

A Comparative Analysis of Provisions Related to Offences Against Woman and Children Under The Bharatiya Nyaya Sanhita, 2023 in the Context of The Indian Penal Code, 1860

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ABSTRACT

An old saying, “old wine served in new bottle” is a perfect metaphor for establishing an analogy between the old Indian Penal Code, 1860 and new Bharatiya Nyaya Sanhita, 2023. The Indian Penal Code which came into force on 6th October 1860, has now been replaced by the new panel code or Bharatiya Nyaya Sanhita for which a bill was first introduced in the Lok Sabha on 11th August 2023, it received assent of the President on 25th December 2023 and finally came into force on 1st July 2024. Although the new panel code has replaced the more than sesquicentennial years old Indian Penal Code, 1860, nevertheless since it came into force a profound discussion is going on in legal fraternity regarding its novelty. The reason behind is that many provisions which are in the new panel code are more or less have been adopted from the old penal code.

Critics have argued that the legislature has failed to address the underlying societal changes which have introduced new challenges creating hindrances to provide the infrastructure for effectively addressing grievances and implementation according to changing circumstances. For example, the Indian Penal Code, 1860 criminalises act such as murder, abatement of suicide, assault, causing grievous hurt, rape, voyeurism, stalking and insulting the modesty of a woman. These criminal acts have been more or less in the same form been retained in the new panel code, Bharatiya Nyaya Sanhita, 2023 as well. The metaphor highlights the need to critically evaluate whether the new panel code has genuinely taken cognizance of contemporary socio legal affairs to keep up pace with the prevailing societal circumstances or not. In the light of this fact, this paper evaluates some major provisions of both panel laws and tries to analyse comparatively both laws so as to ascertain whether the new panel code is in fact an innovation or not.

KEYWORDS: Offences against women and children; the Bharatiya Nyaya Sanhita, 2023; the Indian Penal Code, 1860; the Criminal Law (Amendment) Act, 2013; the Criminal Law (Amendment) Act, 2018.

INTRODUCTION

The Indian Penal Code, 1860 which came into force on 6th October 1860, has been replaced by the new panel code of our country, the Bharatiya Nyaya Sanhita, 2023 for which a Bill was first introduced in the Lok Sabha on 11th August 2023, it received the assent of the President of India on 25th December 2023

and finally came into force on 1st July 2024. Although the new panel code has replaced the more than sesquicentennial years old the Indian Penal Code, 1860, nevertheless since it came into force a profound discussion is going on in the legal fraternity regarding its novelness. The reason behind this is that many provisions which are in the Bharatiya Nyaya Sanhita, 2023 are more or less been adopted from the Indian Penal Code, 1860.

The current research paper is related with Chapter V of the Bharatiya Nyaya Sanhita, 2023 which speaks of offences against women and child and which has been for the first time been drafted as a penal provision in our country specifically, under the new panel code. Hitherto, coming into force of the Bharatiya Nyaya Sanhita, 2023 the offences against women and children were not systematically arranged or dealt with under a specific chapter for this purpose in the discontinued Indian Penal Code, 1860. Earlier, under the Indian Penal Code, 1860 the legal provisions relating to offence and punishment to protect women and children being victimised were made at different places. These provisions regarding offences against women and children were scattered at different chapters of the Indian Penal Code, 1860 which were: Chapters XI; XVI; XX; XXA and XXII.

Under the new Bharatiya Nyaya Sanhita, 2023 under Chapter V of the Act which is, “of offences against women and child” the legal provisions regarding their penal definitions and provisions have been given into five different heads. These five heads are: of sexual offences; of criminal force and assault against woman; of offences relating to marriage; of causing miscarriage, etc. and of offences against child which are drafted under thirty-seven different sections starting from Section 63 to Section 99. These thirty-seven Sections of the Bharatiya Nyaya Sanhita, 2023 are corresponding in nature which means they correspond with different provisions made under various Sections of the Indian Penal Code, 1860 dealing with the same subject. There are also certain provisions which have been added for the first time under the Bharatiya Nyaya Sanhita, 2023 whereas there are also certain provisions which have been omitted under the new panel code which were in existence in the Indian Penal Code 1860.

TABULAR COMPARISON OF PROVISIONS FOR OFFENCES AGAINST WOMEN AND CHILDREN UNDER THE BHARATIYA NYAYA SANHITA, 2023 VIS À VIS THE INDIAN PENAL CODE, 1860

Following table of provisions have been enumerated under two columns (first column is of provisions from the Bharatiya Nyaya Sanhita, 2023 and second column is of corresponding provisions of the Indian Penal Code, 1860) where a comparison has been illustrated between the Bharatiya Nyaya Sanhita, 2023 and Indian Penal Code, 1860:

THE BHARATIYA NYAYA SANHITA, 2023	THE INDIAN PENAL CODE, 1860
CHAPTER V - OF OFFENCES AGAINST WOMAN AND CHILD <i>Of sexual offences</i>	CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY <i>Sexual offences</i>
63. Rape. 64. Punishment for rape. 65. Punishment for rape in certain cases. 66. Punishment for causing death or resulting in persistent vegetative state of victim.	375. Rape. 376. Punishment for rape 376AB. Punishment for rape on woman under twelve years of age. 376A. Punishment for causing death or resulting in persistent vegetative state of victim.

<p>67. Sexual intercourse by husband upon his wife during separation.</p> <p>68. Sexual intercourse by a person in authority.</p> <p>69. <i>Sexual intercourse by employing deceitful means, etc.</i></p> <p>70. Gang rape.</p> <p>71. Punishment for repeat offenders.</p> <p>72. Disclosure of identity of victim of certain offences, etc.</p> <p>73. Printing or publishing any matter relating to Court proceedings without permission.</p>	<p>376B. Sexual intercourse by husband upon his wife during separation.</p> <p>376C. Sexual intercourse by a person in authority.</p> <p><i>New Section</i></p> <p>376D. Gang rape.</p> <p>376DA. Punishment for gang rape on woman under sixteen years of age.</p> <p>376DB. Punishment for gang rape on woman under twelve years of age.</p> <p>376E. Punishment for repeat offenders.</p> <p>CHAPTER XI - OF FLSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE</p> <p>228A. Disclosure of identity of the victim of certain offences, etc.</p> <p><i>Ditto</i></p>
<p><i>Of criminal force and assault against woman</i></p>	
<p>74. Assault or use of criminal force to woman with intent to outrage her modesty.</p> <p>75. Sexual harassment.</p> <p>76. Assault or use of criminal force to woman with intent to disrobe.</p> <p>77. Voyeurism.</p> <p>78. Stalking.</p> <p>79. Word, gesture or act intended to insult modesty of a woman.</p>	<p>CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY</p> <p><i>Of Criminal Force and Assault</i></p> <p>354. Assault of criminal force to woman with intent to outrage her modesty.</p> <p>354A. Sexual harassment and punishment for sexual harassment.</p> <p>354B. Assault or use of criminal force to woman with intent to disrobe.</p> <p>354C. Voyeurism.</p> <p>354D. Stalking.</p> <p>CHAPTER XXII - OR CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE</p> <p>509. Word, gesture or act intended to insult the modesty of a woman.</p>
<p><i>Of offences relating to marriage</i></p>	<p>CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY</p> <p><i>Of offences affecting life</i></p>
<p>80. Dowry death.</p>	<p>304B. Dowry death.</p>

<p>81. Cohabitation caused by man deceitfully inducing belief of lawful marriage.</p> <p>82. Marrying again during lifetime of husband or wife.</p> <p>83. Marriage ceremony fraudulently gone through without lawful marriage.</p> <p>84. Enticing or taking away or detaining with criminal intent a married woman.</p> <p>85. Husband or relative of husband of a woman subjecting her to cruelty.</p> <p>86. Cruelty defined.</p> <p>87. Kidnapping, abducting or inducing woman to compel her marriage, etc.</p>	<p>CHAPTER XX - OF OFFENCES RELATING TO MARRIAGE</p> <p>493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.</p> <p>494. Marrying again during life-time of husband or wife.</p> <p>495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.</p> <p>496. Marriage ceremony fraudulently gone through without lawful marriage.</p> <p>498. Enticing or taking away or detaining with criminal intent a married woman.</p> <p>CHAPTER XXA - OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND</p> <p>498A. Husband or relative of husband of a woman subjecting her to cruelty.</p> <p><i>Ditto</i></p> <p>CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY</p> <p><i>Of Kidnapping, Abduction, Slavery and Forced Labour</i></p> <p>366. Kidnapping, abducting or inducing woman to compel her marriage, etc.</p>
<p><i>Of causing miscarriage, etc.</i></p>	
<p>88. Causing miscarriage.</p> <p>89. Causing miscarriage without woman's consent.</p> <p>90. Death caused by act done with intent to cause miscarriage.</p> <p>91. Act done with intent to prevent child being born alive or to cause to die after birth.</p> <p>92. Causing death of quick unborn child by act amounting to culpable homicide.</p>	<p>CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY</p> <p><i>Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the concealment of Births</i></p> <p>312. Causing miscarriage.</p> <p>313. Causing miscarriage without woman's consent.</p> <p>314. Death caused by act done with intent to cause miscarriage if act done without woman's consent.</p> <p>315. Act done with intent to prevent child being born alive or to cause it to die after birth.</p> <p>316. Causing death of quick unborn child by act amounting to culpable homicide.</p>

<i>Of offences against child</i>	
<p>93. Exposure and abandonment of child under twelve years of age, by parent or person having care of it.</p> <p>94. Concealment of birth by secret disposal of dead body.</p> <p>95. <i>Hiring, employing or engaging a child to commit an offence.</i></p> <p>96. Procurement of child.</p> <p>97. Kidnapping or abducting child under ten years of age with intent to steal from its person.</p> <p>98. Selling child for purposes of prostitution, etc.</p> <p>99. Buying child for purposes of prostitution, etc.</p>	<p>CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN BODY</p> <p><i>Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the concealment of Births</i></p> <p>317. Exposure and abandonment of child under twelve years, by parent or person having care of it.</p> <p>318. Concealment of birth by secret disposal of dead body.</p> <p><i>New Section</i></p> <p><i>Of Kidnapping, Abduction, Slavery and Forced Labour</i></p> <p>366A. Procurement of minor girl.</p> <p>369. Kidnapping or abducting child under ten years with intent to steal from its person.</p> <p>372. Selling minor for purposes of prostitution, etc.</p> <p>373. Buying minor for purposes of prostitution, etc.</p>

OF SEXUAL OFFENCES AGAINST WOMAN AND MINOR

The offence of rape has been defined under Section 63 of new code¹ which is similar to Section 375 except that a change has been brought under Exception 2 of Section 63 which says that sexual intercourse or sexual act by a man with his own wife who is above 18 years of age is not a rape which has been raised from the earlier age fixed at 15 years under the old code. The punishment for rape which has been given under Section 64 of new code, the minimum punishment has been fixed at 10 years of either description and maximum which can be imposed is of life imprisonment with fine as contrary to punishment given under Section 376 in old code² where minimum punishment was 7 years of either description and Sub Clause I of Section 376 (2) has been deleted, rest both Sections are similar.

Section 65 of new code which makes provision for punishment for rape in certain cases consists of rape committed upon woman under 16 years of age and 12 years of age has merged old provisions of Section 376 and Section 376AB of old code which was added after the Criminal Law (Amendment) Act, 2018. Sections 66, 67 and 68 of new code are exactly similar to Sections 376A, 376B and 376C of old panel code, respectively which deal with punishment with respect to sexual offences committed by an accused. Section 69 of the new code which is related to sexual intercourse by employing deceitful means or by making promise to marry to a woman without any intention of fulfilling the same is a new Section which

¹ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

² The Indian Penal Code, 1860 (Act 45 of 1860).

has been introduced for the first time and it makes provision for punishment of imprisonment of either nature of maximum term of 10 years with fine.

Section 70 of new code dealing with offence of gang rape besides defining the offence makes provision for punishment which is similar to Section 376D of old code which is minimum rigorous imprisonment of 20 years which can be extended to life imprisonment along with fine. Section 70 (2) of new code merges old Sections 376DA and 376DB which deals with offence of gang rape committed upon a woman who is less than 18 years of age where the punishment has been increased as hitherto the maximum punishment was of life imprisonment but now under this new section maximum punishment has been increased up to death penalty. Section 71 of new code which makes provisions for punishment for repeat offenders is exactly the same as Section 376E of old code where punishment was life imprisonment or death penalty.

Sections 72 and 73 of new code are exactly similar to section 228A of old code which makes punishment for disclosure of identity of victim of sexual offences and printing or publishing any matter relating to court proceedings without permission is fixed at imprisonment of either description which can be extended up to 2 years with fine.

OF CRIMINAL FORCE AND ASSAULT AGAINST WOMAN

Section 74 of new code³ which is for assault or use of criminal force upon a woman with an intention to outrage her modesty is exactly similar to old Section 354⁴ where the punishment is of either description from 1 year to 5 years with fine.

Sections 75, 76, 77 and 78 of new code which deals with offence and punishment of sexual harassment, assault or use of criminal force upon women with an intention to disrobe her, voyeurism and stalking, respectively are exactly same in respect of penal definition and provision to old Sections 354A, 354B, 354C and 354D which were added by the Criminal Law (Amendment) Act, 2013.

Section 79 of new code dealing with the penal definition and offence of words, gesture or act intending to insult modesty of a woman is exactly similar to old Section 509 of old code making provision for punishment of simple imprisonment of maximum 3 years with fine.

OF OFFENCES RELATING TO MARRIAGE

Section 80 of new code⁵ relating to dowry death of a married woman within 7 years of marriage is also exactly similar to Section 304B of old code⁶ making provision for penal definition and punishment of not less than 7 years and maximum to life imprisonment.

Section 81 of new code relating to cohabitation caused by a man deceitfully inducing belief of lawful marriage to any woman is exactly similar to Section 493 of old code in respect of penal definition and punishment which is of either description of maximum 10 years with fine.

Section 82 of new code relating to marrying again during lifetime of husband or wife or in other words offence of bigamy is exactly similar to old Sections 494 and 495 defining the offence and making provision for the punishment for this offence which is imprisonment of either description for a maximum of 7 years term or 10 years term as the case maybe along with fine.

³ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

⁴ The Indian Penal Code, 1860 (Act 45 of 1860).

⁵ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

⁶ The Indian Penal Code, 1860 (Act 45 of 1860).

Section 83 of new code regarding a marriage ceremony which has been done fraudulently without fulfilling essentials of lawful marriage is exactly similar to old Section 496 in respect of penal definition and punishment which is of either description imprisonment for maximum 7 years term with fine.

Section 84 of new code which is related to enticing or taking away or detaining with criminal intention a married woman is also exactly similar to Section 498 of old code making similar penal definition and provision which is punishable with imprisonment of either description for a maximum of 2 years term or with fine or both.

Sections 85 and 86 of new code regarding a husband or relative of a husband of a married woman subjecting her to cruelty and definition of cruelty, respectively is exactly similar to Section 498A of old code in respect of penal definition and provision which makes the offence punishable with imprisonment of a maximum 3 years term with fine.

Section 87 of new code relating to offence of kidnapping, abduction or inducing women in order to compel her for marriage or for illicit intercourse against her will is exactly similar to provision under Section 366 of old code which makes a punishment of imprisonment of either description for maximum of 10 years with fine.

OF CAUSING OF MISCARRIAGE OF A WOMAN

Sections 88, 89, 90, 91 and 92⁷ are related to of causing miscarriage of a woman whether she is married or not and these five sections specifically lay down law relating to causing miscarriage, causing miscarriage without the consent of a woman, causing death by an act done with an intention to cause miscarriage of a woman, any act done with an intention to prevent a child to born alive or cause to die after his/her birth and causing death of quick unborn child by an act amount to culpable homicide, respectively.

Sections 88, 89, 90, 91 and 92 of new code have been drafted exactly in the same way as the corresponding law in the old code existed under Sections 312, 313, 314, 315 and 316 of the old code.⁸ All the penal provisions that define the offence committed relating to miscarriage of a woman and punishment prescribed for that particular offence are exactly the same as were in the old code.

OF OFFENCES AGAINST CHILDREN

Section 93 of new code⁹ dealing with the offence of exposure and abandonment of a child who is below 12 years of age by his parent or person having care of that child is exactly same as provision contained under Section 317 of old code¹⁰ prescribing punishment of either description of imprisonment for a maximum of 7 years term with or without fine.

Section 94 of new code relating to concealment of birth of a child by secretly disposing of the dead body of that child is also exactly the same as Section 318 of old code where the punishment of either description is up to 3 years term with or without fine.

Section 95 of the new code is a new provision added in this law which makes hiring, employing or engaging a child (a person below 18 years of age) in order to make him commit an offence has been

⁷ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

⁸ The Indian Penal Code, 1860 (Act 45 of 1860).

⁹ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

¹⁰ The Indian Penal Code, 1860 (Act 45 of 1860).

made a punishable offence and shall now be punished with imprisonment of either description which shall not be less than 3 years but which may be extended to 10 years with fine.

Section 96 of new code relating to procurement of a child with an intent that a child will be forced or seduced to illicit intercourse with any person is similar to Section 366A of old code except the for the fact that old 366A Section only dealt with procurement of a minor girl under the age of 18 years whereas the scope of offence under Section 96 of new code is extensively large in the sense that it only talks about procurement of a child who is below 18 years of age which means besides a girl it will also include a boy, rest the punishment of 10 years maximum imprisonment with fine is same as earlier.

Section 97 of new code which is related to kidnapping or abduction of a child who is under 10 years of age with an intention to steal from its person is exactly the same to Section 369 of old code which is punishable with imprisonment of either description for a maximum of 7 years term with fine.

Sections 98 and 99 of new code is related with selling and buying for the purpose of prostitution or illicit intercourse with any person or for any unlawful or immoral purpose or knowing it to be likely that a child may be employed or used for any such purpose. Section 98 of new code dealing with selling children for the purpose of prostitution, etc. is similar to Section 372 of old code which makes provision for punishment of imprisonment of either description for a maximum of 10 years with fine. Section 99 of new code deals with buying a child for the purpose of prostitution, etc. is also similar to Section 373 of old code, except for the fact that the punishment for the offence as compared to old Section 373 of old code has been increased and now this offence is punishable with an imprisonment of either description for a term of not less than 7 years which may be extended up to 14 years along with fine.

MAJOR CHANGES INTRODUCED BY THE BHARATIYA NYAYA SANHITA, 2023

It is pertinent to mention that there few major changes that have also been introduced by the Bharatiya Nyaya Sanhita, 2023 which has been discussed as below:

1. Community service has been introduced as a form of punishment under Section 4 of the Bharatiya Nyaya Sanhita, 2023, although it has not been defined what community service it entails. For offences such as attempting suicide to compel or restrain the exercise of lawful power, defamation, misconduct in public by a drunken person, and failure to appear at the specified place and time as required by a proclamation, community service can be awarded in addition to the prescribed punishment under the Act.
2. The new Bharatiya Nyaya Sanhita, 2023 has added Chapter V, “of offences against woman and child of sexual offences” comprising of thirty-seven Sections total. All the offences relating to woman and child have been placed under one chapter in the beginning of the Act, which was earlier spread over under various Chapters and Parts of the Indian Penal Code, 1860.
3. As per exception of rape which is Section 63 of the Bharatiya Nyaya Sanhita, 2023, sexual intercourse or sexual acts by a man with his own wife, where the wife is not under eighteen years of age, would not amount to be rape as earlier under the Indian Penal Code, 1860 the age of wife to not to constitute rape was “fifteen years”. This is perhaps in consonance with the Supreme Court judgment in *Independent Thought v. Union of India*¹¹ which read “fifteen years” in Exception 2 to

¹¹ (2017) 10 SCC 800.

Section 375 of the Indian Penal Code, 1860 as “18 years” so as to bring sex with a minor wife within the ambit of offence of rape.¹²

4. It is pertinent to note that in landmark ruling of Supreme Court in Navtej Singh Johar,¹³ where a bench of five judges of the Supreme Court partially struck down Section 377 of the Indian Penal Code, 1860, which criminalised consensual carnal intercourse, however forced intercourse with an adult male is an offence, and also bestiality. The Bharatiya Nyaya Sanhita, 2023 has completely deleted the offence, implying that forcible carnal intercourse against a man and bestiality are no longer offences under it.
5. In view of Supreme Court judgement in Joseph Shine’s¹⁴ case the offence of adultery has been deleted, however the Bharatiya Nyaya Sanhita, 2023 retains Section 498 of the Indian Penal Code, 1860 under its Section 84 which penalises a man for enticing the wife of another man so that she may have intercourse with any person.
6. The Bharatiya Nyaya Sanhita, 2023 penalises acts endangering the unity and integrity of India while sedition criminalised acts against the government and so it replaces the “government” with the “country”. Aspects of sedition have been retained under Section 152 under the new Act, which states that 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. Comments expressing disapprobation of the measures, or administrative or other action of the Government, with a view to obtain their alteration by lawful means will not be an offence under this provision.
7. “Mob lynching” has been made as a separate offence under the Bharatiya Nyaya Sanhita, 2023, with a maximum punishment of death penalty. Section 103 of it states, “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 similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine”.
8. Section 304 of the Bharatiya Nyaya Sanhita, 2023 states that 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 from his possession any movable property. Snatching is now made punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
9. Section 309 of the Indian Penal Code, 1860 enforced punishment for an attempt to commit suicide and this stringent provision now did not find a place under the Bharatiya Nyaya Sanhita, 2023 and has been completely deleted. However, Section 226 of the Bharatiya Nyaya Sanhita, 2023 criminalises the attempt to commit suicide to compel or restrain the exercise of lawful power, punishable with simple imprisonment for a term that may extend to one year, or with a fine, or with both, or with community service.

¹² Live Law, available at: <https://www.livelaw.in/top-stories/major-changes-introduced-by-bharatiya-nyaya-secondsanhita245558#:~:text=BNS%20has%20also%20added%20Petty,question%20papers%20or%20any%20other> (last visited on January 31, 2025).

¹³ Navtej Singh Johar v. Union of India, Writ Petition (Criminal) No. 76 of 2016.

¹⁴ Joseph Shine v. Union of India, AIR 2018 SC 4898.

10. Section 10 of the Bharatiya Nyaya Sanhita, 2023 defines “gender” which states that the pronoun “he” and its derivatives are used of any person, whether male, female or transgender. It explains that “transgender” shall have the meaning assigned to it in Clause (k) of Section 2 of the Transgender Persons (Protection of Rights) Act, 2019.

CONCLUSION

The Chapter V of the Bharatiya Nyaya Sanhita, 2023 which deals with the offences against women and children and which has been for the first time been drafted as a penal provision in our country specifically has thirty-seven different sections starting from Section 63 to Section 99 under the Act. Out of these total thirty-seven Sections only two new Sections have been introduced by the Bharatiya Nyaya Sanhita, 2023, first is Section 69 related to offence of sexual intercourse by employing deceitful means etc. and secondly, Section 95 related to offence of hiring, employing or engaging a child to commit an offence. Both these Sections which have been newly introduced by the Bharatiya Nyaya Sanhita, 2023 constitute only 5.4% of total 37 Sections of Chapter V of the Act which is considerably very poor statics. Under Chapter V of the Bharatiya Nyaya Sanhita, 2023 there are certain provisions out of a total 37 Sections where certain changes have also been brought up and these Sections are 63, 70, 76, 77, 96 and 99. Accordingly, this means that there are only six Sections out of total 37 Sections under chapter V of the Act which constitute 16.21% of total Sections which are partly new or where certain seminal and substantial changes have been brought up by the Bharatiya Nyaya Sanhita, 2023.

Besides there are also some major changes which have been brought up by the Bharatiya Nyaya Sanhita, 2023 due to its enactment into our Indian criminal law regime like, the offence of adultery and unnatural offences which were under Section 497 and 377 of the Indian Penal Code, 1860 have been deleted or have been discontinued. Some new concepts of penal provisions and definitions have been introduced under the Bharatiya Nyaya Sanhita, 2023 like the offence of mob lynching, definition of sedition law and inception of community service as a new form of punishment for certain offences committed by accused under this Act.

Therefore, after analysing above theory and output it can be said that although the Bharatiya Nyaya Sanhita, 2023 have introduced or deleted certain penal provisions relating to definition of offences and their punishment, nevertheless the new Bharatiya Nyaya Sanhita, 2023 has quite failed to prove its novelty or novelty in the light of its Chapter V that deals with offences related to women and children.

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