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# **THE 3 SIGNIFICANT CHANGES IN INDIA'S NEW CRIMINAL LAWS-AN IMPACT ON THE COURT SYSTEM**

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## **ABSTRACT:**

For a decade, there were 3 stamped criminal laws which rules the overall criminal crimes. But now, from 2024, the IPC (Indian Penal Code,1860), CRPC (Criminal Procedure Code,1973) and the Indian Evidence Act, 1872 have been replaced by new legal codes such as BNS (Bharatiya Nyaya Sanhita), BNSS (Bharatiya Nagarik Suraksha Sanhita), and BSA (Bharatiya Sakshaya Adhinyam) with effect from 1st July, 2024.

The crisis is that this new change really brings a new change to the criminal system or just an added extra burden on the court system. Many of the provisions, nearly up to 90-95% of the provisions of the old laws, have reappeared in the new laws; it's just their positioning has been changed. Even after years, we don't have any proper regularisation for how to apply such new codes in already existing cases. In addition, there is the inherent challenge of acclimating to a new set of regulations after decades of working under the previous one. There is a huge increase in backlogs of cases, and there is worrying confusion about whether the new laws apply retrospectively or not.

This article provides an analysis with regard to the impact of implementing 3 new criminal codes and the hazards and confusion played in the courts in enforcing and applying them in new and old criminal cases.

**KEYWORDS:** Bharatiya Nyaya Sanhita (BNS),2023, Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Bharatiya Sakshya Adhinyam (BSA),2023.

## INTRODUCTION:

The year 2023 has been marked as a seminal moment in the history of India's criminal justice system. Three of the most profound criminal laws have been replaced with the new criminal laws: Bharatiya Nyaya Sanhita (BNS), 2023, replacing the Indian Penal Code, 1860; Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, replacing the Code of Criminal Procedure (CRPC), 1973; Bharatiya Sakshya Adhiniyam (BSA), 2023, replacing the Indian Evidence Act, 1872. This change in criminal laws has caused confusion among the public and legal professionals. Many of the sections from the IPC, CRPC and Evidence were just renamed by the sections and not even the core of the contents in the sections has been changed, which creates confusion among the lawyers and courts. This paper examines the impact of criminal codes in the court system and the uncertainty they cause against the ability to address national issues.

## EFFECT ON CASE MANAGEMENT AND ASSOCIATED DELAYS:

1. As summary trials have been expanded, it has created delays in courts for faster disposal of those summary trials.
2. If the accused is found fugitive, then the court can continue the trial of the case even though the accused is not found. It creates the risk of innocent persons being wantedly kidnapped by the other parties to defend him from appearing in court, so the petitioner needs to win the case.
3. It leads to challenges and time consumption for the judges, prosecutors and defence lawyers as they are in the situation to read up the new provisions again from the beginning to trial in the court.
4. E-Filing and Video conferencing have now been an extra burden to the lawyers, and there were lots of procedures to be followed.
5. Some of the provisions increase the detention periods, and it also expands the powers of the state, which is not all needed in this era.
6. Even for the basic and local implementation, there needed more of training demands.
7. For the production of electronic evidence at the trials<sup>1</sup>, the Indian evidence law needs a certification requirement. Since this requirement was introduced in the year 2000 it is still controversy and confusion with regard to this provision. But now, the new criminal code for Indian evidence act with regard to this provision creates even more trouble;

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<sup>1</sup> Section-65(4), Indian Evidence Act, 1872

rather than simplifying the provision, it creates an extra burden that expert opinion also needs to be attached with that certificate.<sup>2</sup>

8. As far as the Indian Evidence Act is concerned, electronic evidence has been considered as secondary evidence, but now, in the new legal provision, electronic evidence can be treated as primary evidence, which suppresses the original value of primary evidence.
9. Registering FIR online will lead to so many unnecessary case filings, so it will only increase the number of cases.

### **CONFUSION AND AMBIGUITIES:**

- A. Vague Definitions: Some of the provisions are still unclear and have vague definitions, as it is difficult for the court to interpret such statutes.
- B. Discretionary Powers: The increase in power of the police with regard to their arbitrary acts leads to various abuses.
- C. Implementation Challenges: As there is a lack of training in new codes, it leads to hurdles in implementing such laws in the courts properly.
- D. Transitional Issues: Drastic changeover from the old laws to the new laws leads to various legal uncertainties, especially on the existing ongoing laws.
- E. Pronunciation Difficulty: The pronunciation and use of English-titled words from Sanskrit-titled words in the titles of the new criminal codes make people struggle to use and read even the titles of the codes.
- F. No clarity in punishments: There was a lack of clarity in punishments in some of the punishment sections, as it leads to confusion for the courts in convicting the accused.
- G. Community service: Adding a new 6<sup>th</sup> punishment <sup>3</sup>in Bharatiya Nyaya Sanhita, as there were only 5 punishments in IPC.
- H. Impact on fundamental rights: Likewise, some of the provisions infringe the fundamental rights, particularly regarding privacy.

### **RECOMMENDATIONS:**

- A. Panoramic Training: Ensuring proper training on new criminal codes for judges, legal practitioners and other law enforcement agencies.
- B. Public Awareness Campaigns: Various campaigns can be arranged in order to create

<sup>2</sup> Section-64(4), Bharatiya Sakshaya Adhinyam, 2023

<sup>3</sup> Section-4, Bharatiya Nyaya Sanhita.

awareness among the public on new criminal codes.

- C. Judicial Independence: Need to uphold judicial independence and should make sure that the judges are free from external pressure.
- D. Addressing Backlogs: Proper streamlining should be made in order to reduce backlogs in cases in courts under the new laws.
- E. Feedback: Getting feedback from the community leaders, NGO'S and legal experts will help to gather insights on the effectiveness of the new laws.

### CONCLUSION:

Even though the introduction of new criminal codes is milestone for the India's journey towards modern and responsive criminal judicial system, there were so much backlogs which leads to inappropriate use of those such new laws.

Removal of ancient old laws which is been followed for a decade and introducing of new laws leads to confusions and contradiction in use of such laws. Lack of training for the legal practitioners and judges and other law enforcement agencies makes the implementation of such laws even more difficult. As there are no proper clear explanations for usage of laws for the already existing cases lawyers found it confusing whether to apply the old laws or new laws. Additionally there were ambiguity in interpreting such new provisions which is one more additional confusion criteria for implementing such laws.

It is in essential and immediate need to address the issue and the confusion in order to hurrying up in implementing such laws. Its better to implement later rather than implementing it in confused state. It must be ensured that justice in India should be delivered fairly instead of delivering it up quickly.