

Evolution of Codified Criminal Laws in India: A Voyage from Colonialization to Decolonization

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Abstract

This research paper delves into the profound evaluation of criminal laws in Bharat from the Vedic era to the decolonization of criminal statutes. The narrative begins with evaluating the criminal justice system from the Vedic ages to today's new decolonized criminal laws in India. The paper scrutinizes the various time duration for evaluation of criminal laws in Bharat: Before the Vedic era (Vedas (Rig, Yajur, Sāma, and Atharva), Shrutis, Puranas, and many more), During the Vedic era (Dharamshastra and Arthshastra), Mughal period, British colonial period, and Decolonialization of criminal laws in India. The various objectives behind the decolonization of new criminal laws include Eradication of Colonial-Era law, Offence against the state, Modernization of the criminal justice system, Strengthening Accountability and Rule of Law, and Democratizing the Law. Understanding the evaluation of laws from the colonial era to the decolonization of criminal laws, importing critical legal changes brought under Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Act (BSA) in 2023, this study closely observes the backdrop, what inspires the law to launch such amendments and what subtleties result in these alterations. This historical analysis is taken up first that describes the colonial legacy of India's legal system, and how relics of archaic legislations are part of its system even today. With this background, the exam is placed against a backdrop of rising crime and changing characteristics of criminal behaviors occasioned by new technological breakthroughs that require all-around changes. The paper scrutinizes the supreme provisions of the BNSS towards replacing the archaic Code of Criminal Procedure, the BNS which is poised to replace the Indian Penal Code, and the BSA which is to replace the Evidence Act. This report will appraise the major changes in the number of sections that are incorporated into the new schemes, record digitalization, and the inevitable drift towards forensic science and collection of evidence.

I. INTRODUCTION

In Bharat, we have codified laws from ages: Before the Vedic ages found the imprints of Criminal law regulations in the *Vedas (Rig, Yajur, Sāma, and Atharva)*, *Shrutis, Smritis, Puranas*, and many more; In the Vedic period we can found *Dharamshastra, Arthshastra*, and other literature those who explain the criminal justice system including procedure and punishment, in *Dharamshastra* we have different smritis which talk about the crimes and punishments, including theft, murder, assault, and moral transgressions like *Manu Smriti, Yajnavalkya Smriti, Narada Smriti, others.*³; In *Arthashastra* *Kautilya* laid down rules

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³ 2nd millennium BCE to the early centuries of the 1st millennium BCE

related to various crimes and punishments, including theft, corruption, and treason.⁴; In the Mughal period, laws to be followed regarding crimes were described according to their holy writings such as the *Quran*, *Sunna*, *Hadis*, *Ijma*, *Qiya*, etc but usually, Sharia law was applied for criminal crime, particularly among the Muslim population, offenses included like theft, adultery, and murder⁵; As we can see very recently in India, the upgradation of old colonial criminal laws has been done, the British government established the first law commission report⁶; enforcement of criminal laws in India for the first time by Britisher, the laws were: Indian Penal Code (IPC), 1860, Code of Criminal Procedure (CrPC), 1973 & Indian Evidence Act, 1872 last but not least the government of India, In 2023, *Bharatiya Nyaya Sanhita* (BNS), 2023, *Bharatiya Nagarik Suraksha Sanhita* (BNSS), 2023, and *Bharatiya Sakshya Adhinyam* (BSA), 2023 has passed new criminal laws by replacing the old colonial laws made by the British government.

The legitimacy of a legal system is determined by its compatibility with the interest of society and its efficacy in addressing modern issues. Due to out-of-date or unnecessary laws that are seen, it can damage the public confidence in the nation's legal system. By proactive involvement in legal reform, governments demonstrate their commitment to tackling modern issues and upholding a fair and efficient legal system. The need to upgrade legislation to technology breakthroughs, cultural shifts, economic progress, and global dynamics is the driving force behind the need for often updates in the state. India was in a period of struggle for independence for 300-400 years which included the Mughal era as well as the British era (colonial period) so different laws and orders were imposed by different rulers according to their rules, regulations, customs, etc. So, reform of such a mindset of colonization in the criminal justice system is to be done as the nation is stepping towards a developed nation for that there shall be our laws and order, and there should be no reflection of other nations' laws in India. To reform such laws there may be borrowing of laws from other nations as rightly mentioned by Dr. B. R. Ambedkar (The chairman of the drafting committee):

“As to the accusation that the Draft Constitution has produced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution. What I am sorry about is that the provisions taken from the Government of India Act, of 1935, relate mostly to the details of administration. I agree that administrative details should have no place in the Constitution. I wish very much that the Drafting Committee could see its way to avoid their inclusion in the Constitution.”⁷

II. INDIA'S JOURNEY OF CODIFIED CRIMINAL LAW: FROM THE VEDIC ERA TO THE PRESENT

Imprints of laws and order have been described in *Bharat* for ages. The various criminal laws were followed from time to time as described below:

1. Early-Vedic period:⁸

The religion followed in *Bharat* is *Sanatan Dharma* since the *Vedic* ages, which is a combination of

⁴ 3rd century BCE

⁵ 16th – 18th century

⁶ In the year of 1834

⁷ Constituent Assembly of INDIA Debates Official Report; Volume Vii; 4-11-1948 To 8-1-1949; Printed by Jainco Art India, New Delhi; p.38

⁸ Including stone age, bronze age & iron age

two different words, *Sanatan* and *Dharma*. *Sanatan* means Eternal and *Dharma* (duty) means “right way of living” and “path of righteousness.” The primary purpose of a human being is to get salvation—the formation of different *Vedas*, *Puranas*, *Upanishads*, and many more. We have 4 different kinds of Vedas in *Vedas: Rigveda, Samaveda, Yajurveda, and Atharvaveda*. *Rishi Ved Vyasa*⁹ is the compiler of the *Vedas*, he urges *Lord Ganesh* to compile all four *Vedas* and arrange the four kinds of mantras into four Samhitas. The spells of the *Atharva Veda* are intended against illnesses, sorcerers, and enemies. The *Atharvaveda* as with the other Vedas, contains certain hymns such as 4.1, 5.6, 10.7, 13.4, 17.1, 19.53-54¹⁰ that pose philosophical issues about the nature of life, man, heaven, and hell, good and evil. In *Puranas*, we have eighteen *Maha-Puranas* namely, *Vishnu, Narad, Padma, Garuda, Varaha, Bhagbata, Matshya, Kurmya, Linga, Shiva, Skanda, Angi, Brahmanda, Brahma-Vaivarta, Markendya, Bhavishya, Vamana, and Brahma*. *Agni Purana and Garuda Purana* talk about the crime, the procedure after crime, punishment, etc. In *Agni Purana*, Chapter: 227¹¹- The Code of Criminal Laws has explained criminal rules and regulations, covering topics like theft, property theft, robbery, hiding, and punishments for offenders, which were imposed by a ruler to attain an exalted position. Penalties for offenses such as theft, killing animals, and providing havens for criminals. It also enumerates punishments for governors, feudatory chiefs, and breached contracts. *Garuda Purana*, explains the kinds of sins that lead to hell¹² and different punishments for our sins according to this *Purana* there are a total of 28 *Narakas* (hell) that are: ***Tamisram*** (Heavy flogging), ***Andhatamtrsam*** (Flogging), ***Rauravam*** (torment of snakes), ***Mahararuravam*** (death by snakes), ***Kumbhipakam*** (cooked by oil), ***Kalasukram*** (Hot as hell), ***Asitapatram*** (sharp flogging), ***Sukaramukham*** (Crushed and tormented), ***Andhakupam*** (Attack of the animals), ***Taptamurti*** (Burnt Alive), ***Krimibhojanam*** (Food for worms), ***Salmali*** (Embracing hot images), ***Vajrakantakasali*** (Embracing sharp images), ***Vaitarani*** (River of Filth), ***Puyodakam*** (Well of hell), ***Pranarodham*** (Piece by Piece), ***Visasanam*** (Bashing from Clubs), ***Lalabhaksam*** (River of semen), ***Sarameyasanam*** (Torment from dogs), ***Avici*** (turned into dust), ***Ayahpanam*** (Drinking of burning substances), ***Raksobjaksam*** (Revenge attacks), ***Sulaprotam*** (Trident Torture), ***Ksharakardamam*** (hanged upside down), ***Dandasukam*** (eaten alive), ***Vatarodham*** (weapon torture), ***Paryavartanakam*** (torture from birds), and ***Sucimukham*** (Tortured by needles).¹³ These are 28 different types of *Narakas* and punishment mentioned in *Garuda Purana* shall be entertained according to the offense/crime committed by the offender.

2. Vedic period¹⁴:

From *Vedas* and *Puranas*, *Shashtra* was made which can be explained as the summarization of Vedas and more rules and regulations added by the authors of *Shashtra* and *Smriti*. Texts like *Dharamshastra* and *Arthshastra* were introduced which included various *Smriti*, and *Sanhita*. *Dharamshastra*, ancient texts from the Vedas, provide guidelines for individual and social behavior, ethical norms, and personal, civil, and criminal law. They discuss duties and rights, rites of kings, judicial matters, and personal law. However, they do not cover rituals and ceremonies, which are covered in the *Shrautasutras* and

⁹ Vyasa is the legendary author of the Mahabharata, Vedas and Puranas, some of the most important works in the Hindu tradition.

¹⁰ अथर्ववेद. Atharvaveda hindi e-book; Internet Archive

¹¹ The Agni Purana by N. Gangadharan | 1954 | ISBN-10: 8120803590 | ISBN-13: 9788120803596

¹² Chapter VI - An Account of the Kinds of Sins which lead to Hell | The Garuda Purana (abridged) by Ernest Wood | 1911

¹³ Chapter: 218| The nature of hells, the various tortures experienced there, the deeds that lead to hell and the good and bad fate of the soul | Dharamkand | Sankshipt Garud Puran | 1189 | Geeta press, Gorakhpur

¹⁴ the 2nd century BCE and 3rd century CE

Grihyasutras texts of the *Kalpa (Vedanga)*. *Dharamshastra* consists of 20 *Sanhita*.¹⁵, from which *Manusmriti*, *Yajnavalkya Smriti*, and *Narada Smriti* explain the various types of crime and punishments which might include theft, assault, murder, moral transgressions, and many more. *Arthshastra* explains statecraft, political science, economic policy, and military strategy. It also discusses laws on crime and punishment for various acts such as theft, treason, and corruption. It is also known as the laws of *Kautilya (Chanakya)*.

3. Mughal Period¹⁶:

Muslim criminal law was classified under three categories: crimes against Gods; crimes against sovereigns; and crimes against a private individual. The criminal laws were based on the Islamic jurisprudence known as *Sharia*. There were three different categories in which the punishment mechanism under Islamic law occurs: *Hadd*, *Qisas*, and *Tazir*. These categories shall be classified as follows:

3.1 The *Hadd* is a prescribed penalty for the violation of *Huquq-Allah* (rights of Allah), six crimes for which *hadd* has been fixed are: theft¹⁷, dacoity¹⁸, fornication¹⁹, slandering chaste women²⁰, drinking of liquor²¹, and apostasy²².

3.2 The *Qisas* is based on the retribution theory of punishment in which “*Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and would equal for equal.*”²³ The *Qisas* are prescribed against the violation of *Huquq al-ibad* (right of human beings).

3.3 The *Tazir* is given by *Qadi* (judge) in cases that are not covered under both *hadd* and *qisas*, the offences in which no punishment has been fixed. It was purely examined by *qadi* and accordingly, punishment has been announced.

4. British Colonial Period²⁴

The Charter Act 1833 which was enacted by the British Parliament provided for the establishment of a Law Commission for consolidation and codification of Indian Laws. The said Act provided for the addition of a fourth ordinary Member to the Governor General in Council for India who was to be a legal expert in the making of laws. *Lord Macaulay* was appointed as the fourth ordinary Member and was entitled to participate in the meetings of the Governor General in Council for making laws. In 1835, Lord Macaulay was appointed as Chairman of the First Law Commission. Sir James Stephen was appointed as a Law Member in place of Lord Macaulay. Now a separate department known as the Legislative Department was functioning as a sub-division of the Home Department managed by an Assistant Secretary who prepared the draft Bills needed for legislation.²⁵

The Law Commission report by the Britisher introduced the criminal laws in India. The codification of the main three criminal laws in India is as follows:²⁶

¹⁵ Chapter-XXIV; Shlokas 17-41 of Vishnu Samhita of the Dharmasastra

¹⁶ 15th - 18th century

¹⁷ Qur'an, Surah Al-Ma'idah (5:38)

¹⁸ Qur'an, Surah Al-Ma'idah (5:33)

¹⁹ Qur'an, Surah An-Nur (24:2)

²⁰ Qur'an, Surah An-Nur (24:4)

²¹ Sahih Muslim, Book 17, Hadith 4226

²² Sahih al-Bukhari, Hadith 6922

²³ Qur'an, Surah Al-Ma'idah (5:45)

²⁴ 17th -19th century

²⁵ <https://legislative.gov.in/introduction/#:~:text=The%20Charter%20Act%201833%20which,and%20codification%20of%20I ndian%20Laws.>

²⁶ <https://lawcommissionofindia.nic.in/about-department/early-beginnings/>

4.1 Indian Penal Code, 1860 (IPC)

4.1.1 Law Commission the First Law Commission was under *Lord Thomas Babington Macaulay*.

4.1.2 Dates:

4.1.2.1 **1834**: For the first time, the Law Commission was established with Macaulay as its chairperson.

4.1.2.2 **1837**: The Draft Penal Code was presented by Macaulay.

4.1.2.3 **1838-1847**: Various attorneys drafted and redrafted the draft many times.

4.1.2.4 **1860**: The Indian Penal Code was enacted on 6th October 1860 as Act No. 45 of 1860.

4.1.2.5 **1862**: January 1, 1862. The Indian Penal Code was adopted throughout British India.

4.1.3 Report: The draft of the Indian Penal Code ²⁷Adapted from a simplified version of the latter mixed with the concept of English law for the Indian society is found in the First Law Commission's 1837 report.

4.2 Criminal Procedure Code (CrPC)

4.2.1 The Law Commission touched process laws in many commissions and committees like the Second Law Commission of 1853-1856.

4.2.2 Date:

4.2.2.1 **1853-1856** - The agenda of the Second Law Commission had codification of procedure laws.

4.2.2.2 **1861**: In the year 1861, the Code of Criminal Procedure was enacted as Act No. 25 of 1861.

4.2.2.3 **1862**: The newly constituted CrPC 1861 came into effect with uniformity of criminal courts and procedure in British India.

4.2.3 Report: The Second Law Commission's Report ²⁸Took up the task of providing a draft for criminal procedure law, which eventually resulted in the CrPC of 1861. The code was amended several times during the subsequent decades.

4.3 Indian Evidence Act

4.3.1 Law Commission: The Third Law Commission under *James Fitzjames Stephen*

4.3.2 Dates:

4.3.2.1 **1872**: The 1872 Indian Evidence Act came into force as Act No. 1 of 1872.

4.3.2.2 **1872**: The Evidence Act went into effect on September 1, 1872.

4.3.3 Report: The Third Law Commission's Report ²⁹Aimed to codify and simplify the law of evidence that ultimately led to the Indian Evidence Act, of 1872. It has largely been an adaptation of English law to suit the judicial scenario prevailing in India.

5. Decolonialization of criminal laws in India³⁰

On India's 76th Independence Day, Prime Minister Narendra Modi said “*In this Azadi Ka Amrit Kaal, new laws should be made by abolishing the laws which have been going on from the time of slavery.*” ³¹ The three new criminal laws were made by the target of abolishing the colonial mindset behind the criminal justice system in India. These criminal laws are:

- a) *Bharatiya Nyaya Sanhita* (BNS), 2023 replaced Indian Penal Code, 1860
- b) *Bharatiya Nagarik Suraksha Sanhita* (BNSS), 2023 replaced the Code of Criminal Procedure (CrPC), 1973

²⁷ 1860

²⁸ 1855-1856

²⁹ 1868-1872

³⁰ 2023

³¹ Reforming the Indian Penal Code (IPC) for a Democratic India: A Change to Serve Indians, not just to rule them - Ryan Baidya (Takshila Foundation)

c) *Bharatiya Sakshya Adhiniyam* (BSA), 2023 replaced Indian Evidence Act (IEA), 1872

III. THE OBJECTIVE BEHIND THE DECOLONIZATION OF NEW CRIMINAL LAW

The objective behind the decolonization of colonial criminal laws in India originates in the broader goal of disassembling colonial legacies and forming legal provisions that are linked with the culture, values, and contemporary realities of independent India. The stated aim of these three legislations is to ‘decolonize’ criminal laws of the British era. The Union Government has repeatedly invoked the rhetoric of decolonization, justice, and citizen-centric laws to justify this legal reform project. To assess whether the new laws succeed in this aim, we must first articulate what was colonial about these three legislations.³² Despite more than two centuries of British colonial rule, India's legal system, especially the criminal laws, remained strongly influenced by the concepts and principles of Britishers. The objective of these colonial systems was not to create a free and democratic society but were designed to serve colonial interests. Some key points related to modernization and decolonization of criminal laws in India are as follows:

1. Eradication of Colonial-Era laws:

Decolonizing the criminal statutes includes both substantive as well as symbolic reforms targeting making India's Criminal Justice System more equitable, just, and reflective of today's constitutional values. Due to India's growing populace, it became the primary focus to repeal outdated and repressive laws enacted by the Britisher. The implementation of three criminal laws at that era (the Indian Penal Code (IPC) (1860), the Criminal Procedure Code (CrPC), and the Indian Evidence Act (1872)) were to establish a strict colonial regime, suppress dissent, and stifle freedoms.

2. Offence against the state:

Section 124A³³ The IPC focuses on activities that excite hatred, contempt, or disaffection toward the government, whereas Section 152³⁴ of the BNS penalizes activities that excite ‘subversive activities’ or encourage ‘feelings of separatist activities’ or endanger the ‘sovereignty or unity and integrity of India.’ While the word ‘sedition’ has been removed from the penal statute, the new provision appears to be as rights-restrictive as its counterpart.³⁵ The union government has explained that the new provision shall not criminalize ‘sedition’ that is *Rajdroh* which means an offence against the criticism of the government that is opposite to the provision of democracy but at the same criminalizes ‘treason’ *deshdroh* which means an offence against the unity, integrity, and sovereignty of the nation, under BNS, 2023-act endangering sovereignty, unity, and integrity of India.³⁶ has replaced the provision of sedition under IPC, 1860

3. Modernization of the criminal justice system:

Colonial criminal law, therefore was primarily designed as an instrument of law and order for the occupied states. In this sense, state interest chases away individual justice. Decolonizing, therefore, is modernization towards efficiency, fairness, and responsiveness to contemporary crimes. The reforming focuses on eliminating archaic modes, which include procedures, delays, and assuring speedy delivery of justice-a result of revising old processes and making the system more accessible and transparent.

³² BHARATIYA NYAYA SANHITA: DECOLONISING OR REINFORCING COLONIAL IDEAS? | NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

³³ sedition

³⁴ Act endangering sovereignty, unity and integrity of India.

³⁵ Offences against the state | BHARATIYA NYAYA SANHITA: DECOLONISING OR REINFORCING COLONIAL IDEAS? | NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BENGALURU

³⁶ Section 152

4. Strengthening Accountability and Rule of Law:

It aims to remove arbitrary power among the police and other governmental employees and also check corruption and malpractices. Furthermore, it aspires to strengthen the means of accountability through policing and law reforms, making them independent yet transparent and accountable enough. This form of law emerged as a reply to the coercive mechanisms designed by the British for controlling people during the colonial period.

5. Democratizing the Law:

5.1 Victim-Centred Justice:

Colonization had remained state-centered and still maintained a heavy focus on preserving order rather than justice for the victims. Decolonization aims in effect to do just such a turn that indicates finding direction to victim rights, rehabilitation, and restorative justice instead of retribution and punishment.

5.2 Community and Local Justice Systems:

The colonial law system ousted the traditional and community-based forms of justice that existed in India. Decolonization includes local and indigenous modes of conflict resolution, that is, Panchayats and customary practices within the mainstreaming of the law system as a strategy for its consolidation. Decolonization of criminal law in India would mean that the nation's legal framework becomes one that mirrors justice, equity, and humanity-away from colonial shackles inherited under British rule. The process includes repealing antiquated laws inherited from British rule when they no longer serve their meanings for this modern Indian society and reforming others to share itself in consonance with democratic principles and the pluralistic ethos of contemporary India. Decolonization not only updates the penal system in harmony with new international standards of human rights but also tackles certain pressing issues concerning India, such as caste violence and inequality between genders. It creates a system of law that is as close as possible to being culturally sensitive yet still adjusted to the social, political, and economic realities of the present-day Indian nation. This way, it will honor the rich traditions of the law in the country and make the justice system more appropriate for dealing with challenges that have arisen in a modern, multicultural state.

IV. MAJOR CHANGES INTRODUCED IN NEW CRIMINAL LAWS

1. Indian Penal Code (IPC), 1860 to *Bharatiya Nyaya Sanhita* (BNS), 2023

BNS has brought some crucial amendments to the Indian Penal Code (IPC). Criminal law will, thus, identify and empathize with the current crisis and not the most antique ones. Other amendments other than the above in BNS Section 152,³⁷ as against IPC Section 124A³⁸, are that sedition is not there anymore. Instead, it aims at acts injuring the integrity, sovereignty, or unity of India so that they are not misused for blackmailing counter-voices. An important addition to the BNS is the criminalization of mob lynching in Section 103³⁹, which provides for severe punishments, including a death penalty for mob-related murders provision that does not exist in the IPC. The BNS also encompasses terrorism and organized crime under Sections 109-117 with specific legislations that receive heightened punishment life imprisonment and the death penalty for national security-related crimes dealt with thus far by separate acts which include the UAPA. Additionally, prison alternatives are being brought out through BNS Section 4(f)⁴⁰ community

³⁷ Act endangering sovereignty, unity and integrity of India.

³⁸ Sedition.

³⁹ Punishment for murder

⁴⁰ Community Service

service for minor offenses that are not even available in the IPC to help rehabilitate. The BNS strengthens and modernizes the provisions of Sections 63-75⁴¹ concerning rape, acid attacks, and sexual harassment offenses against women and children. Certain sections provide stronger protections for children. Time-bound trials have been introduced to ensure faster justice with the provision under BNS. The time-bound trials will aim to eliminate the backlog of cases in Indian courts. The reform of criminal defamation in BNS attempts to balance this element and freedom of speech correctly. BNS expands and widens the coverage of criminal conspiracy regarding increasing incidents of organized crime syndicates and transnational crimes under Section 111. Section 111 is completely against cybercrime, comprising penalties for cyberstalking, digital fraud, and data theft. Other updating matters are new laws being formed related to modern theft and robbery, several charges being given to organized theft, and magistrates' discretionary powers being abolished under BNS Section 112⁴² regarding petty offenses that promote uniformity in sentencing consequently. Such laws update India's criminal justice system to make it respond to the present society and technological changes.

New section of *Bharatiya Nyaya Sanhita* (BNS), 2023: "child"-2(3); Abetment outside India for offence in India-48; Sexual intercourse by employing deceitful means, etc.-69; Hiring, employing or engaging a child to commit an offence-95; Punishment for murder-103(2); Causing death by negligence-106(2); Organised crime-111; Petty organised crime-112; Terrorist act-113; Voluntarily causing grievous hurt-117(3)/ (4); Acts endangering sovereignty, unity and integrity of India-152; Assaulting or obstructing public servant when suppressing riot, etc.-195(2); Imputations, assertions prejudicial to national integration-197(1)(d); Attempt to commit suicide to compel or restrain the exercise of lawful power-226; Snatching-304; Mischief-324(3); Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under Section 338-341(3)/ (4) & Repeal and savings-358⁴³.

Replaced section of Indian Penal Code (IPC), 1860 by *Bharatiya Nyaya Sanhita* (BNS), 2023: "Servant of Government"-14; India-18; "Section"-50; Construction of reference to transportation-53-A; Sedition-124-A; Punishment for knowingly carrying arms in any procession or organizing, or holding or taking part in any mass drill or mass training with arms-153-AA; Abetting in India the counterfeiting out of India of coin-236; Import or export of counterfeit coin-237; Import or export of counterfeits of Indian coin-238; Fraudulent use of false instrument for weighing-264; Fraudulent use of false weight or measure-265; Being in possession of false weight or measure-266; Making or selling false weight or measure-267; Attempt to commit suicide-309; Thug-310; Punishment-311; Unnatural offences-377; Lurking house-trespass by night-444; House-breaking by night-446 & Adultery-497⁴⁴.

2. The Code of Criminal Procedure (CrPC), 1973 to *Bharatiya Nagarik Suraksha Sanhita* (BNSS), 2023

The BNSS, 2023 seeks to supplant the Code of Criminal Procedure, 1973 by embedding many characteristics of a modern Indian criminal justice system. Save for one or two minor areas, most aspects of the bill represent significant policy shifts. The most significant policy shift is the severe restraint placed on investigations and trials. This will mean that all investigations be completed within 180 days so that a case does not drag on indefinitely, and trials especially of serious cases are fast-tracked to ensure quick justice. The BNSS increases further the range of summary trials where offenses punishable with

⁴¹ Chapter- V of BNS, 2023

⁴² Petty Organized crime

⁴³ *Bharatiya Nyaya Sanhita* (BNS), 2023

⁴⁴ Indian Penal Code (IPC), 1860

imprisonment for up to three years can be disposed of quickly, reducing thus the heavy burden on the judiciary. The stress has been given to the incorporation of technology through electronic filing of FIRs, digital records, and video conferencing proceedings before courts. For a few 'non-essential' offenses, citizens can file a FIR online. Such procedures are less likely to be delayed. Another significant feature is community service as an alternative sentence for petty crimes, a reform that shifts attention from serving a sentence to the rehabilitation of small-time offenders thereby helping reduce the density of crowds in jails. BNSS provides much greater protection to victims and witnesses. Safety measures to protect such witnesses and provisions regarding compensation to the victim must be much clearer than under the CrPC. The provision which limits arbitrary arrest for crimes that carry a term of up to three years with approval from superior officers, reduces the instances of abuse of authority. Petitions against police malpractices are formalized whereby citizens are allowed to complain of abuse of authority by law enforcement forces thus improving police transparency. Zero FIR⁴⁵ The provision of Zero FIR enables a citizen to lodge the FIR with a police station across jurisdictions, thus ensuring quick reporting without a delay due to territorial conflicts. BNSS has specifically made provisions for mob lynching⁴⁶ with stringent penalties while such crimes go unrestrained as the CrPC did not specify the extent of penal consequences, reflecting the government's response to rising incidents of mob violence. It also has organized crime and terrorism with more serious measures to deal with these crimes, including enhanced surveillance and undercover operations. The bail reforms under BNSS make it a straightforward affair for minor crimes so that nobody is unnecessarily detained. In serious offenses, provisions for default bail are there if the investigation does not conclude in the proposed time. Better capital punishment conditions- rigorous review before the sentence can uphold rigidity in the meted punishment while upholding due process. Forensic application of such evidence can come in handy to offer precision in investigation as in crimes like sexual offenses, and crimes that call for capital punishment or lifetime imprisonment. Together, these reforms ensured that the criminal justice system shifts toward making it efficient, transparent, and citizen-friendly: aspects are seen as 'speed,' technology integration, and human rights. While replacing antiquated colonial laws by substituting them through a modern law framework, BNSS visualized 'new' criminal justice suitable to the requirements of contemporary India.

New sections of *Bharatiya Nagarik Suraksha Sanhita*, 2023: "audio-video electronic"-2(1)(a); "bail"-2(1)(b); "bail bond"-2(1)(d); "bond"-2(1)(e); "electronic communication"-2(1)(i); No arrest without prior permission in certain cases-35(7); Identification and attachment of property of proclaimed person-86; Recording of search and seizure through audio-video electronic means-105; Attachment, forfeiture or restoration of property-107; Persons bound to conform to lawful directions of police-172; Evidence of public servants, experts, police officers in certain cases-336; Inquiry, trial or judgment in absentia of proclaimed offender-356; Witness protection scheme-398; Mercy petition in death sentence cases-472 & Trial and proceedings to be held in electronic mode-530⁴⁷

Replaced section of Code of Criminal Procedure, 1973 by *Bharatiya Nagarik Suraksha Sanhita*, 2023: India-2(f); Metropolitan areas-2(k); "pleader"-2(q); "prescribed"-2(t); Metropolitan areas-8; Courts of Metropolitan Magistrates-16; Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate-17; Special Metropolitan Magistrates-18; Subordination of Metropolitan Magistrates-19; Jurisdiction in the case of juveniles-27; Power to prohibit carrying arms in procession or mass drill or

⁴⁵ Sec 173 (1); BNSS, 2023

⁴⁶ Sec 148; BNSS, 2023

⁴⁷ *Bharatiya Nagarik Suraksha Sanhita*, 2023

mass training with arms-144-A; Inspection of weights and measures-153; Metropolitan Magistrate's judgment-355 & Statement by Metropolitan Magistrate of grounds of his decision to be considered by High Court-404⁴⁸.

3. Indian Evidence Act, 1872 to *Bhartiya Sakshya Adhiniyam, 2023*

The *Bharatiya Sakshya Adhiniyam, 2023*, is one such reform legislation aimed at modernizing the evidence laws of India by replacing the Indian Evidence Act of 1872. This new legislation considers the very dynamic setting of technology and calls for a judicial process with greater efficacy and transparency. One of the sound emphases of the Act is the provision regarding digital and electronic evidence providing definite guidelines regarding the admissibility and reliability of electronic records such as emails, CCTV footage, and social media content that an investigation cannot do without in contemporary times⁴⁹. The law also introduces a presumption of authenticity for certified digital records of certain types that will simplify verification requirements in the legal process. The Act also updates rules on confessions and admissions particularly if made during custodial interrogation, so that any confession made in the police custody is voluntary and protects human persons from custodial abuse. The importance of forensic evidence is emphasized with a mandate that forensic evidence be used even in serious crimes to ensure objectivity and reduce reliance on potentially unreliable witness testimony. The Act further explains the nature of expert witnesses and ensures that only experts testify in matters of technology or science. It further takes into care aspects related to Witness protection, which ensures higher measures for the safety of the witnesses particularly where it is a case of organized crime or that associated with terrorism. *Bharatiya Sakshya Adhiniyam* brings in stringent punishments against perjury and enunciates the sanctity of the process of judicial proceedings, dissuading false testimony. The statute retains very strict strictures on hearsay evidence, thereby limiting its admissibility but relying solely on direct, tangible evidence for judicial purposes. The new law facilitates the handling of documentary evidence with ease and less chance for false squabbles over authenticity and thus leads to the speedy resolution of cases. There is again further accommodation of diversity but this time with sensitivity towards gender-neutral language, thereby affirming a societal movement towards greater equality and a less discriminatory approach to matters of law. An important procedural innovation is the authorization of video conferencing or other electronic means for a witness to testify, which would allow more witnesses to participate in trials without logistical barriers, especially if personal safety might be a concern. What is the overall trend of the *Bharatiya Sakshya Adhiniyam* is to set up the present court system as an efficient and fair process that could suit the demands of contemporary society. The Act hopefully aims at reducing the chances for false or manufactured evidence and gives parties to litigation the feeling that greater protection is being afforded them, among other objectives. Finally, this document would become an overdue reform of the law on evidence in India, one which is crucial towards the substitution of colonial-era rules that have outlived their utility to situate the legal framework for the country better to confront the many challenges of modern-day. According to the framework of focusing on technology, objectivity, inclusivity, and transparency, the *Bharatiya Sakshya Adhiniyam* would truly symbolize a highly innovative piece of legislation that reflects the commitment of the Indian government toward shaping reform in the justice system to be more contemporary and in line with modern 21st-century legal standards and human rights. In this respect, the Act would aim at ensuring that justice is delivered hastily, efficiently, and equitably towards the building of an even more resurgent judicial system in India.

⁴⁸ The Code of Criminal Procedure, 1973

⁴⁹ Sec 65B; BSA, 2023

New sections of *Bhartiya Sakshya Adhiniyam, 2023*: Words and expressions-2(2) & Electronic or digital record-61.⁵⁰

Replaced section of Indian Evidence Act, 1872⁵¹ by *Bhartiya Sakshya Adhiniyam, 2023*: "India"-3 PARA 10; When oral admission as to contents of electronic records are relevant-22-A; Presumption as to document admissible in England without proof of seal or signature-82; Presumption as to telegraphic messages-88; Proof of cession of territory-113 & Power of jury or assessors to put questions-166.

V. CONCLUSION

In 2023, the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Act (BSA) marked a critical juncture in the evolution of codified criminal laws with the country of India, marking outright a shift from the Colonization to Decolonization phase. Britain's colonial rule formed the base of Indian criminal law, and the source for such was the IPC enacted in 1860, followed by the adoption of CrPC in the year 1898 and the Indian Evidence Act in the year 1872. All these had been enacted as administrative tools for the colonies, but even after India gained independence in the year 1947, most of these laws were left mostly in place. But the 2023 reforms comprise a knowing step away from this colonial legacy. BNS, BNSS, and BSA all speak to India's continued journey toward legal decolonization—not only in the content of the laws themselves but in the philosophy informing them. Contrary to the logic that pointed to colonial law for sustaining order and control over subjects, Indian citizens are now at the center of the new legal order: rights, freedoms, and welfare. These changes recognize a need for a system adapted to the contemporary realities of society, above all, one that is beyond a structure designed for colonial governance. BNS would replace the colonial IPC, updating provisions relating to crime to adapt to an increasingly complex cyber-offense world, organized crime, and terrorism. Similarly, BNSS replaces CrPC with trends of holding police answerable and ensuring effective dispensation of justice in the shortest possible period, transparent and technology-based. The Bharatiya Sakshya Act (BSA) would supersede the Indian Evidence Act and take cognizance of forensic science and digital evidence, making evidence collection and presentation in courts quite simplified. The other critical dimension of this decolonization process will therefore be the more sensitive and progressive legal order, focusing on the rights of women and children. In this regard, such severe punishments, especially sexual violence and trafficking, are a departure from the colonial laws that maintained their silence on providing any form of solution to the violence and exploitation mentioned above among the genders.

Thus, the reform indicates the need for digitization and forensic development that would make the legal system of India an institution based on technology, capable of dealing with the challenges of the 21st century. This far differs from the ancient mechanisms of colonial laws, which could not possess the capability of addressing modern crimes with traits that are transnational in character. In this sense, therefore, the 2023 reforms are not a package of modernizations but part of India's transition from colonialism to decolonization. The country is going to build up a conception of justice as equitable, inclusive, and forward-looking by finally ending unfashionable, foreign-imposed law and adopting a framework grounded in modern Indian values. The test would come in the form of enforcing de-colonized law; in this regard, India remains committed to justice, equity, and welfare.

⁵⁰ *Bhartiya Sakshya Adhiniyam, 2023*

⁵¹ Indian Evidence Act, 1872