. An identical section is now mentioned under Section 138(4) of the BNS bill.

There is no mention of a sexual offense committed by a man towards another man or by a woman towards another woman. Given that the Supreme Court has legalized same-sex relationships, it is imperative to consider other aspects related to such relationships and general offenses committed within them, like sexual assault, to be recognized under the legal framework.

The bill has eliminated the offense of bestiality without offering any substitute measures to address sexual crimes against animals. It is important to highlight that the Navtej Singh Johar ruling invalidated a portion of Section 377 IPC and left a legal avenue for prosecuting bestiality, which is not addressed in the new bill.

10. **Sec 497 IPC, adultery repealed:** Adultery has been omitted as an offence, which is in consonance with the Supreme Court’s ruling in Joseph Shine v. UOI (2018) [11], which criminalized adultery and held it to be unconstitutional.
11. **Marital rape law retained:** The clause allowing for the legalization of marital rape remains in place in the bill. Several petitions challenging the constitutionality of Exception 2 in Section 375 of the

IPC, which asserts that non-consensual sexual intercourse or sexual acts by a husband with his wife, provided the wife is above fifteen years of age, are not considered rape, are currently awaiting judgment in the Supreme Court. A similar provision has been laid down in the bill with a minor amendment in Exception 2 to Section 63 of the said bill, which sets forth that “Sexual intercourse/sexual acts by a man to his wife who is not under eighteen years of age are not rape” [12].

12. **Separate Chapter of offence against Women & Children:** The new legislation includes a distinct Chapter V that deals with offenses involving women and children which comprises Sections 63 to 97 in the Bill. The bill introduces two new sections in this chapter that are not part of the IPC:
 - a) Section 69, which pertains to engaging in sexual intercourse with a woman through deceptive means which carries a punishment of up to 10 years of imprisonment along with a fine.
 - b) Section 93, which deals with the hiring, employing, or engaging of a child to commit an offense, which is subject to penalties described or fined as stipulated for the respective offense, as if the offence has been committed by the person himself. This section encompasses employing a child for purposes of sexual exploitation or pornography within its scope.
13. **Question paper leak, ATM theft, Ponzi scheme, multi-level marketing fraud, land grabbing, hawala transactions defined:** The new bill states that ATM Theft, Ponzi Scheme, Multi-level marketing Fraud, Land grabbing, Hawala transactions, and so on, as organized crime under Section 109 of the Bill. Furthermore, shoplifting, card skimming, and ATM thefts has been defined as petty organized crime under the Section 110 of the Bill and has been strictly punished under the bill. These provisions were not explicitly outlined within the Indian Penal Code.

Code of Criminal Procedure, 1973—Bharatiya Nagarik Suraksha Sanhita, 2023

1. **Zero FIR:** It allows the citizens to file zero FIR regardless of any jurisdiction. The option to lodge a 'Zero FIR' at any police station, while appearing forward-looking, could present pragmatic hurdles concerning the coordination among various police stations and the determination of the suitable jurisdiction for investigation which has to be addressed [5].
2. **Digitalization:** It has made provision for digitalization of processes and videoconferencing of trials including cross-examination and processes. Videography is a compulsory requirement while taking statements of victims of sexual crimes.
3. **Handcuff use regulation:** The new bill states that the police cannot handcuff everyone who is arrested, and the nature gravity of the offense have to be considered by the police before handcuffing the arrested person. Section 43(3) of the Bill states that those who are habitual, repeated offenders who have escaped custody, who are members of organized crime syndicates, terror accused, drug traffickers, murderers, rapists, currency counterfeiters, pedophiles, and economic offenders can be handcuffed.

“43(3). The police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organized crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State, including acts endangering sovereignty, unity and integrity of India or economic offences.” [13]

4. **Sedition provision:** Section 127 of the New Bill is a mirroring provision of Section 108 of CrPC. It outlines the procedures where an executive magistrate gets knowledge related to dissemination of seditious matter as penalizable under Section 150 of Bharatiya Nyaya Sanhita, 2023.

The process for conducting trials in absentia is clearly defined, particularly in strong anti-terrorism legislation such as the Unlawful Activities (Prevention) Act. In such instances, the onus

of establishing innocence is placed upon the accused, reversing the traditional burden of proof where the state is typically responsible for demonstrating guilt [14].

5. **Copy of FIR to victim & accused free of cost:** Section 230 of the new bill introduces a formal stipulation to guarantee that a copy of the FIR is provided to the accused and victim at no charge and within 14 days from the accused's production or appearance date.

230. "In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:

- i. the police report;*
- ii. the first information report recorded under section 193;*
- iii. the statements recorded under sub-section (3) of Section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 193;*
- iv. the confessions and statements, if any, recorded under Section 183;*
- v. any other document or relevant extract thereof forwarded to the Magistrate*

With the police report under sub-section (5) of section 193:

Provided that the magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the magistrate thinks proper, shall be furnished to the accused:

Provided further that if the magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in court:

Provided also that supply of documents in electronic form shall be considered as duly furnished."
[13]

6. **Summary trials:** Mandatory summary trials have been instituted for minor and less severe cases. This procedural change aims to expedite the legal process and ensure swift justice for minor offenses. However, it's important to strike a balance between efficiency and the protection of individual rights by focusing on implementing safeguards to guarantee a fair and just summary trial process which is of paramount importance.
7. **Police custody period:** A mirroring provision for Section 167(2) CrPC has been introduced in the new bill under Sec 187(2). This new provision enables the investigating agency to seek police custody for a total of 15 days but allows them to do so in multiple segments within the initial 40 or 60 days of the investigation. In essence, this means that police custody can be applied for at separate intervals beyond the initial 15-day arrest period. It is important to note that this provision specifies that the cumulative police custody duration cannot exceed 15 days. Unlike the previous provision in the CrPC, the new one explicitly permits the seeking of 15 days of police custody in a phased manner throughout the investigative period.

187 (2) "The Judicial Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into

consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorize, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Judicial Magistrate having such jurisdiction.” [14]

8. **Specific protective measures for old age persons:** Section 41 and Section 41A of the CrPC have been combined with some amendments in the form of Sec 35 of the bill. A supplementary clause has been added in the bill under Section 35(7) that mandates that any individual cannot be arrested without prior permission from the Deputy Superintendent of Police (DSP) if that individual is older than 60 years or if that offense carries a punishment of less than 3 years.
9. **Prosecution sanction of a public servant:** The bill under Section 218, Provisos 2 and 3, specifies the provision that the government shall decide on granting/denying sanction to prosecute a public servant within 120 days after receiving such a request. If it is not decided by the government within this timeframe, then it will result in an automatic sanction being assumed. The previously stated authorization is not required for offenses like sexual crimes or human trafficking.
10. **Magistrate to order a person to give specimen without being arrested:** Section 349 of the bill permits magistrates to order individuals to provide samples of their signature, handwriting, voice, or finger impressions for investigative purposes without necessitating their arrest.

Indian Evidence Act, 1872- Bharatiya Sakshya Bill, 2023

1. **Technological advancement:** The new bill has been introduced with the idea that the old act omits the technological advancement endured by the country in the latter years. The new bill enables the admissibility of an electronic/digital record as evidence, thereby giving it legal validity as documentary evidence.

“The new bill under Section 2(1)(c) proposes to accept electronic records on emails, server logs, documents on computers, laptop/smartphone, messages, websites, locational evidence, and voice mail messages stored on digital devices as documents and thereby as evidence under Section 2(e)(ii)” [14].

This can be regarded as a significant stride, given the increasing digitization across India. With the digitalization of evidence, the ease of tampering with such evidence raises concerns, potentially leading to breaches of privacy as well, which have to be addressed.

Section 88 of the Evidence Act, which dealt with the presumption as to telegraphic messages, has now been replaced by the new bill under Section 90, which deals with electronic messages sent through emails.

2. **Definition of primary evidence expanded:** Section 57 of the bill defines primary evidence, which is stated under Section 62 of the Evidence Act. Section 57 of the New Bill, which provides the definition of primary evidence, now includes more explanations, as compared with the Evidence Act. The Evidence Act contained two explanations whereas the new bill contains explanations 1 to 7. The new provisions include explanations regarding the admission of electronic or digital data or video recording as primary evidence.

57. “Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1: Where a document is executed in several parts, each part is primary evidence of the document.”

Explanation 2: Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 3: Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.

Explanation 4: Where an electronic or digital record is created or stored, and such storage occurs simultaneously or sequentially in multiple files, each such file is primary evidence.

Explanation 5: Where an electronic or digital record is produced from proper custody, such electronic and digital record is primary evidence unless it is disputed.

Explanation 6: Where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings is primary evidence.

Explanation 7: Where an electronic or digital record is stored in multiple storage spaces in a computer resource, each such automated storage, including temporary files, is primary evidence.” [15]

3. **Scope of the secondary evidence definition broadened:** The definition of secondary evidence has been expanded. Section 58 of the bill defines secondary evidence that includes:

58. “Secondary evidence includes:

- 1) certified copies given under the provisions hereinafter contained;
- 2) copies made from the original by mechanical processes which themselves ensure the accuracy of the copy, and copies compared with such copies;
- 3) copies made from or compared with the original;
- 4) counterparts of documents as against the parties who did not execute them;
- 5) oral accounts of the contents of a document given by some person who has himself seen it;
- 6) oral admissions;
- 7) written admissions;
- 8) evidence of a person who has examined a document, the original of which consists of numerous accounts or other documents that cannot conveniently be examined in court, and who is skilled in the examination of such documents.” [15]

Section 63 of the Indian Evidence Act, mentions the secondary evidence as:

63. “**Secondary evidence:** Secondary evidence means and includes:

- (1) certified copies given under the provisions hereinafter contained;
- (2) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies;
- (3) copies made from or compared with the original;
- (4) counterparts of documents as against the parties who did not execute them;
- (5) oral accounts of the contents of a document given by some person who has himself seen it.” [15]

4. **Definition clause amendments:** The bill includes a single definition clause, mentioned under Section 2 (1) (a) to (m) and 2(2) of the Proposed Bill. In contrast, in the Indian Evidence Act, definition clauses formerly spanned from Sections 3 to 4. Notably, the new Bill has eliminated the

definition of “India” and it has specified that terms utilized herein, which lack explicit definitions, shall bear the same meanings ascribed to them in the IT Act of 2000, the Bharatiya Nagarik Suraksha Sanhita of 2023, and the Bharatiya Nyaya Sanhita of 2023.

5. **Sec 24 of evidence act, proviso added:** Section 24 of the Indian Evidence Act, which pertains to the admissibility of confessions obtained through inducement, threat, or promise irrelevant to criminal proceedings, has been replaced by Section 22 of the New Bill. Under Section 22 of the New Bill, new proviso clauses have been introduced that specify the relevance of confessions made after the removal of such inducement, and so on (as described in Section 28 of the prior legislation). The second proviso in the new bill states that such confessions do not become irrelevant solely due to being made under a promise of confidentiality, as a result of deceiving the accused to obtain it, or under the influence of intoxication (as covered in Section 29 of the previous Act).
6. **Confession to police officer, sec 23 of bill:** The proposed legislation combines two sections of the Indian Evidence Act: namely, Section 25, which pertains to confessions made to police officers and their inadmissibility as evidence, and Section 26, which concerns confessions made by accused individuals while in police custody and their inadmissibility against them. These provisions are amalgamated into Section 23 of the new bill. Section 23 of the new bill reads as follows:
 - 1) *“No confession made to a police officer shall be proved as against a person accused of any offence.*
 - 2) *No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him:*

Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.”

7. **Amendment in Section 38 of Evidence Act:** Section 38 of the Evidence Act has been amended and introduced in the form of Section 32 of the proposed bill. Section 32 of the new bill affirms the relevancy of statements as to any law contained in law books, which also encompass electronic/digital form as mentioned under Section 38 of the Evidence Act. E-books or any other electronic version of books are regarded as relevant under Section 32 of the new bill.
8. **Merger of sec 45 and sec 45 A of evidence act:** Section 45 of the Indian Evidence Act which lays down ‘Opinions of experts’ and Section 45A of the Indian Evidence Act which lays down the provision of ‘Opinion of Examiner of Electronic Evidence’ has been merged into a single Section 39 of the new bill. The previous Section 45A, addressing the opinion of Examiners of Electronic Evidence as an independent section in the past, has been incorporated into Section 39(2) of the updated bill. Section 39 of the new bill lays down the provision of “Opinions of Experts.”
9. **Sec 113 of evidence act repealed:** Section 113 of the Evidence Act, which dealt with the proof of cession of territory, has been completely repealed in the new bill.
10. **Replacement of word “lunatic” with “person with mental illness”:** Section 124 of the bill, which outlines the provision of “who may testify,” which is a replacement for Section 118 of the Indian Evidence Act, uses the term “person with mental illness” as opposed to the old term “lunatic.” It can be seen as a woke approach to addressing the issue of mental illness amongst the people that makes them unfit to testify as witnesses.

CONSLUSION

The necessity of reforming criminal laws in line with technological advancements and modernization is imperative. The aim of bringing about a change in the criminal justice system is required since the whole architecture upon which it is built is colonial, outdated, anti-poor, and anti-people. Although the current trio of Criminal Law bills aims to revamp the criminal justice system, their efficacy could be enhanced by engaging in broader consultations, instead of piecemeal amendment,

merger & amalgamation of the existing laws and then rebranding them with confusing Hindi titles. Custodial violence, inadequate prison programs, neglect of health and hygiene of offenders in prison, not addressing the offense of marital rape, the absence of recognition for same-sex sexual offenses, not including the offence of bestiality, and the challenges arising from digitalization, such as the manipulation and fabrication of digital evidence and documents that encroach upon the privacy rights of both the accused and the victims, demand attention.

The bill also sheds light on the offenses of mob lynching, ATM theft, Ponzi schemes, and question paper theft, thereby representing a progressive step in legislation. An additional aspect warranting amendment is the offense of bribery. Imposing more stringent penalties for bribery is essential. The present punishment of a mere one-year imprisonment or a fine, or both, is inadequate. Change is required here in order to tackle corruption, which leads to poverty and will ultimately result in more crimes. It should be noted that when these new bills are passed in parliament, they may give rise to new challenges. One of these challenges could be the confusion that may arise when dealing with old cases under the Indian Penal Code (IPC) and new cases under the Bharatiya Nyaya Sanhita Bill, 2023. Additionally, there may be questions about whether these bills will have a retrospective effect, and if yes, to what extent.

REFERENCES

1. Law Commission of India. (n.d.). [Online] Available at https://en.m.wikipedia.org/wiki/Law_Commission_of_India [Accessed on April 2024]
2. Indian Penal Code. (n.d.). IPC: history, structure, provisions, amendments, significance and more [Online] Available at <https://testbook.com/amp/ias-preparation/indian-penal-code-ipc> [Accessed on April 2024]
3. Kanoon Mitra. (n.d.). Section 150 BNS | Section 150 Bharatiya Nyaya Sanhita [Online] Available at <https://kanoonmitra.com/section-150-bns-150-bharatiya-nyaya-sanhita/> [Accessed on April 2024]
4. The Bharatiya Nyaya Sanhita. (2023). Bharatiya Nyaya Sanhita. [Online] Available at https://www.livelaw.in/pdf_upload/the-bharatiya-nyaya-sanhita-2023-485731.pdf [Accessed on April 2024]
5. The Indian Penal Code. (n.d.). [Online] Available at https://www.iitk.ac.in/wc/data/IPC_186045.pdf [Accessed on April 2024]
6. Union of India. (n.d.). Section 8 in the Indian Penal Code, 1860. [Online] Available at <https://indiankanoon.org/doc/1738671/> [Accessed on April 2024]
7. Navtej Singh Johar and Ors. Vs. Union of India. (2018). [Online] Available at <https://privacylibrary.ccgmlud.org/case/navtej-singh-johar-and-ors-vs-union-of-india-uo-i-and-ors> [Accessed on April 2024]
8. Union of India. (n.d.). Section 100 in the Indian Penal Code, 1860. [Online] Available at <https://indiankanoon.org/doc/714464/> [Accessed on April 2024]
9. Union of India. (n.d.). Section 367 in the Indian Penal Code, 1860. [Online] Available at <https://indiankanoon.org/doc/1324577/> [Accessed on April 2024]
10. Joseph Shine vs. Union of India. (2018). [Online] Available at <https://privacylibrary.ccgmlud.org/case/joseph-shine-vs-union-of-india> [Accessed on April 2024]
11. Prime Legal. (2023). Bharatiya Nagarik Suraksha Sanhita Bill, 2023: an overview [Online] Available at <https://primelegal.in/2023/08/15/bharatiya-nagarik-suraksha-sanhita-bill-2023-an-overview/> [Accessed on April 2024]
12. PrsIndia. (n.d.). Bharatiya Nagarik Suraksha Sanhita, 2023. [Online] Available at https://prsindia.org/files/bills_acts/bills_parliament/2023/Bharatiya_Nagarik_Suraksha_Sanhita,_2023.pdf [Accessed on April 2024]

13. The Bharatiya Sakshya Bill. (2023). [Online] Available at https://prsindia.org/files/bills_acts/bills_parliament/2023/BHARATIYA_SAKSHYA_BILL,%202023.pdf [Accessed on April 2024]
14. Union of India. (n.d.). Section 63 in The Indian Evidence Act, 1872. [Online] Available at <https://indiankanoon.org/doc/1456410/> [Accessed on April 2024]